# Circumvention – Courts

**Wartime means Obama will ignore the decision. Noncompliance undermines the Court’s legitimacy and makes the plan worthless**

Pushaw 4—Professor of law @ Pepperdine University [Robert J. Pushaw, Jr., “Defending Deference: A Response to Professors Epstein and Wells,” Missouri Law Review, Vol. 69, 2004]

Civil libertarians have urged the Court to exercise the same sort of judicial review over war powers as it does in purely domestic cases—i.e., independently interpreting and applying the law of the Constitution, despite the contrary view of the political branches and regardless of the political repercussions.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the war rages, the President’s action is set in stone, and he will ignore any judicial orders that he conform his conduct to constitutional norms.58 In such critical situations, issuing a judgment simply weakens the Court as an institution, as Chief Justice Taney learned the hard way.59

Professor Wells understands the foregoing institutional differences and thus does not naively demand that the Court exercise regular judicial review to safeguard individual constitutional rights, come hell or high water. Nonetheless, she remains troubled by cases in which the Court’s examination of executive action is so cursory as to amount to an abdication of its responsibilities—and a stamp of constitutional approval for the President’s actions.60 Therefore, she proposes a compromise: requiring the President to establish a reasonable basis for the measures he has taken in response to a genuine risk to national security.61 In this way, federal judges would ensure accountability not by substituting their judgments for those of executive officials (as hap-pens with normal judicial review), but rather by forcing them to adequately justify their decisions.62

This proposal intelligently blends a concern for individual rights with pragmatism. Civil libertarians often overlook the basic point that constitutional rights are not absolute, but rather may be infringed if the government has a compelling reason for doing so and employs the least restrictive means to achieve that interest.63 Obviously, national security is a compelling governmental interest.64 Professor Wells’s crucial insight is that courts should not allow the President simply to assert that “national security” necessitated his actions; rather, he must concretely demonstrate that his policies were a reasonable and narrowly tailored response to a particular risk that had been assessed accurately.65

Although this approach is plausible in theory, I am not sure it would work well in practice. Presumably, the President almost always will be able to set forth plausible justifications for his actions, often based on a wide array of factors—including highly sensitive intelligence that he does not wish to dis-close.66 Moreover, if the President’s response seems unduly harsh, he will likely cite the wisdom of erring on the side of caution. If the Court disagrees, it will have to find that those proffered reasons are pretextual and that the President overreacted emotionally instead of rationally evaluating and responding to the true risks involved. But are judges competent to make such determinations? And even if they are, would they be willing to impugn the President’s integrity and judgment? If so, what effect might such a judicial decision have on America’s foreign relations? These questions are worth pondering before concluding that “hard look” review would be an improvement over the Court’s established approach.

Moreover, such searching scrutiny will be useless in situations where the President has made a wartime decision that he will not change, even if judicially ordered to do so. For instance, assume that the Court in Korematsu had applied “hard look” review and found that President Roosevelt had wildly exaggerated the sabotage and espionage risks posed by Japanese-Americans and had imprisoned them based on unfounded fears and prejudice (as appears to have been the case). If the Court accordingly had struck down FDR’s order to relocate them, he would likely have disobeyed it.

Professor Wells could reply that this result would have been better than what happened, which was that the Court engaged in “pretend” review and stained its reputation by upholding the constitutionality of the President’s odious and unwarranted racial discrimination. I would agree. But I submit that the solution in such unique situations (i.e., where a politically strong President has made a final decision and will defy any contrary court judgment) is not judicial review in any form—ordinary, deferential, or hard look. Rather, the Court should simply declare the matter to be a political question and dismiss the case. Although such Bickelian manipulation of the political question doctrine might be legally unprincipled and morally craven, 67 at least it would avoid giving the President political cover by blessing his unconstitutional conduct and instead would force him to shoulder full responsibility. Pg. 968-970

**Fight with President devastates court legitimacy. Two centuries of judicial decisions prove they can’t solve without his support**

Devins & Fisher 98—Professor of Law and Government @ College of William and Mary & Senior Specialist in Separation of Powers @ Congressional Research Service [Neal Devins & Louis Fisher, “Judicial Exclusivity and Political Instability,” Virginia Law Review Vol. 84, No. 1 (Feb. 1998), pp. 83-106]

Lacking the power to appropriate funds or command the military, 73 the Court understands that it must act in a way that garners public acceptance." In other words, as psychologists Tom Tyler and Gregory Mitchell observed, the Court seems to believe "that public acceptance of the Court's role as interpreter of the Constitution that is, the public belief in the Court's institutional legitimacy enhances public acceptance of controversial Court decisions."75 This emphasis on public acceptance of the judiciary seems to be conclusive proof that Court decisionmaking cannot be divorced from a case's (sometimes explosive) social and political setting.

A more telling manifestation of how public opinion affects Court decisionmaking is evident when the Court reverses itself to conform its decisionmaking to social and political forces beating against it.76 Witness, for example, the collapse of the Lochner era under the weight of changing social conditions. Following Roosevelt's 1936 election victory in all but two states, the Court, embarrassed by populist attacks against the Justices, announced several decisions upholding New Deal programs.' In explaining this transformation, Justice Owen Roberts recognized the extraordinary importance of public opinion in undoing the Lochner era: "Looking back, it is difficult to see how the Court could have resisted the popular urge for uniform standards throughout the country-for what in effect was a unified economy.""8

Social and political forces also played a defining role in the Court's reconsideration of decisions on sterilization and the eugenics movement," state-mandated flag salutes,' the Roe v. Wade trimester standard, 8 the death penalty,' states' rights, 3 and much more.' It did not matter that some of these earlier decisions commanded an impressive majority of eight to one." Without popular support, these decisions settled nothing. Justice Robert Jackson instructed us that "[t]he practical play of the forces of politics is such that judicial power has often delayed but never permanently defeated the persistent will of a substantial majority.""6 As such, for a Court that wants to maximize its power and legitimacy, taking social and political forces into account is an act of necessity, not cowardice. Correspondingly, when the Court gives short shrift to populist values or concerns, its decisionmaking is unworkable and destabilizing.87

The Supreme Court may be the ultimate interpreter in a particular case, but not in the larger social issues of which that case is a reflection. Indeed, it is difficult to locate in the more than two centuries of rulings from the Supreme Court a single decision that ever finally settled a transcendent question of constitutional law. When a decision fails to persuade or otherwise proves unworkable.' elected officials, interest groups, academic commentators, and the press will speak their minds and the Court, ultimately, will listen."

Even in decisions that are generally praised, such as Brown, the Court must calibrate its decisionmaking against the sentiments of the implementing community and the nation. In an effort to temper Southern hostility to its decision, the Court did not issue a remedy in the first Brown decision.' A similar tale is told by the Court's invocation of the so-called "passive virtues," that is, procedural and jurisdictional mechanisms that allow the Court to steer clear of politically explosive issues.91 For example, the Court will not "anticipate a question of constitutional law in advance of the necessity of deciding it," not "formulate a rule of constitutional law broader than is required," nor "pass upon a constitutional question... if there is... some other ground," such as statutory construction, upon which to dispose of the case.' This deliberate withholding of judicial power reflects the fact that courts lack ballot-box legitimacy and need to avoid costly collisions with the general public and other branches of government.'

It is sometimes argued that courts operate on principle while the rest of government is satisfied with compromises." This argument is sheer folly. A multimember Court, like government, gropes incrementally towards consensus and decision through compromise, expediency, and ad hoc actions. "No good society," as Alexander Bickel observed, "can be unprincipled; and no viable society can be principle-ridden."'95

Courts, like elected officials, cannot escape "[t]he great tides and currents which engulf" the rest of us.96 Rather than definitively settling transcendent questions, courts must take account of social movements and public opinion.' When the judiciary strays outside and opposes the policy of elected leaders, it does so at substantial risk. The Court maintains its strength by steering a course that fits within the permissible limits of public opinion. Correspondingly, "the Court's legitimacy-indeed, the Constitution's-must ultimately spring from public acceptance," for ours is a "political system ostensibly based on consent."98 pg. 93-98

**Weakening the court prevents sustainable development**

Stein 5—Former Judge of the New South Wales Court of Appeal and the New South Wales Land and Environment Court [Justice Paul Stein (International Union for Conservation of Nature (IUCN) Specialist Group on the Judiciary), “Why judges are essential to the rule of law and environmental protection,” Judges and the Rule of Law: Creating the Links: Environment, Human Rights and Poverty, IUCN Environmental Policy and Law Paper No. 60, Edited by Thomas Greiber, 2006]

The Johannesburg Principles state:

“We emphasize that the fragile state of the global environment requires the judiciary, as the guardian of the Rule of Law, to boldly and fearlessly implement and enforce applicable international and national laws, which in the field of environment and sustainable development will assist in alleviating poverty and sustaining an enduring civilization, and ensuring that the present generation will enjoy and improve the quality of life of all peoples, while also ensuring that the inherent rights and interests of succeeding generations are not compromised.”

There can be no argument that environmental law, and sustainable development law in particular, are vibrant and dynamic areas, both internationally and domestically. Judge Weeramantry (of the ICJ) has reminded us that we judges, as custodians of the law, have a major obligation to contribute to its development. Much of sustainable development law is presently making the journey from soft law into hard law. This is happening internationally but also it is occurring in many national legislatures and courts.

Fundamental environmental laws relating to water, air, our soils and energy are critical to narrowing the widening gap between the rich and poor of the world. Development may be seen as the bridge to narrow that gap but it is one that is riddled with dangers and contradictions. We cannot bridge the gap with materials stolen from future generations. Truly sustainable development can only take place in harmony with the environment. Importantly we must not allow sustainable development to be duchessed and bastardized.

A role for judges?

It is in striking the balance between development and the environment that the courts have a role. Of course, this role imposes on judges a significant trust. The balancing of the rights and needs of citizens, present and future, with development, is a delicate one. It is a balance often between powerful interests (private and public) and the voiceless poor. In a way judges are the meat in the sandwich but, difficult as it is, we must not shirk our duty. Pg. 53-54

**Extinction of all complex life**

Barry 13—Political ecologist with expert proficiencies in old forest protection, climate change, and environmental sustainability policy [Dr. Glen Barry (Ph.D. in "Land Resources" and Masters of Science in "Conservation Biology and Sustainable Development” from the University of Wisconsin-Madison), “ECOLOGY SCIENCE: Terrestrial Ecosystem Loss and Biosphere Collapse,” Forests.org, February 4, 2013, pg. http://forests.org/blog/2013/02/ecology-science-terrestrial-ec.asp

Blunt, Biocentric Discussion on Avoiding Global Ecosystem Collapse and Achieving Global Ecological Sustainability

Science needs to do a better job of considering worst-case scenarios regarding continental- and global-scale ecological collapse. The loss of biodiversity, ecosystems, and landscape connectivity reviewed here shows clearly that ecological collapse is occurring at spatially extensive scales. The collapse of the biosphere and complex life, or eventually even all life, is a possibility that needs to be better understood and mitigated against. A tentative case has been presented here that terrestrial ecosystem loss is at or near a planetary boundary. It is suggested that a 66% of Earth's land mass must be maintained in terrestrial ecosystems, to maintain critical connectivity necessary for ecosystem services across scales to continue, including the biosphere. Yet various indicators show that around 50% of Earth's terrestrial ecosystems have been lost and their services usurped by humans. Humanity may have already destroyed more terrestrial ecosystems than the biosphere can bear. There exists a major need for further research into how much land must be maintained in a natural and agroecological state to meet landscape and bioregional sustainable development goals while maintaining an operable biosphere.

It is proposed that a critical element in determining the threshold where terrestrial ecosystem loss becomes problematic is where landscape connectivity of intact terrestrial ecosystems erodes to the point where habitat patches exist only in a human context. Based upon an understanding of how landscapes percolate across scale, it is recommended that 66% of Earth's surface be maintained as ecosystems; 44% as natural intact ecosystems (2/3 of 2/3) and 22% as agroecological buffer zones. Thus nearly half of Earth must remain as large, connected, intact, and naturally evolving ecosystems, including old-growth forests, to provide the context and top-down ecological regulation of both human agroecological, and reduced impact and appropriately scaled industrial activities.

Given the stakes, it is proper for political ecologists and other Earth scientists to willingly speak bluntly if we are to have any chance of averting global ecosystem collapse. A case has been presented that Earth is already well beyond carrying capacity in terms of amount of natural ecosystem habitat that can be lost before the continued existence of healthy regional ecosystems and the global biosphere itself may not be possible. Cautious and justifiably conservative science must still be able to rise to the occasion of global ecological emergencies that may threaten our very survival as a species and planet.

Those knowledgeable about planetary boundaries—and abrupt climate change and terrestrial ecosystem loss in particular—must be more bold and insistent in conveying the range and possible severity of threats of global ecosystem collapse, while proposing sufficient solutions. It is not possible to do controlled experiments on the Earth system; all we have is observation based upon science and trained intuition to diagnose the state of Earth's biosphere and suggest sufficient ecological science–based remedies.

If Gaia is alive, she can die. Given the strength of life-reducing trends across biological systems and scales, there is a need for a rigorous research agenda to understand at what point the biosphere may perish and Earth die, and to learn what configuration of ecosystems and other boundary conditions may prevent her from doing so. We see death of cells, organisms, plant communities, wildlife populations, and whole ecosystems all the time in nature—extreme cases being desertification and ocean dead zones. There is no reason to dismiss out of hand that the Earth System could die if critical thresholds are crossed. We need as Earth scientists to better understand how this may occur and bring knowledge to bear to avoid global ecosystem and biosphere collapse or more extreme outcomes such as biological homogenization and the loss of most or even all life. To what extent can a homogenized Earth of dandelions, rats, and extremophiles be said to be alive, can it ever recover, and how long can it last?

The risks of global ecosystem collapse and the need for strong response to achieve global ecological sustainability have been understated for decades. If indeed there is some possibility that our shared biosphere could be collapsing, there needs to be further investigation of what sorts of sociopolitical responses are valid in such a situation. Dry, unemotional scientific inquiry into such matters is necessary—yet more proactive and evocative political ecological language may be justified as well. We must remember we are speaking of the potential for a period of great dying in species, ecosystems, humans, and perhaps all being. It is not clear whether this global ecological emergency is avoidable or recoverable. It may not be. But we must follow and seek truth wherever it leads us.

Planetary boundaries have been quite anthropocentric, focusing upon human safety and giving relatively little attention to other species and the biosphere's needs other than serving humans. Planetary boundaries need to be set that, while including human needs, go beyond them to meet the needs of ecosystems and all their constituent species and their aggregation into a living biosphere. Planetary boundary thinking needs to be more biocentric.

I concur with Williams (2000) that what is needed is an Earth System–based conservation ethic—based upon an "Earth narrative" of natural and human history—which seeks as its objective the "complete preservation of the Earth's biotic inheritance." Humans are in no position to be indicating which species and ecosystems can be lost without harm to their own intrinsic right to exist, as well as the needs of the biosphere. For us to survive as a species, logic and reason must prevail (Williams 2000).

Those who deny limits to growth are unaware of biological realities (Vitousek 1986). There are strong indications humanity may undergo societal collapse and pull down the biosphere with it. The longer dramatic reductions in fossil fuel emissions and a halt to old-growth logging are put off, the worse the risk of abrupt and irreversible climate change becomes, and the less likely we are to survive and thrive as a species. Human survival—entirely dependent upon the natural world—depends critically upon both keeping carbon emissions below 350 ppm and maintaining at least 66% of the landscape as natural ecological core areas and agroecological transitions and buffers. Much of the world has already fallen below this proportion, and in sum the biosphere's terrestrial ecosystem loss almost certainly has been surpassed, yet it must be the goal for habitat transition in remaining relatively wild lands undergoing development such as the Amazon, and for habitat restoration and protection in severely fragmented natural habitat areas such as the Western Ghats.

The human family faces an unprecedented global ecological emergency as reckless growth destroys the ecosystems and the biosphere on which all life depends. Where is the sense of urgency, and what are proper scientific responses if in fact Earth is dying? Not speaking of worst-case scenarios—the collapse of the biosphere and loss of a living Earth, and mass ecosystem collapse and death in places like Kerala—is intellectually dishonest. We must consider the real possibility that we are pulling the biosphere down with us, setting back or eliminating complex life.

The 66% / 44% / 22% threshold of terrestrial ecosystems in total, natural core areas, and agroecological buffers gets at the critical need to maintain large and expansive ecosystems across at least 50% of the land so as to keep nature connected and fully functional. We need an approach to planetary boundaries that is more sensitive to deep ecology to ensure that habitable conditions for all life and natural evolutionary change continue. A terrestrial ecosystem boundary which protects primary forests and seeks to recover old-growth forests elsewhere is critical in this regard. In old forests and all their life lie both the history of Earth's life, and the hope for its future. The end of their industrial destruction is a global ecological imperative.

Much-needed dialogue is beginning to focus on how humanity may face systematic social and ecological collapse and what sort of community resilience is possible. There have been ecologically mediated periods of societal collapse from human damage to ecosystems in the past (Kuecker and Hall 2011). What makes it different this time is that the human species may have the scale and prowess to pull down the biosphere with them. It is fitting at this juncture for political ecologists to concern themselves with both legal regulatory measures, as well as revolutionary processes of social change, which may bring about the social norms necessary to maintain the biosphere. Rockström and colleagues (2009b) refer to the need for "novel and adaptive governance" without using the word revolution. Scientists need to take greater latitude in proposing solutions that lie outside the current political paradigms and sovereign powers.

Even the Blue Planet Laureates' remarkable analysis (Brundtland et al. 2012), which notes the potential for climate change, ecosystem loss, and inequitable development patterns neither directly states nor investigates in depth the potential for global ecosystem collapse, or discusses revolutionary responses. UNEP (2012) notes abrupt and irreversible ecological change, which they say may impact life-support systems, but are not more explicit regarding the profound human and ecological implications of biosphere collapse, or the full range of sociopolitical responses to such predictions. More scientific investigations are needed regarding alternative governing structures optimal for pursuit and achievement of bioregional, continental, and global sustainability if we are maintain a fully operable biosphere forever. An economic system based upon endless growth that views ecosystems necessary for planetary habitability primarily as resources to be consumed cannot exist for long.
Planetary boundaries offer a profoundly difficult challenge for global governance, particularly as increased scientific salience does not appear to be sufficient to trigger international action to sustain ecosystems (Galaz et al. 2012). If indeed the safe operating space for humanity is closing, or the biosphere even collapsing and dying, might not discussion of revolutionary social change be acceptable? Particularly, if there is a lack of consensus by atomized actors, who are unable to legislate the required social change within the current socioeconomic system. By not even speaking of revolutionary action, we dismiss any means outside the dominant growth-based oligarchies.

In the author's opinion, it is shockingly irresponsible for Earth System scientists to speak of geoengineering a climate without being willing to academically investigate revolutionary social and economic change as well. It is desirable that the current political and economic systems should reform themselves to be ecologically sustainable, establishing laws and institutions for doing so. Yet there is nothing sacrosanct about current political economy arrangements, particularly if they are collapsing the biosphere. Earth requires all enlightened and knowledgeable voices to consider the full range of possible responses now more than ever.

One possible solution to the critical issues of terrestrial ecosystem loss and abrupt climate change is a massive and global, natural ecosystem protection and restoration program—funded by a carbon tax—to further establish protected large and connected core ecological sustainability areas, buffers, and agro-ecological transition zones throughout all of Earth's bioregions. Fossil fuel emission reductions must also be a priority. It is critical that humanity both stop burning fossil fuels and destroying natural ecosystems, as fast as possible, to avoid surpassing nearly all the planetary boundaries.

In summation, we are witnessing the collective dismantling of the biosphere and its constituent ecosystems which can be described as ecocidal. The loss of a species is tragic, of an ecosystem widely impactful, yet with the loss of the biosphere all life may be gone. Global ecosystems when connected for life's material flows provide the all-encompassing context within which life is possible. The miracle of life is that life begets life, and the tragedy is that across scales when enough life is lost beyond thresholds, living systems die.

# 1nc – cp

**The United States Congress should pass a statutory restriction that mandates congressional oversight of the National Security Administration’s Operation Bullrun and Sigint, prohibit the placement of backdoors in encryption standards, and mandate the National Security Administration must acquire a warrant from the United States Foreign Intelligence Surveillance Court in adversarial process before proceeding with hacking US and European civilian software.**

# 1nc – adv 2

**Their food-based biotech breakthroughs bankrupt the health of our topsoil --- guarantees extinction**

**Friedemann 07** (Alice Friedemann, energy journalist, member of the Northern California Science Writers Association, B.S. in biology, University of Illinois, “Peak Soil: Why Cellulosic Ethanol, Biofuels are Unsustainable and a Threat to America,” Culture Change, April 10, 2007, http://www.culturechange.org/cms/content/view/107/1/)

Part 1. The Dirt on Dirt. Ethanol is an agribusiness get-rich-quick scheme that will **bankrupt our topsoil.** Nineteenth century western farmers converted their corn into whiskey to make a profit (Rorabaugh 1979). Archer Daniels Midland, a large grain processor, came up with the same scheme in the 20th century. But ethanol was a product in search of a market, so ADM spent three decades relentlessly lobbying for ethanol to be used in gasoline. Today ADM makes record profits from ethanol sales and government subsidies (Barrionuevo 2006). The Department of Energy hopes to have biomass supply 5% of the nation’s power, 20% of transportation fuels, and 25% of chemicals by 2030. These combined goals are 30% of the current petroleum consumption (DOE Biomass Plan, DOE Feedstock Roadmap). Fuels made from biomass are a lot like the nuclear powered airplanes the Air Force tried to build from 1946 to 1961, for billions of dollars. They never got off the ground. The idea was interesting -- atomic jets could fly for months without refueling. But the lead shielding to protect the crew and several months of food and water was too heavy for the plane to take off. The weight problem, the ease of shooting this behemoth down, and the consequences of a crash landing were so obvious, it’s amazing the project was ever funded, let alone kept going for 15 years. Biomass fuels have equally obvious and predictable reasons for failure. Odum says that time explains why renewable energy provides such low energy yields compared to non-renewable fossil fuels. The more work left to nature, the higher the energy yield, but the longer the time required. Although coal and oil took millions of years to form into dense, concentrated solar power, all we had to do was extract and transport them (Odum 1996) With every step required to transform a fuel into energy, there is less and less energy yield. For example, to make ethanol from corn grain, which is how all U.S. ethanol is made now, corn is first grown to develop hybrid seeds, which next season are planted, harvested, delivered, stored, and preprocessed to remove dirt. Dry-mill ethanol is milled, liquefied, heated, saccharified, fermented, evaporated, centrifuged, distilled, scrubbed, dried, stored, and transported to customers (McAloon 2000). **Fertile soil will be destroyed** if crops and other "wastes" are removed to make cellulosic ethanol. "We stand, in most places on earth, **only six inches from desolation,** for that is the thickness of the topsoil layer upon which the **entire life of the planet depends"** (Sampson 1981). Loss of topsoil has been a major factor in the **fall of civilizations** (Sundquist 2005 Chapter 3, Lowdermilk 1953, Perlin 1991, Ponting 1993). You end up with a country like Iraq, formerly Mesopotamia, where 75% of the farm land became a salty desert. Fuels from biomass are not sustainable, are ecologically destructive, have a net energy loss, and there isn’t enough biomass in America to make significant amounts of energy because essential inputs like water, land, fossil fuels, and phosphate ores are limited. Soil Science 101 – There Is No "Waste" Biomass Long before there was "Peak Oil", there was "Peak Soil". Iowa has some of the best topsoil in the world. In the past century, half of it’s been lost, from an average of 18 to 10 inches deep (Pate 2004, Klee 1991). Productivity drops off sharply when topsoil reaches 6 inches or less, the average crop root zone depth (Sundquist 2005). Crop productivity continually declines as topsoil is lost and residues are removed. (Al-Kaisi May 2001, Ball 2005, Blanco-Canqui 2006, BOA 1986, Calviño 2003, Franzleubbers 2006, Grandy 2006, Johnson 2004, Johnson 2005, Miranowski 1984, Power 1998, Sadras 2001, Troeh 2005, Wilhelm 2004). On over half of America’s best crop land, the erosion rate is 27 times the natural rate, 11,000 pounds per acre (NCRS 2006). The natural, geological erosion rate is about 400 pounds of soil per acre per year (Troeh 2005). Some is due to farmers not being paid enough to conserve their land, but most is due to investors who farm for profit. Erosion control cuts into profits. Erosion is happening ten to twenty times faster than the rate topsoil can be formed by natural processes (Pimentel 2006). That might make the average person concerned. But not the USDA -- they’ve defined erosion as the average soil loss that could occur without causing a decline in long term productivity. Troeh (2005) believes that the tolerable soil loss (T) value is set too high, because it's based only on the upper layers -- how long it takes subsoil to be converted into topsoil. T ought to be based on deeper layers – the time for subsoil to develop from parent material or parent material from rock. If he’s right, erosion is even worse than NCRS figures. Erosion removes the most fertile parts of the soil (USDA-ARS). When you feed the soil with fertilizer, you’re not feeding plants; you’re feeding the biota in the soil. Underground creatures and fungi break down fallen leaves and twigs into microscopic bits that plants can eat, and create tunnels air and water can infiltrate. In nature there are no elves feeding (fertilizing) the wild lands. When plants die, they’re recycled into basic elements and become a part of new plants. It’s a closed cycle. There is no bio-waste. Soil creatures and fungi act as an immune system for plants against diseases, weeds, and insects – when this living community is harmed by agricultural chemicals and fertilizers, even more chemicals are needed in an increasing vicious cycle (Wolfe 2001). There’s so much life in the soil, there can be 10 "biomass horses" underground for every horse grazing on an acre of pasture (Wardle 2004). If you dove into the soil and swam around, you’d be surrounded by miles of thin strands of mycorrhizal fungi that help plant roots absorb more nutrients and water, plus millions of creatures, most of them unknown. There’d be thousands of species in just a handful of earth –- springtails, bacteria, and worms digging airy subways. As you swam along, plant roots would tower above you like trees as you wove through underground skyscrapers. Plants and creatures underground need to drink, eat, and breathe just as we do. An ideal soil is half rock, and a quarter each water and air. When tractors plant and harvest, they crush the life out of the soil, as underground apartments collapse 9/11 style. The tracks left by tractors in the soil are the erosion route for half of the soil that washes or blows away (Wilhelm 2004). Corn Biofuel (i.e. butanol, ethanol, biodiesel) is especially harmful because: Row crops such as corn and soy cause 50 times more soil erosion than sod crops [e.g., hay] (Sullivan 2004) or more (Al-Kaisi 2000), because the soil between the rows can wash or blow away. If corn is planted with last year's corn stalks left on the ground (no-till), erosion is less of a problem, but only about 20% of corn is grown no-till. Soy is usually grown no-till, but insignificant residues to harvest for fuel. Corn uses more water, insecticide, and fertilizer than most crops (Pimentel 2003). Due to high corn prices, continuous corn (corn crop after corn crop) is increasing, rather than rotation of nitrogen fixing (fertilizer) and erosion control sod crops with corn. The government has studied the effect of growing continuous corn, and found it increases eutrophication by 189%, global warming by 71%, and acidification by 6% (Powers 2005). Farmers want to plant corn on highly-erodible, water protecting, or wildlife sustaining Conservation Reserve Program land. Farmers are paid not to grow crops on this land. But with high corn prices, farmers are now asking the Agricultural Department to release them from these contracts so they can plant corn on these low-producing, environmentally sensitive lands (Tomson 2007). Crop residues are essential for soil nutrition, water retention, and soil carbon. Making **cellulosic ethanol** from corn residues -- the parts of the plant we don’t eat (stalk, roots, and leaves) – **removes water, carbon, and nutrients** (Nelson, 2002, McAloon 2000, Sheehan, 2003). These practices lead to lower crop production and ultimately deserts. Growing plants for fuel will **accelerate** the already unacceptable levels of **topsoil erosion,** soil carbon and **nutrient depletion,** soil compaction, water retention, water depletion, water pollution, air pollution, eutrophication, destruction of fisheries, siltation of dams and waterways, salination, loss of biodiversity, and damage to human health (Tegtmeier 2004). Why are soil scientists absent from the biofuels debate? I asked 35 soil scientists why topsoil wasn’t part of the biofuels debate. These are just a few of the responses from the ten who replied to my off-the-record poll (no one wanted me to quote them, mostly due to fear of losing their jobs): "I have no idea why soil scientists aren't questioning corn and cellulosic ethanol plans. Quite frankly I’m not sure that our society has had any sort of reasonable debate about this with all the facts laid out. When you see that even if all of the corn was converted to ethanol and that would not provide more than 20% of our current liquid fuel use, it certainly makes me wonder, even before considering the conversion efficiency, soil loss, water contamination, food price problems, etc." "Biomass production is not sustainable. Only business men and women in the refinery business believe it is." "Should we be using our best crop land to grow gasohol and contribute further to global warming? What will our children grow their food on?" "As agricultural scientists, we are programmed to make farmers profitable, and therefore profits are at the top of the list, and not soil, family, or environmental sustainability". "Government policy since WWII has been to encourage overproduction to keep food prices down (people with full bellies don't revolt or object too much). It's hard to make a living farming commodities when the selling price is always at or below the break even point. Farmers have had to get bigger and bigger to make ends meet since the margins keep getting thinner and thinner. We have sacrificed our family farms in the name of cheap food. When farmers stand to make few bucks (as with biofuels) agricultural scientists tend to look the other way". "You are quite correct in your concern that soil science should be factored into decisions about biofuel production. Unfortunately, we soil scientists have missed the boat on the importance of soil management to the sustainability of biomass production, and the long-term impact for soil productivity." This is not a new debate. Here’s what scientists had to say decades ago: Removing "crop residues…would **rob organic** matter that is **vital to the maintenance of soil fertility** and tilth, leading to **disastrous soil erosion levels.** Not considered is the importance of plant residues as a primary source of energy for soil microbial activity. The most prudent course, clearly, is to continue to recycle most crop residues back into the soil, where they are vital in keeping organic matter levels high enough to make the soil more open to air and water, more resistant to soil erosion, and more productive" (Sampson 1981). "…Massive alcohol production from our farms is an immoral use of our soils since it rapidly promotes their wasting away. We must save these soils for an oil-less future" (Jackson 1980).

**It also makes bioterror inevitable**

**Galamas 11** – Social Sciences Institute at Lisbon University, Ph.D. Candidate (Francisco, Comparative Strategy, 30: 79—93, 2011, DOI: 10.1080/01495933.2011.545689, “Profiling Bioterrorism: Present and Potential Threats,” EBSCO Host)

The third and final trend showing a weakening in the past restrictions surrounding bioterrorism is the **new breakthroughs in biotechnology**. In recent years the world has witnessed the tremendous impact and beneficial effects of new biotechnologies, especially in the area of medicine. But new scientific discoveries in these areas can also be used to **improve biological weapons and make them better killing instruments**. As terrorists become aware of these advantages, the value of biological weapons for terrorist purposes is also likely to increase. But what type of manipulations can biotechnology perform in biological weapons? To begin with, biotechnology-based biological weapons can have better environmental resistance, thus eliminating the question of whether the pathogen would survive to reach its target or not. If the pathogen survives sufficient time to infect its target, medical services could fight it with medical countermeasures, such as antibiotics, or prevent infection through vaccination. Pathogens resistant to antibiotics are nothing new to the scientific community, but biotechnology can manipulate pathogens so they are able to resist multiple antibiotics simultaneously. Regarding vaccination, new techniques can allow manipulations of pathogens that can render previous immunization useless. But **these technologies not only make biological agents resistant to biodefense** countermeasures, **they can also make them** deadlier, **more contagious, and more precise** in order to attack specific biological systems. Worse, biotechnology allows specific genetic manipulations that could enable the control of contagious pathogens. This should prove quite useful if bioterrorists wish to prevent the highly contagious pathogens from infecting the population of a supporting country.34

**These biotech advances make bioterrorism an existential risk --- new pathogens won’t burn-out**

**Sandberg et al. 8** – Research Fellow at the Future of Humanity Institute at Oxford University. PhD in computation neuroscience, Stockholm—AND—Jason G. Matheny—PhD candidate in Health Policy and Management at Johns Hopkins. special consultant to the Center for Biosecurity at the University of Pittsburgh—AND—Milan M. Ćirković—senior research associate at the Astronomical Observatory of Belgrade. Assistant professor of physics at the University of Novi Sad. (Anders, How can we reduce the risk of human extinction?, 9 September 2008, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. **Advances in synthetic biology** might **make it possible to engineer pathogens capable of extinction**-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

**Even if the attack fails, synthbio lethality advances results in retaliation and global nuclear war**

**Conley 03** (Lieutenant Colonel Harry W. Conley, Chief of the System Analysis Branch, Headquarters Air Combat Command, “Not with Impunity: Assessing US Policy for Retaliating to a Chemical or Biological Attack,” Air & Space Power Journal, Spring 2003, http://www.airpower.maxwell.af.mil/airchronicles/apj/apj03/spr03/conley.html)

The number of American casualties suffered due to a WMD attack may well be the most important variable in determining the nature of the US reprisal. A key question here is how many Americans would have to be killed to prompt a massive response by the United States. The bombing of marines in Lebanon, the Oklahoma City bombing, and the downing of Pan Am Flight 103 each resulted in a casualty count of roughly the same magnitude (150–300 deaths). Although these events caused anger and a desire for retaliation among the American public, they prompted no serious call for massive or nuclear retaliation. The body count from a single biological attack could easily be one or two orders of magnitude higher than the casualties caused by these events. Using the rule of proportionality as a guide, one could justifiably debate whether the United States should use massive force in responding to an event that resulted in only a few thousand deaths. However, what if the casualty count was around 300,000? Such an unthinkable result from a single CBW incident is not beyond the realm of possibility: “According to the U.S. Congress Office of Technology Assessment, 100 kg of anthrax spores delivered by an efficient aerosol generator on a large urban target would be between two and six times as lethal as a one megaton thermo-nuclear bomb.”46 Would the deaths of 300,000 Americans be enough to trigger a nuclear response? In this case, proportionality does not rule out the use of nuclear weapons. Besides simply the total number of casualties, the types of casualties- predominantly military versus civilian- will also affect the nature and scope of the US reprisal action. Military combat entails known risks, and the emotions resulting from a significant number of military casualties are not likely to be as forceful as they would be if the attack were against civilians. World War II provides perhaps the best examples for the kind of event or circumstance that would have to take place to trigger a nuclear response. A CBW event that produced a shock and death toll roughly equivalent to those arising from the attack on Pearl Harbor might be sufficient to prompt a nuclear retaliation. President Harry Truman’s decision to drop atomic bombs on Hiroshima and Nagasaki- based upon a calculation that up to one million casualties might be incurred in an invasion of the Japanese homeland47- is an example of the kind of thought process that would have to occur prior to a nuclear response to a CBW event. Victor Utgoff suggests that “if nuclear retaliation is seen at the time to offer the best prospects for suppressing further CB attacks and speeding the defeat of the aggressor, and **if** the original attacks had caused **severe damage** that had **outraged American** or allied **publics, nuclear retaliation would be more than just a possibility, whatever promises had been made.”**48

# Politics

#### Obama is selling the Iranian deal now – Stars are aligned – needs to hold off congress from more action

PARSI 2/18/14—President of the National Iranian American Council [Trita Parsi, US-Iran deal: Compromise is key, http://www.aljazeera.com/indepth/opinion/2014/02/us-iran-deal-compromise-key-201421845935181913.html]

As a new phase of nuclear talks begins between Iran and the five permanent members of the UN Security Council plus Germany (P5+1) in Vienna on February 18, one thing is clear: From here onwards, diplomacy depends primarily on the ability of the presidents of Iran and the US to absorb and sell compromise.

The stars could not be better aligned for a US-Iran breakthrough. Regional developments - from the instability following the Arab spring to the civil war in Syria - have significantly increased the cost of continued conflict, as has the escalation of the nuclear issue with steadily growing Iranian capabilities and ever tightening economic sanctions.

Domestically, developments are also favourable for a deal. Iran's hardliners and proponents of a narrative of resistance have been put on the defensive by Hassan Rouhani's election victory in June 2013. And Iran's Supreme Leader Ayatollah Ali Khamenei has thus far firmly backed Rouhani's negotiation strategy.

In Washington, proponents of Israeli Prime Miinister Benjamin Netanyahu's line have suffered several defeats over the past year, from the nomination of Senator Chuck Hagel for Secretary of Defense, to the call for military action in Syria, to the failure to pass new sanctions on Iran, rendering their influence less decisive. All three defeats were, in no small part, due to the mobilisation of pro-diplomacy groups in the US. Timing-wise, striking a deal during Rouhani's first year and during Obama's last years in office is also ideal.

That doesn't mean, however, that negotiations will be easy. On the contrary, the hard part begins now.

In the interim deal, the main concessions exchanged were increased transparency and inspections of Iran's nuclear facilities, halting the expansion of the enrichment program, and ending it at the 20 percent level. In return, Iran would get Western acceptance of enrichment on Iranian soil, and agreement that Iran eventually will enjoy all rights granted by the Non-Proliferation Treaty (NPT), as well as some minor sanctions relief.

Going forward, Obama will face severe difficulties offering relief on key sanctions such as those on oil and banking, since these are controlled by Congress.

Obama can temporarily waive Congressional sanctions, but the utility of waivers is questionable due to the proportionality principle established in the Istanbul talks in the spring of 2012.

Reversible Western concessions, the Istanbul talks established, will have to be exchanged for reversible Iranian measures and vice versa. To extract irreversible concessions, similarly irreversible measures have to be offered.

Sanctions waivers are fundamentally reversible. They usually last only six months and have to be actively renewed by the president - including by whoever occupies the White House after 2016.

If Obama can only offer Iran waivers, Tehran will likely respond in kind. Its implementation of the Additional Protocol - a pivotal transparency instrument - would be time limited and subject to continuous renewal (just like the waivers) rather than being permanent. This is tantamount to adding a self-destruction mechanism to the deal. Such a deal is harder to sell, and even harder to keep. To be durable, the deal must have strong elements of permanence to it, which requires irreversible measures. It is foreseeable that waivers could be used during the first phase of the implementation of a final deal; partly to test Iranian intentions, partly because actually lifting sanctions can take years.

Washington, however, will push for the implementation phase of the final deal to be very lengthy - up to 25 years - and for waivers to be used throughout this period. According to this plan, sanctions wouldn't be fully lifted until a quarter century after the final deal has been agreed upon, i.e. when Iran's nuclear file has been fully normalised.

#### Plan causes causes internal Democrat defection

LOOMIS 7—Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University [Dr. Andrew J. Loomis, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### New sanctions will cause war – prefer newest comprehensive study

ARMBRUSTER 2/18/14—National Security Editor for ThinkProgress.org at the Center for American Progress Action Fund [Ben Armbruster, Bipartisan Expert Group Says New Iran Sanctions Will Undermine Diplomacy, http://thinkprogress.org/world/2014/02/18/3300741/iran-project-sanctions-diplomacy/]

A new report from a bipartisan group of experts at the Iran Project released on Tuesday finds that opponents of new sanctions on Iran at this time are largely correct in that they would lead to a break-down of diplomacy, isolate the U.S. from its negotiating partners and embolden hard-liners in Tehran.

The Iran sanctions battle in the Senate has stalled for now, but it’s unclear if the House will take up the matter again, as Majority Leader Eric Cantor (R-VA) is reportedly working on language with other House leaders.

The Iran Project’s report analyzes arguments for and against the Senate Iran sanctions bill that was introduced last December by Sens. Mark Kirk (R-IL) and Robert Menendez (D-NJ), who have argued that new sanctions will give the U.S. more leverage in nuclear talks with Iran.

But, the report says, “It is diﬃcult to argue that a new sanctions bill is intended to support the negotiations when all the countries doing the negotiating oppose it.”

Kirk, Menendez and other supporters of the bill say the sanctions have a delayed trigger and will kick in in six months or if Iran backs out of the deal. Not so, the Iran Project says. “After carefully reading the bill line by line and consulting with both current and retired Senate staff the relevant committees, it appears that the critics are correct: the change in sanctions law takes effect upon passage,” the report says, which would most likely put the United States in violation of the interim nuclear agreement reached in Geneva in November

On whether new sanctions will weaken the international coalition on imposing existing sanctions, “some countries would continue to honor some sanctions,” the Iran Project says if the Senate sanctions bill passes. “Still, it would seem that on balance, the net result would be less pressure on Iran.” The report also says that unilateral congressional action on sanctions now “would feed an unwelcome narrative” to America’s partners, the U.K., France, China, Russia, Germany and others, that the U.S. can’t live up to its promises and is an unreliable partner.

Many, like Sen. Patrick Murphy (D-CT), have argued that placing new sanctions on Iran will undermine relative moderate Iranian President Hassan Rouhani, who supports a diplomatic approach with the U.S. The Iran Project agrees. “It is very diﬃcult to imagine that the sanctions bill would do anything but undermine Rouhani, as he attempts to steer Iran on a diﬀerent path. This is an assessment shared not only by Iran experts, and Iranian expats who have opposed the regime, but also by Israeli military intelligence, which has concluded that Rouhani may represent a fundamental shift in Iranian politics.”

“[I]t is difficult to escape the conclusion that a new sanctions bill would increase the probability of war, even if it does not guarantee such an outcome,” the report says.

The bipartisan Iran Project has issued several reports on the Iran nuclear issue. In 2012, the group concluded that attacking Iran would risk an “all out regional war” lasting “several years” and that In order to achieve regime change, the report says, “the occupation of Iran would require a commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.”

#### That escalates to World War III

**Reuveny 10** - Professor of political economy @ Indiana University [Dr. Rafael Reuveny (PhD in Economics and Political Science from the University of Indiana), “Guest Opinion: Unilateral strike on Iran could trigger world depression,” McClatchy Newspaper, Aug 9, 2010, pg. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml]

BLOOMINGTON, Ind. -- A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.
For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.
Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.
All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.
Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond.
A regional war
Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war.
During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents.
Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.
In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.
An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.
Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.
The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony.
Replaying Nixon’s nightmare
Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.

Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.

If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.

While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

# T

**Intelligence Collection is not an OFFENSIVE cyber operation**

WAXMAN 11 Associate Professor, Columbia Law School; Adjunct Senior Fellow, Council on Foreign Relations; Member of the Hoover Institution Task Force on National Security and Law. [Matthew C. Waxman, Cyber-Attacks and the Use of Force: Back to the Future of Article 2(4), The Yale Journal of International Law, Summer, 2011, The Yale Journal of International Law]

If these inferences about U.S. government strategic thinking are correct, the U.S. government probably prefers an effects-or consequences-based interpretation of "force" or "armed attack" with respect to cyber-attacks not only for what it includes (and therefore what the Charter prohibits and what could trigger self-defense rights), but also for what it excludes. Computer-based espionage, intelligence collection, or even some preemptive cyber-operations or [\*435] countermeasures designed to disable an adversary's threatening capabilities, for example, would generally not constitute prohibited force because these activities do not produce destructive consequences analogous to a kinetic military attack. n61 Experts inside and outside the government widely agree that the United States is especially strong relative to other states with respect to its ability to penetrate and collect information from others' systems. n62 Consequently, while very concerned about U.S. vulnerabilities to these activities and eager to prevent them, U.S. planners may be reluctant to draw boundaries too tight, lest those boundaries impede their own ability to infiltrate and extract information from others' systems or to prepare to knock out hostile systems in advance of full-fledged attacks. Of course, efforts to draw clear lines between these efforts regarded as short of "force" and prohibited offensive attacks raise tough questions of how to measure and judge the consequences and causal proximity of hostile intrusions, as well as tough technical questions of distinguishing intelligence collection (e.g., extraction of data or mapping foreign information systems) from initiation of offensive operations (e.g., installing malicious code intended to disrupt those systems). In cyberspace, these activities may look identical, especially in real time. n63

**Oversight isnt a statutory restriction**

KAISER 80 The Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine nonstatutory controls available to the Congress:

1. legislative, **oversight,** investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement;

3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation;

4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and

5. direct contact between a congressional office and the agency or office in question.

Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3

**Limits – they allow offensive cyber operations to have a large scope including wiretapping – independent part of war powers that was explicity not in the topic**

**Ground – no ground based off of espionage, only large-scale attacks and oversight is the status quo – means the aff doesn’t have to defend Obama won’t circumvent, which is key neg ground**

**No authority for all of the things listed in the 1ac PLAN TEXT – makes then extra-topical and impossible to be negative – set a precedent and don’t just reject the extra-topical portions of the aff. We have to waste CX and 1NC time getting back to square one**

# CP

**The United States Federal Government should pass a concurrent Congressional resolution expressing Congressional support for restricting the President’s war powers authority for the National Security Administration’s Operation Bullrun and Sigint, prohibit the placement of backdoors in encryption standards, and mandate the National Security Administration must acquire a warrant from the United States Foreign Intelligence Surveillance Court in adversarial process before proceeding with hacking U.S. and European civilian software.**

**The counterplan solves the aff without being overly restrictive**

**Gersen and Posner, 8 -** Kirkland and Ellis Professor of Law, The University of Chicago (Jacob and Eric, “Soft Law: Lessons from Congressional Practice” 61 Stan. L. Rev. 573, lexis)

Soft statutes can also play an important role in the allocation of authority between Congress and the President. Consider the question of how the courts should evaluate executive action at the boundaries of Article II authority. In Youngstown Sheet & Tube Co. v. Sawyer, n113 Justice Jackson famously established a typology for understanding the borders of Article II power. "When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum ... ." n114 When Congress has said nothing or there is concurrent authority, there is a "zone of twilight" n115: When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. n116 The President is on weakest ground when Congress has disapproved of the action: "When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter." n117 Justice Jackson's language is instructive. He does not say "when a formal statute grants or denies presidential authority." Instead, he refers to the express or implied will of Congress, suggesting that implicit acquiescence will be enough to justify executive action in the zone of ambiguous executive authority. The soft statute should be the preferred mechanism for articulating congressional views in this setting n118 because it is a better indicator of legislative views than legislative inaction. There are dozens of reasons Congress fails to act, and negative inferences in the context of Article II powers are especially hazardous. In fact, the soft law analytic frame makes clear that Justice Jackson's typology is actually incomplete. Speaking of congressional agreement, disapproval, or silence is unnecessarily crude. The House might authorize the presidential action and the Senate might expressly disavow it (or vice versa), creating a twilight of the twilight category. In fact, Congress does sometimes use resolutions for these purposes. For example, during 2007, a concurrent resolution was introduced, "expressing the sense of Congress that the President should not initiate military action against Iran without first obtaining authorization from Congress." n119 During the same Congress, Senate Resolutions were offered to censure the President, Vice-President, and Attorney General for conduct related to the war in Iraq, detainment of enemy combatants, and wiretapping practices undertaken without warrants. n120 Another proposed resolution expressed the sense of the Senate that the President has constitutional authority to veto individual items of appropriation without additional statutory authorization. n121 These potential soft [\*604] statutes were not passed by majorities, but they are precisely the sort of information on the scope of permissible executive authority that would inform Justice Jackson's analysis. n122 In this scenario, legislative sentiments, expressed in nonbinding mechanisms, are taken as inputs in the decision-making processes of other institutions - the courts - that themselves generate binding rules, that is, hard law. Even without judicial involvement, however, resolutions that assert congressional authority or limitations on presidential authority may influence the way that the two political branches share power with each other - either as moves in a game where each side must both cooperate and compete, or as appeals to public opinion. n123

**Avoids politics**

**Harvard Law Review, 11** (“A CHEVRON FOR THE HOUSE AND SENATE: DEFERRING TO POST-ENACTMENT CONGRESSIONAL RESOLUTIONS THAT INTERPRET AMBIGUOUS STATUTES” 124 Harv. L. Rev. 1507, April, lexis)

If Congress wishes to resolve a statutory ambiguity, it always has the option of passing a law via bicameralism and presentment. In reality, however, passing laws is extremely difficult, and often the legislative enactment costs are simply greater than the benefits of resolving the ambiguity correctly. n1 Indeed, these high legislative enactment costs are among the reasons that so many of our statutes set forth broad principles rather than specify concrete requirements: gaining consensus on concrete textual mandates imposes even more costs on the already difficult process of legislation. A future Congress may want to clarify these vague statutory mandates as societal, legal, or technological circumstances change, as the consequences of certain policy choices become more apparent, or as legislators simply resolve their differences of opinion. But the costs of legislating a fix are usually too high. n2 Some leading commentators argue that this problem of statutory ossification due to high legislative enactment costs requires judges to interpret statutes as living documents. Professor William Eskridge claims that a statute’s meaning changes over time, and thus judges should “dynamically” interpret statutes.3 Judge Calabresi argues that judges should “update” obsolete statutes by striking down or ignoring any statute that is “sufficiently out of phase with the whole [contemporary] legal framework so that, whatever its age, it can only stand if a current majoritarian or representative body reaffirms it.”4 However, most commentators have criticized such approaches as putting too much power in the hands of unelected and unaccountable judges.5 Instead, Congress has largely relied on administrative agencies to continually update the policies that implement various statutes. When charged with administering statutes, such agencies often have the authority to interpret the legislation's vague commands by translating them into more precise and concrete rules. n6 Moreover, courts have given great deference to agency interpretations of ambiguous statutes under Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc. n7 These agency interpretations, although the products of a more politically accountable process than judicial interpretations, nonetheless are not as publicly deliberative or as nationally representative as a congressional decision. Worse, many other statutes that are similarly indefinite are not administered by any particular agency, thus leaving courts with the primary responsibility to develop the law - and thus the policy - under these statutes, despite judges' lack of expertise and accountability. n8 But by prohibiting one house of Congress from vetoing agency actions, the Supreme Court, in INS v. Chadha, n9 limited Congress's role in administering statutes, despite its institutional advantages over courts - and, in some respects, over agencies - in developing policy. In a recent article, Professors Jacob Gersen and Eric Posner suggest that courts should pay greater attention to post-enactment congressional resolutions when interpreting statutes. n10 This Note develops their idea by proposing more modest congressional involvement than the legislative veto invalidated in Chadha: courts should defer to a [\*1509] House or Senate resolution that adopts a reasonable interpretation of an ambiguous statute. n11 For statutes not administered by any agency with interpretive authority, such deference to a congressional resolution would improve lawmaking by bringing to bear the legislature's policy expertise and democratic accountability. But even for statutes administered by agencies, this proposal would increase accountability. Further, this proposal would help to restore checks and balances and the Constitution's original allocation of power by making the House and Senate coequal with executive agencies in interpreting ambiguous statutory provisions. Whenever these institutions disagree, courts should simply adopt their own best reading of the statute, de novo. I. Statutes Without Agencies Courts should give Chevron-like deference to any resolution passed by either the House or the Senate that reasonably interprets a statutory ambiguity. When deciding whether to defer to such a congressional resolution, courts should engage in both steps of the Chevron analysis, just as they do for agency interpretations of statutes: First, the statute must be "silent or ambiguous with respect to the specific issue" addressed by the congressional resolution. n12 Second, the resolution's interpretation must be "based on a permissible construction of the statute." n13

**Affirmative’s unrepealable legislation is unconstitutional – CP is legal and binds future congress.**

**Mitchell 08** Jonathan F. Mitchell, Assistant Professor of Law, George Mason University School of Law LEGISLATING CLEAR-STATEMENT REGIMES IN NATIONAL-SECURITY LAW George Mason University Law and Economics Research Paper Series 08-56 <http://www.law.gmu.edu/assets/files/publications/working_papers/08-56%20Legislating%20Clear-Statement%20Regimes.pdf>

The Supreme Court has long held that Congress lacks the power to “entrench” statutes by specifying **that** they **are unrepealable**, or repealable only by a supermajority vote.38 But claims that provisions such as section 8(a)(1) “bind” future Congresses are meritless when legislators remain free to repeal the statute through the ordinary bicameralism-and-presentment process, or enact a statute that exempts itself from section 8(a)(1)’s rule of construction.39 (Such a statute need only state that “section 8(a)(1) of the War Powers Resolution shall not be applicable to the provisions of this Act.”). Perhaps the War Powers Resolution has some moral or political influence that dissuades lawmakers from repealing or circumventing it, which effectively “binds” future Congresses to section 8(a)(1)’s clear-statement regime. **But that type of “binding” effect cannot make a statute unconstitutional**; Congress constantly enacts laws that are politically difficult to repeal,40 and every statute renders some future course of action less politically convenient by changing the default position against which future legislation must be enacted.41 So long as it remains formally possible for future legislators to change that default position by majority vote, the mere fact that a pre-existing statute makes that course of action politically difficult cannot present constitutional problems.

**This is a moral side constraint**

**Levinson 00** Daryl Levinson, professor of law at University of Virginia, Spring 2000 UC Law Review

Extending a majority rule analysis of optimal deterrence to constitutional torts requires some explanation, for we do not usually think of violations of constitutional rights in terms of cost-benefit analysis and efficiency. Quite the opposite, constitutional rights are most commonly conceived as deontological side-constraints that trump even utility-maximizing government action. Alternatively, constitutional rights might be understood as serving rule-utilitarian purposes. If the disutility to victims of constitutional violations often exceeds the social benefits derived from the rights-violating activity, or if rights violations create long-term costs that outweigh short-term social benefits, then constitutional rights can be justified as tending to maximize global utility, even though this requires local utility-decreasing steps. Both the deontological and rule-utilitarian descriptions imply that the optimal level of constitutional violations is zero; that is, society would be better off, by whatever measure, if constitutional rights were never violated.

# Adv 1 – Cybersecurity

# Attacks

**No threat of cyberattacks**

**Valeriano and Maness 12** [Brandon, Lecturer in Social and Political Sciences at the University of Glasgow, and Ryan, Ph.D. candidate at the University of Illinois at Chicago,"The Fog of Cyberwar," 11-21, Foreign Affairs, <http://www.foreignaffairs.com.proxy.library.emory.edu/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar?page=2>]

Stuxnet was followed by the Flame virus: a new form of malware that infiltrated several networks in Iran and across the Middle East earlier this year. Flame copied text, recorded audio, and [deleted files](http://www.foreignaffairs.com.proxy.library.emory.edu/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar)on the computers into which it hacked. Israel and the United States are again the suspected culprits but deny responsibility. These two attacks generated substantial buzz in the media and among policymakers around the world. Their dramatic nature led some experts to argue that cyberwarfare will fundamentally change the future of international relations, forcing states to rethink their foreign policy. In a speech to the New York business community on October 11, 2012, U.S. Defense Secretary Leon Panetta expressed fear that a cyber version of Pearl Harbor might take the United States by surprise in the near future. He warned that the U.S. government, in addition to national power grids, [transportation systems](http://www.foreignaffairs.com.proxy.library.emory.edu/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar), and financial markets, are all at risk and that cyberdefense should be at the top of the list of priorities for President Barack Obama’s second term. The Stuxnet and Flame attacks, however, are not the danger signs that some have made them out to be. First of all, the [viruses](http://www.foreignaffairs.com.proxy.library.emory.edu/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar) needed to be physically injected into Iranian networks, likely by U.S. or Israeli operatives, suggesting that the tactic still requires traditional intelligence and military operation methods. Second, Stuxnet derailed Iran’s nuclear program for only a short period, if at all. And Flame did nothing to slow Iran’s nuclear progression directly, because it seems to have been only a data-collection operation. Some cyberattacks over the past decade have briefly affected state strategic plans, but none has resulted in death or lasting damage. For example, the 2007 cyberattacks on Estonia by Russia shut down networks and government websites and disrupted commerce for a few days, but things swiftly went back to normal. The majority of cyberattacks worldwide have been minor: easily corrected annoyances such as website defacements or basic data theft -- basically the least a state can do when challenged diplomatically. Our research shows that although warnings about cyberwarfare have become more severe, the actual magnitude and pace of attacks do not match popular perception. Only 20 of 124 active rivals -- defined as the most conflict-prone pairs of states in the system -- engaged in cyberconflict between 2001 and 2011. And there were only 95 total cyberattacks among these 20 rivals. The number of observed attacks pales in comparison to other ongoing threats: a state is 600 times more likely to be the target of a terrorist attack than a cyberattack. We used a severity score ranging from five, which is minimal damage, to one, where death occurs as a direct result from cyberwarfare. Of all 95 cyberattacks in our analysis, the highest score -- that of Stuxnet and Flame -- was only a three. To be sure, states should defend themselves against cyberwarfare, but throwing vast amounts of money toward a low-level threat does not make sense. The Pentagon estimates it spent $2.6 to $3.2 billion on cybersecurity in fiscal year 2012. And it is likely that such spending will only increase. The U.S. Air Force alone anticipates spending $4.6 billion on cybersecurity in the next year. Even if the looming “fiscal cliff” guts the Defense Department’s budget, Panetta has made clear that cybersecurity will remain a top funding priority. At a New York conference on October 12, 2012, he described the United States as being in a “pre-9/11 moment” with regards to cyberwarfare and said that the “attackers are plotting,” in reference to the growing capabilities of Russia, China, and Iran. Of the 20 ongoing interstate rivals in our study, China and the United States cybertargeted each other the most. According to our study, Beijing attacked U.S. assets 18 times and Washington returned fire twice. Two notable attacks were the 2011 Pentagon raid, which stole sensitive files from the Defense Department, and the 2001 theft of Lockheed Martin’s F-35 fighter-jet schematics. These attacks get only a moderate severity score because they targeted specific, nonessential state documents and were not intended to affect the general public. Over the same time span, India and Pakistan targeted each other 11 times (India five times, Pakistan six), as did North and South Korea, with North Korea being the aggressor ten times and South Korea launching one return attack. These ranged from minor incidents, such as Pakistan defacing an Indian government website, to more serious ones, such as North Korea stealing sensitive state documents from South Korea. Israeli-Iranian tensions have risen in recent months, but despite all the talk, this conflict is not playing out in the cybersphere. There were only eight cyberattacks between these states from 2001 to 2011, four launched by Israel, four by Iran. Although Stuxnet and Flame were more severe, Iranian attempts to disrupt government websites have not been very sophisticated. And Israel’s near-insistence on an armed conventional attack proves that even the most sophisticated cyberattacks are not changing state behavior. Cyberattacks are rare, and when they do occur, states are cautious in their use of force. As with conventional and nuclear conflict, some of the principles of deterrence and mutually assured destruction [apply](http://www.foreignaffairs.com.proxy.library.emory.edu/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar?page=2). Any aggressor in cyberspace faces the acute threat of blowback: having techniques replicated and repeated against the initiator. Once developed, a cyberweapon can easily be copied and used by a tech-savvy operative with access to a critical system such as the Defense Department’s network, which foreign-government hackers have had success infiltrating. Far from making interstate cyberwarfare more common, the ease of launching an attack actually keeps the tactic in check. Most countries’ cyberdefenses are weak, and a state trying to exploit an adversary’s weakness may be similarly vulnerable, inviting easy retaliation. An unspoken but powerful international norm against civilian targets further limits the terms of cyberwarfare.

# AT: Grid

**No impact to a cyber-attack on the grid. Prefer our ev—their authors have an economic incentive to hype the threat.**

Hallinan 12—Conn Hallinan is a Foreign Policy In Focus columnist [January 11, 2012, “Cyber War: Reality or Hype?” Foreign Policy in Focus, http://www.fpif.org/articles/cyber\_war\_reality\_or\_hype]

But consider the sources for all this scare talk: Clarke is the chair of a firm that consults on cyber security, and McConnell is the executive vice-president of defense contractor Booz Allen Hamilton. Both are currently doing business with the Pentagon.

Arms giants like Lockheed Martin, Raytheon, Northrop Grumman, Boeing, and other munitions manufactures are moving heavily into the cyber security market. In 2010, Boeing snapped up Argon ST and Narus, two cyber security firms with an estimated value of $2.4 billion. Raytheon bought Applied Signal Technology, General Dynamics absorbed Network Connectivity Solutions, and Britain’s major arms firm, BAE, purchased Norkom and ETI.

“There is a feeding frenzy right now to provide products and services to meet the demands of governments, law enforcement, and the military,” says Ron Deibert, director of the Canada Center for Global Security Studies.

There are big bucks at stake. Between the Defense Department and Homeland Security, the United States will spend some $10.5 billion for cyber security by 2015. The Pentagon’s new Cyber Command is slated to have a staff of 10,000, and according to Northrop executive Kent Schneider, the market for cyber arms and security in the United States is $100 billion.

But is cyber war everything it’s cracked up to be, and is the United States really so behind the curve in the scramble to develop cyber weapons?

According to investigative journalist Seymour Hersh, the potential for cyber mayhem has “been exaggerated,” and the Defense Department and cyber security firms have blurred the line between cyber espionage and cyber war. The former is the kind of thing that goes on, day in and day out, among governments and industry, except its medium is the Internet. The latter is an attack on another country’s ability to wage war, defend itself, or run its basic infrastructure.

Most experts say the end-of-the-world scenarios drawn up by people like Clarke are largely fiction. How could an enemy shut down the U.S. national power grid when there is no such thing? A cyber attack would have to disrupt more than 100 separate power systems throughout the nation to crash the U.S. grid.

Most financial institutions are also protected. The one example of a successful cyber attack in that area was an apparent North Korean cyber assault this past March on the South Korean bank Nonghyup that crashed the institution’s computers. But an investigation found that the bank had been extremely remiss in changing passwords and controlling access to its computers. According to Peter Sommer, author of the OECD report Reducing Systemic Cybersecurity Risk, the cyber threat to banks “is a bit of nonsense.”

However, given that many Americans rely on computers, cell phones, smart devices, and the like, any hint that an “enemy” could disrupt access to those devices is likely to get attention. Throw in some scary scenarios and a cunning enemy—China—and it’s pretty easy to make people nervous.

But contrary to McConnell’s statement, the United States is more advanced in computers than other countries in the world, and the charge that the country is behind the curve sounds suspiciously like the “bomber gap” with the Russians in the 1950s and the “missile gap” in the 1960s. Both were illusions that had more to do with U.S. presidential elections and arms industry lobbying than anything in the real world.

# AT: Meltdown

**Meltdowns inevitable ----**

**a) Dam failure**

**Huffington Post, 12** (10/19/2012, “ Leaked Report Suggests Long-Known Flood Threat To Nuclear Plants, Safety Advocates Say”, http://www.huffingtonpost.com/2012/10/19/nuclear-plant-flood-threat-leak\_n\_1983005.html//TWR)

An un-redacted version of a recently released Nuclear Regulatory Commission report highlights the threat that flooding poses to nuclear power plants located near large dams -- and suggests that the NRC has misled the public for years about the severity of the threat, according to engineers and nuclear safety advocates. "The redacted information shows that the NRC is lying to the American public about the safety of U.S. reactors," said David Lochbaum, a nuclear engineer and safety advocate with the Union of Concerned Scientists. A redacted version of the report was posted to the NRC website on March 6. An un-redacted version was recently obtained by the environmental group Greenpeace and shared with The Huffington Post. Among other things, evidence in the report indicates that the NRC has known for a decade or longer that failure of a dam upriver from the Oconee Nuclear Station in South Carolina would cause floodwaters to overwhelm the plant’s three reactors and their cooling equipment -- not unlike what befell Japan's Fukushima Dai-chi facility after an earthquake and tsunami struck last year. Three reactors at Fukushima experienced a full meltdown, which contaminated surrounding farmland and exiled hundreds of thousands of residents. According to the NRC's own calculations, which were also withheld in the version of the report released in March, the odds of the dam near the Oconee plant failing at some point over the next 22 years are far higher than were the odds of an earthquake-induced tsunami causing a meltdown at the Fukushima plant. "The NRC is lying to the American public," says David Lochbaum, a nuclear engineer and safety advocate. The NRC report identifies flood threats from upstream dams at nearly **three dozen** other **nuclear facilities** in the United States, including the Fort Calhoun Station in Nebraska, the Prairie Island facility in Minnesota and the Watts Bar plant in Tennessee, among others.

**b) Solar storms**

**Stein 12** (Matthew Stein, 3/24/12, Bachelor’s degree in engineering MIT, design engineer, green builder, “Four Hundred Chernobyls: Solar Flares, Electromagnetic Pulses, and Nuclear Armageddon,” http://truth-out.org/news/item/7301-400-chernobyls-solar-flares-electromagnetic-pulses-and-nuclear-armageddon)

Our current global system of electrical power generation and distribution ("the grid"), upon which our modern lifestyles are utterly dependent, is extremely vulnerable to **severe geomagnetic storms,** which tend to strike our planet on an average of approximately once every 70 to 100 years. We depend on this grid to maintain food production and distribution, telecommunications, Internet services, medical services, military defense, transportation, government, water treatment, sewage and garbage removal, refrigeration, oil refining, gas pumping and all forms of commerce. Unfortunately, the world's nuclear power plants, as they are currently designed, are critically dependent upon maintaining connection to a functioning electrical grid, for all but relatively short periods of electrical blackouts, in order to keep their reactor cores continuously cooled so as to avoid catastrophic reactor core meltdowns and fires in storage ponds for spent fuel rods. If an extreme GMD were to cause widespread grid collapse (which it most certainly will), in as little as one or two hours after each nuclear reactor facility's backup generators either fail to start, or run out of fuel, the reactor cores will start to melt down. After a few days without electricity to run the cooling system pumps, the water bath covering the spent fuel rods stored in "spent-fuel ponds" will boil away, allowing the stored fuel rods to melt down and burn [2]. Since the Nuclear Regulatory Commission (NRC) currently mandates that only one week's supply of backup generator fuel needs to be stored at each reactor site, it is likely that, after we witness the spectacular nighttime celestial light show from the next extreme GMD, we will have about one week in which to prepare ourselves for Armageddon. To do nothing is to behave like ostriches with our heads in the sand, blindly believing that "everything will be okay" as our world drifts towards the next natural, inevitable super solar storm and resultant extreme GMD. Such a storm would end the industrialized world as we know it, creating almost incalculable suffering, death and environmental destruction on a scale not seen since the extinction of the dinosaurs some 65 million years ago.

# Adv 2 – EU

# Rel

## EU-US Relations

**Can’t solve – even if the US wants to engage Europe structurally cannot**

**Hamilton and Burwell 10** [Daniel S, Executive Director of the Center for Transatlantic Relations; Executive Director of the American Consortium on EU Studies; Austrian Marshall Plan Foundation Research Professor at the Paul H. Nitze School of Advanced International Studies at Johns Hopkins, and Frances, Vice President, Director of the Program on Transatlantic Relations at the Atlantic Council, former executive director of the Center for International and Security Studies at the University of Maryland, "The Setting: The United States and Europe in a G20 World," Chapter 1, <http://transatlantic.sais-jhu.edu/bin/k/u/shoulder-to-shoulder-book-finaltext.pdf>]

Barriers to a more effective partnership are also to be found in Europe. Despite ambitions of unity, Europeans often struggle to find a single voice. The European Union remains a work in progress, with uneven capabilities. Deep cleavages among member states can be found on a variety of issues large and small. It tends to act slowly, and process often substitutes for policy. “European construction” continues to absorb— almost overwhelm— European energy and attention. The resultant danger is that transatlantic issues are crowded out by a very full European plate, scope for compromise with the U.S. is reduced by the need for intra- European consensus, and the complex nature of the new transatlantic and global agenda does not match up well with EU mechanisms. obstacles to effective transatlantic coordination often **have less to do with American reluctance to engage or support the EU as a strategic partner than with the limits of European capability**, consensus and political will. 2 European ambivalence, in turn, only encourages American unilateralism. lacking a coherent and capable partner, the U.S. is compelled either to act on its own or to look elsewhere for support. Those looking for global celebrities to lead the EU are disappointed by recent changes. But EU foreign policy coherence depends less on new structures in Brussels than new attitudes in national capitals. The key is less whether the European Commission and Council can act in coordinated fashion and more whether national capitals and Brussels can work in a more effective way. A stronger and more unified EU role on the world stage depends less on the ability of a single High Representative than the willingness of many governments to achieve greater consensus on approaching Russia, Afghanistan and regional conflicts. Europe’s real potential will be measured by its ability to achieve greater unity of effect, not necessarily unity of structure. Its influence will depend on its capacity to be a “unitary actor plus”—forging consensus among member states and then capitalizing on variable geometry. It does this now in the economic and financial sphere by harnessing the aggregate influence of the European Commission, the European Central Bank, and the member states. It does not yet do this in the foreign policy sphere. In 2008 the U.S. National Intelligence Council published an assessment of the world in 2025. Europe, it suggested, risks being a “hobbled giant, distracted by internal bickering and competing national agendas.” 3 Is that the future Europe sees for itself? If not, what is it prepared to do about it? Whether the transatlantic partnership can become truly strategic depends in large part on whether Europeans themselves choose to make the EU a more strategic actor. 4 The EU is not yet a strategic actor, but it could be and it is in U.S. interests that it should be. The EU will only establish its strategic credibility when it can demonstrate that it can effectively and consistently harness and deploy the combined potential of its members to address concrete challenges and advance common goals. In short, to be better at U.S.-EU, the EU has to be better at EU. How the EU structures itself is of course a matter primarily for Europeans. Yet Europeans should not be surprised to find the world— or Washington— unable to wait for the next signature on the next intra- European compact. Washington, in turn, must understand more clearly that it has a vested interest in the nature of European integration, and has always been an actor in the building of Europe. It should make it clear that however EU members organize themselves, the U.S. supports an open, democratic, Atlanticist, outward- looking EU that is capable of acting shoulder to shoulder with America as a counterpart, not a counterweight. The U.S.EU strategic partnership should evolve as “Europe” itself evolves, and in ways that support and complement the transatlantic link expressed through NATo.

# Food Wars

**Famine doesn’t cause war ---- it makes people too hungry to fight**

**Barnett in ’00** (Jon, Australian Research Council fellow and Senior Lecturer in Development Studies @ Melbourne U. School of Social and Environmental Enquiry, Review of International Studies, “Destabilizing the environment-conflict Thesis”, 26:271-288, Cambridge Journals Online)

Considerable attention has been paid to the links between population, the environment and conflict. The standard argument is that population growth will overextend the natural resources of the immediate environs, leading to deprivation which, it is assumed, will lead to conflict and instability either directly through competition for scarce resources, or indirectly through the generation of ‘environmental refugees’. For example, according to Myers: ‘so great are the stresses generated by too many people making too many demands on their natural-resource stocks and their institutional support systems, that the pressures often create first-rate breeding grounds for conflict’.37 The ways in which population growth leads to environmental degradation are reasonably well known. However, the particular ways in which this leads to conflict are difficult to prove. In the absence of proof there is a negative style of argumentation, and there are blanket assertions and abrogations; for example: ‘the relationship is rarely causative in a direct fashion’, but ‘we may surmise that conflict would not arise so readily, nor would it prove so acute, if the associated factor of population growth were occurring at a more manageable rate’.38 It is possible though, that rather than inducing warfare, overpopulation and famine reduce the capacity of a people to wage war. Indeed, it is less the case that famines in Africa in recent decades have produced ‘first rate breeding grounds for conflict’; the more important, pressing, and avoidable product is widespread malnutrition and large loss of life.

**Food prices don’t cause massive instability**

**Sonin ‘8 –** Professor at the New Economic School, is a columnist for Vedomosti Konstantin (Sonin, Moscow Times April 29, 2008 “The Upside of High Food Prices”)

Of course, rising food prices adversely affect people from countries that import grain. But most of the poorest countries in the world do not import food, despite their typically low level of labor productivity in the agriculture sector. Domestically, of course, producers win and consumers lose from high food prices, but each of these countries as a whole benefits from rising prices. The benefits have not trickled down to all citizens, as recent riots clearly demonstrate. This means that the government has failed to properly redistribute the windfall from higher prices. Inefficiency, corruption and simple mismanagement on the government's part might lead to political instability and even to civil war, but a rise in the prices of food prices by itself is not a cause for instability in grain-exporting countries

# Adv 3 – Econ

**No econ impact**

Robert **Jervis 11**, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425//countries won’t attack one another, mass opinion won’t change, economic conflict doesn’t escalate to war

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable

**Econ high**

**Reuters 1/30**/14 [Lucia Mutikani, “Households, trade keep U.S. economy humming in fourth quarter,” Reuters, Thu Jan 30, 2014 1:28pm EST, pg. <http://tinyurl.com/oqbeoub>

(Reuters) - Strong household spending and robust exports kept the U.S. economy on solid ground in the fourth quarter, but stagnant wages could chip away some of the momentum in early 2014.

Gross domestic product grew at a 3.2 percent annual rate in the final three months of last year, the Commerce Department said on Thursday, in line with economists' expectations.

While that was a slowdown from the third-quarter's brisk 4.1 percent pace, it was a far stronger performance than had been anticipated earlier in the quarter and welcome news in light of some drag from October's partial government shutdown.

"The economy was firing on almost all cylinders as 2013 came to a close. For today, the sun is out and shining," said Chris Rupkey, chief financial economist at Bank of Tokyo-Mitsubishi UFJ in New York.

Early in the quarter many economists were expecting a growth pace below 2 percent given that an inventory surge accounted for much of the increase in the July-September period.

Taking both quarters together, growth came in at a 3.7 percent pace, up sharply from 1.8 percent in the first six months of the year. It was the biggest half-year gain since the second half of 2003.

Stocks on Wall Street pushed higher on the back of the report, rebounding from the previous session's decline. U.S. Treasury debt prices fell, while the dollar rose against a basket of currencies.

Consumer spending was the main driver of fourth-quarter growth, but there was also a strong boost from trade. Business investment also lent support as did the restocking of warehouses, but not at the same scale as in the third quarter.

**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 – as 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 not 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

**Institutional mechanisms check decline --- there’s massive resiliency**

**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)

Prior to 2008, numerous foreign policy analysts had predicted a looming crisis in global economic governance. Analysts only reinforced this perception since the financial crisis, declaring that we live in a “G-Zero” world. This paper takes a closer look at the global response to the financial crisis. It reveals a more optimistic picture. Despite initial shocks that were actually more severe than the 1929 financial crisis, **global economic governance structures responded quickly and robustly.** Whether one measures results by economic outcomes, policy outputs, or institutional flexibility, global economic governance has displayed surprising **resiliency** since 2008. Multilateral economic institutions performed well in crisis situations to reinforce open economic policies, especially in contrast to the 1930s. While there are areas where governance has either faltered or failed, on the whole, the system has worked. Misperceptions about global economic governance persist because the Great Recession has disproportionately affected the core economies – and because the efficiency of past periods of global economic governance has been badly overestimated. Why the system has worked better than expected remains an open question. The rest of this paper explores the possible role that the distribution of power, the robustness of international regimes, and the resilience of economic ideas might have played.

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# 2nc – justiciability disad

**Congressional precedent for war powers deliberation now. It will check US militarism**

**Hunter 8/31**/13 - Chair of the Council for a Community of Democracies [Robert E. Hunter (US ambassador to NATO (93-98) and Served on Carter’s National Security Council as the Director of West European Affairs and then as Director of Middle East Affairs, “Restoring Congress’ Role In Making War,” Lobe Log, August 31, 2013, pg. <http://www.lobelog.com/restoring-congress-role-in-making-war/>

But the most remarkable element of the President’s statement is the likely precedent he is setting in terms of engaging Congress in decisions about the use of force, not just through “consultations,” but in formal authorization. This gets into complex constitutional and legal territory, and will lead many in Congress (and elsewhere) to expect Obama — and his successors — to show such deference to Congress in the future, as, indeed, many members of Congress regularly demand.

But seeking authorization for the use of force from Congress as opposed to conducting consultations has long since become the exception rather than the rule. The last formal congressional declarations of war, called for by Article One of the Constitution, were against Bulgaria, Romania, and Hungary on June 4, 1942. Since then, even when Congress has been engaged, it has either been through non-binding resolutions or under the provisions of the [War Powers Resolution of November 1973](http://www.policyalmanac.org/world/archive/war_powers_resolution.shtml). That congressional effort to regain some lost ground in decisions to send US forces into harm’s way was largely a response to administration actions in the Vietnam War, especially the [Tonkin Gulf Resolution](https://www.mtholyoke.edu/acad/intrel/pentagon3/ps12.htm) of August 1964, which was actually prepared in draft before the triggering incident. The War Powers Resolution does not prevent a president from using force on his own authority, but only imposes post facto requirements for gaining congressional approval or ending US military action. In the current circumstances, military strikes of a few days’ duration, those provisions would almost certainly not come into play.

There were two basic reasons for abandoning the constitutional provision of a formal declaration of war. One was that such a declaration, once turned on, would be hard to turn off, and could lead to a demand for unconditional surrender (as with Germany and Japan in World War II), even when that would not be in the nation’s interests — notably in the Korean War. The more compelling reason for ignoring this requirement was the felt need, during the Cold War, for the president to be able to respond almost instantly to a nuclear attack on the United States or on very short order to a conventional military attack on US and allied forces in Europe.

With the Cold War now on “the ash heap of history,” this second argument should long since have fallen by the wayside, but it has not.  Presidents are generally considered to have the power to commit US military forces, subject to the provisions of the War Powers Resolution [WPR], which have never been properly tested. But why? Even with the 9/11 attacks on the US homeland, the US did not respond immediately, but took time to build the necessary force and plans to overthrow the Taliban regime in Afghanistan (and, anyway, if President George W. Bush had asked on 9/12 for a declaration of war, he no doubt would have received it from Congress, very likely unanimously).

As times goes by, therefore, what President Obama said on August 29, 2013 could well be remembered less for what it will mean regarding the use of chemical weapons in Syria and more for what it implies for the reestablishment of a process of full deliberation and fully-shared responsibilities with the Congress for decisions of war-peace, as was the historic practice until 1950. This proposition will be much debated, as it should be; but if the president’s declaration does become precedent (as, in this author’s judgment, it should be, except in exceptional circumstances where a prompt military response is indeed in the national interest), he will have done an important and lasting service to the nation, including a potentially significant step in reducing the excessive militarization of US foreign policy.

There would be one added benefit: members of Congress, most of whom know little about the outside world and have not for decades had to take seriously their constitutional responsibilities for declaring war, would be required to become better-informed participants in some of the most consequential decisions the nation has to take, which, not incidentally, also involve risks to the lives of America’s fighting men and women.

**Dismantling war powers justiciability undermines deliberation. Our link is unique**

**Broughton 01** – Asst Attorney General of Texas [[Broughton, J. Richard](http://www.heinonline.org.proxy.library.emory.edu/HOL/LuceneSearch?specialcollection=&terms=creator%3A%22Broughton,%20J.%20Richard%22&yearlo=&yearhi=&subject=ANY&journal=ALL&sortby=relevance&collection=journals&searchtype=advanced&submit=Search&base=js&all=true&solr=true" \t "_blank" \o "Search for results by Broughton, J. Richard) (LL.M., with distinction, Georgetown University Law Center), “What Is It Good For--War Power, Judicial Review, and Constitutional Deliberation,” Oklahoma Law Review, Vol. 54, Issue 4 (Winter 2001), pp. 685-726

Judicial abstention from war powers disputes can mitigate the effects of the judicial overhang by encouraging Congress and the President to think more seriously about constitutional structure."' In the Vietnam era, for example, Congress enacted the War Powers Resolution to assert its own constitutional prerogatives only after the courts had consistently refused to intervene. Perhaps this was no accident. Without resort to the judiciary, Congress was forced to take responsibility for using its Article I powers in its own defense. Whatever the other flaws of the War Powers Resolution, it at least represents Congress's assertiveness in attempting to define the boundaries of constitutional war power, as the Constitution provides. (Wther Congress got it right is a separate matter, beyond the scope of this article.) Similarly, rather than resort to the courts to challenge the constitutionality of the Resolution, presidents since Nixon have simply deployed troops at their discretion, forcing Congress to either authorize the action, reject such authorization, withdraw funding, or, perhaps as a last resort, impeach the President. Thus, the modem trend of cases leaving war powers controversies to the political branches has produced somewhat more responsible political institutions, though much work must still be done to truly effectuate the Constitution's vision of prudent and reasoned constitutional discourse among the Congress and the White House.' In keeping therefore with constitutional history and design, political actors best serve republican government when they give careful attention to constitutional boundaries and constitutional weapons in the course of adopting military and foreign policy. Political actors will be more likely to do so if they have only themselves, and not the courts, to do the work.

IV. Conclusion

There is much we can learn from Madison and Marshall, statesmen who understood the value of prudent constitutional reasoning to the practical governance of a large republic. Importantly, not all such reasoning occurs in the courts, nor should it. Those matters not "of a judiciary nature," in Madison's words, must find resolution in other fora. Controversies between Congress and the President regarding the Constitution's allocation of war powers are among this class of disputes. This is not to say that courts must leave all cases involving foreign affairs to the vicissitudes of political institutions; the Constitution explicitly vests the judiciary with authority over admiralty and maritime cases, as well as cases affecting ambassadors, public ministers, and consuls, all of which may invariably touch upon foreign relations. War powers disputes are constitutionally unique, however, because the Constitution itself commits the resolution of those disputes to legislators and the chief executive. The courts have, for the most part, appropriately left these disputes where they belong, in the hands of the political branches. Through the doctrine of justiciability, courts have helped to preserve the separation of powers by recognizing both the limits on their Article In authority and the broa prerogatives that the Constitution grants to political actors who are charged with making and effecting American military and foreign policy. By continuing this trend, as the District of Columbia Circuit did in Campbell, the judiciary can encourage deliberation about constitutional structure in the political branches, as Madison and Marshall envisioned. Pg. 724-725

**Militarism risks World War III. We must check the expansionist desires**

**Boyle 12** - Professor of International Law @ University of Illinois College of Law [Francis A. Boyle (PhD. degrees in Political Science from [Harvard University](http://en.wikipedia.org/wiki/Harvard_University)), “Unlimited Imperialism and the Threat of World War III. U.S. Militarism at the Start of the 21st Century,” Global Research, December 25, 2012, pg. http://www.globalresearch.ca/unlimited-imperialism-and-the-threat-of-world-war-iii-u-s-militarism-at-the-start-of-the-21st-century/5316852

Historically, this latest eruption of American militarism at the start of the 21st Century is akin to that of America opening the 20th Century by means of the U.S.-instigated Spanish-American War in 1898.  Then the Republican administration of President  William McKinley stole their colonial empire from Spain in Cuba, Puerto Rico, Guam, and the Philippines; inflicted a near genocidal war against the Filipino people; while at the same time illegally annexing the Kingdom of Hawaii and subjecting the Native Hawaiian people (who call themselves the Kanaka Maoli) to near genocidal conditions.  Additionally, McKinley’s military and colonial expansion into the Pacific was also designed to secure America’s economic exploitation of China pursuant to the euphemistic rubric of the “open door” policy.   But over the next four decades America’s aggressive presence, policies, and practices in the “Pacific” would ineluctably pave the way for Japan’s attack at Pearl Harbor on Dec. 7, 194l, and thus America’s precipitation into the ongoing Second World War.

Today a century later the serial imperial aggressions launched and menaced by the Republican Bush Jr. administration and now the Democratic Obama administration are threatening to set off World War III.

By shamelessly exploiting the terrible tragedy of 11 September 2001 [9/11], the Bush Jr. administration set forth to steal a hydrocarbon empire from the Muslim states and peoples living in Central Asia and the Persian Gulf and Africa under the bogus pretexts of (1) fighting a war against international terrorism; and/or (2) eliminating weapons of mass destruction; and/or (3) the promotion of democracy; and/or (4) self-styled “humanitarian intervention”/responsibility to protect.  Only this time the geopolitical stakes are infinitely greater than they were a century ago:  control and domination of two-thirds of the world’s hydrocarbon resources and thus the very fundament and energizer of the global economic system – oil and gas.  The Bush Jr./ Obama  administrations  have  already targeted the remaining hydrocarbon reserves of Africa, Latin America, and Southeast Asia for further conquest or domination, together with the strategic choke-points at sea and on land required for their transportation.  In this regard, the Bush Jr. administration  announced the establishment of the U.S. Pentagon’s Africa Command (AFRICOM) in order to better control, dominate, and exploit both the natural resources and the variegated peoples of the continent of Africa, the very cradle of our human species.  Libya and the Libyans became the first victims to succumb to AFRICOM under the Obama administration. They will not be the last.

This current bout of U.S. imperialism is what Hans Morgenthau denominated “unlimited imperialism” in his seminal work Politics Among Nations (4th ed. 1968, at 52-53):

“The outstanding historic examples of unlimited imperialism are the expansionist policies of Alexander the Great, Rome, the Arabs in the seventh and eighth centuries, Napoleon I, and Hitler. They all have in common an urge toward expansion which knows no rational limits, feeds on its own successes and, if not stopped by a superior force, will go on to the confines of the political world. This urge will not be satisfied so long as there remains anywhere a possible object of domination–a politically organized group of men which by its very independence challenges the conqueror’s lust for power. It is, as we shall see, exactly the lack of moderation, the aspiration to conquer all that lends itself to conquest, characteristic of unlimited imperialism, which in the past has been the undoing of the imperialistic policies of this kind… “

 It is the Unlimited Imperialists along the lines of Alexander, Rome, Napoleon and Hitler who are now in charge of conducting American foreign policy. The factual circumstances surrounding the outbreaks of both the First World War and the Second World War currently hover like twin Swords of Damocles over the heads of all humanity.

# Attacks

**No risk of cyberwar – it’s all hype**

**Rid 12** (Thomas, Thomas, PhD in political science from Humboldt Universität zu Berlin, previous Transatlantic Fellow at the RAND Corporation, the Institut français des relations internationales (Ifri) in Paris, and at SAIS, from 2003 to 2005, he was a Fritz-Thyssen-Fellow at the German government’s foreign policy think tank Stiftung Wissenschaft und Politik (SWP) and at RAND,"Think Again: Cyberwar," Foreign Policy, March/April 2012, [www.foreignpolicy.com/articles/2012/02/27/cyberwar?page=full](http://www.foreignpolicy.com/articles/2012/02/27/cyberwar?page=full)) // empirics, specific nature (can’t have general cyberweapons), China wants cyber arms control – control citizens

No way. "Cyberwar is coming!" John Arquilla and David Ronfeldt predicted in a celebrated Rand paper back in 1993. Since then, it seems to have arrived -- at least by the account of the U.S. military establishment, which is busy competing over who should get what share of the fight. Cyberspace is "a domain in which the Air Force flies and fights," Air Force Secretary Michael Wynne claimed in 2006. By 2012, William J. Lynn III, the deputy defense secretary at the time, was writing that cyberwar is "just as critical to military operations as land, sea, air, and space." In January, the Defense Department vowed to equip the U.S. armed forces for "conducting a combined arms campaign across all domains -- land, air, maritime, space, and cyberspace." Meanwhile, growing piles of books and articles explore the threats of cyberwarfare, cyberterrorism, and how to survive them.

Time for a reality check: Cyberwar is still more hype than hazard. Consider the definition of an act of war: It has to be potentially violent, it has to be purposeful, and it has to be political. The cyberattacks we've seen so far, from Estonia to the Stuxnet virus, simply don't meet these criteria.

Take the dubious story of a Soviet pipeline explosion back in 1982, much cited by cyberwar's true believers as the most destructive cyberattack ever. The account goes like this: In June 1982, a Siberian pipeline that the CIA had virtually booby-trapped with a so-called "logic bomb" exploded in a monumental fireball that could be seen from space. The U.S. Air Force estimated the explosion at 3 kilotons, equivalent to a small nuclear device. Targeting a Soviet pipeline linking gas fields in Siberia to European markets, the operation sabotaged the pipeline's control systems with software from a Canadian firm that the CIA had doctored with malicious code. No one died, according to Thomas Reed, a U.S. National Security Council aide at the time who revealed the incident in his 2004 book, At the Abyss; the only harm came to the Soviet economy.

But did it really happen? After Reed's account came out, Vasily Pchelintsev, a former KGB head of the Tyumen region, where the alleged explosion supposedly took place, denied the story. There are also no media reports from 1982 that confirm such an explosion, though accidents and pipeline explosions in the Soviet Union were regularly reported in the early 1980s. Something likely did happen, but Reed's book is the only public mention of the incident and his account relied on a single document. Even after the CIA declassified a redacted version of Reed's source, a note on the so-called Farewell Dossier that describes the effort to provide the Soviet Union with defective technology, the agency did not confirm that such an explosion occurred. The available evidence on the Siberian pipeline blast is so thin that it shouldn't be counted as a proven case of a successful cyberattack.

Most other commonly cited cases of cyberwar are even less remarkable. Take the attacks on Estonia in April 2007, which came in response to the controversial relocation of a Soviet war memorial, the Bronze Soldier. The well-wired country found itself at the receiving end of a massive distributed denial-of-service attack that emanated from up to 85,000 hijacked computers and lasted three weeks. The attacks reached a peak on May 9, when 58 Estonian websites were attacked at once and the online services of Estonia's largest bank were taken down. "What's the difference between a blockade of harbors or airports of sovereign states and the blockade of government institutions and newspaper websites?" asked Estonian Prime Minister Andrus Ansip.

Despite his analogies, the attack was no act of war. It was certainly a nuisance and an emotional strike on the country, but the bank's actual network was not even penetrated; it went down for 90 minutes one day and two hours the next. The attack was not violent, it wasn't purposefully aimed at changing Estonia's behavior, and no political entity took credit for it. The same is true for the vast majority of cyberattacks on record.

Indeed, there is no known cyberattack that has caused the loss of human life. No cyberoffense has ever injured a person or damaged a building. And if an act is not at least potentially violent, it's not an act of war. Separating war from physical violence makes it a metaphorical notion; it would mean that there is no way to distinguish between World War II, say, and the "wars" on obesity and cancer. Yet those ailments, unlike past examples of cyber "war," actually do kill people.

"A Digital Pearl Harbor Is Only a Matter of Time."

Keep waiting. U.S. Defense Secretary Leon Panetta delivered a stark warning last summer: "We could face a cyberattack that could be the equivalent of Pearl Harbor." Such alarmist predictions have been ricocheting inside the Beltway for the past two decades, and some scaremongers have even upped the ante by raising the alarm about a cyber 9/11. In his 2010 book, Cyber War, former White House counterterrorism czar Richard Clarke invokes the specter of nationwide power blackouts, planes falling out of the sky, trains derailing, refineries burning, pipelines exploding, poisonous gas clouds wafting, and satellites spinning out of orbit -- events that would make the 2001 attacks pale in comparison.

But the empirical record is less hair-raising, even by the standards of the most drastic example available. Gen. Keith Alexander, head of U.S. Cyber Command (established in 2010 and now boasting a budget of more than $3 billion), shared his worst fears in an April 2011 speech at the University of Rhode Island: "What I'm concerned about are destructive attacks," Alexander said, "those that are coming." He then invoked a remarkable accident at Russia's Sayano-Shushenskaya hydroelectric plant to highlight the kind of damage a cyberattack might be able to cause. Shortly after midnight on Aug. 17, 2009, a 900-ton turbine was ripped out of its seat by a so-called "water hammer," a sudden surge in water pressure that then caused a transformer explosion. The turbine's unusually high vibrations had worn down the bolts that kept its cover in place, and an offline sensor failed to detect the malfunction. Seventy-five people died in the accident, energy prices in Russia rose, and rebuilding the plant is slated to cost $1.3 billion.

Tough luck for the Russians, but here's what the head of Cyber Command didn't say: The ill-fated turbine had been malfunctioning for some time, and the plant's management was notoriously poor. On top of that, the key event that ultimately triggered the catastrophe seems to have been a fire at Bratsk power station, about 500 miles away. Because the energy supply from Bratsk dropped, authorities remotely increased the burden on the Sayano-Shushenskaya plant. The sudden spike overwhelmed the turbine, which was two months shy of reaching the end of its 30-year life cycle, sparking the catastrophe.

If anything, the Sayano-Shushenskaya incident highlights how difficult a devastating attack would be to mount. The plant's washout was an accident at the end of a complicated and unique chain of events. Anticipating such vulnerabilities in advance is extraordinarily difficult even for insiders; creating comparable coincidences from cyberspace would be a daunting challenge at best for outsiders. If this is the most drastic incident Cyber Command can conjure up, perhaps it's time for everyone to take a deep breath.

"Cyberattacks Are Becoming Easier."

Just the opposite. U.S. Director of National Intelligence James R. Clapper warned last year that the volume of malicious software on American networks had more than tripled since 2009 and that more than 60,000 pieces of malware are now discovered every day. The United States, he said, is undergoing "a phenomenon known as 'convergence,' which amplifies the opportunity for disruptive cyberattacks, including against physical infrastructures." ("Digital convergence" is a snazzy term for a simple thing: more and more devices able to talk to each other, and formerly separate industries and activities able to work together.)

Just because there's more malware, however, doesn't mean that attacks are becoming easier. In fact, potentially damaging or life-threatening cyberattacks should be more difficult to pull off. Why? Sensitive systems generally have built-in redundancy and safety systems, meaning an attacker's likely objective will not be to shut down a system, since merely forcing the shutdown of one control system, say a power plant, could trigger a backup and cause operators to start looking for the bug. To work as an effective weapon, malware would have to influence an active process -- but not bring it to a screeching halt. If the malicious activity extends over a lengthy period, it has to remain stealthy. That's a more difficult trick than hitting the virtual off-button.

Take Stuxnet, the worm that sabotaged Iran's nuclear program in 2010. It didn't just crudely shut down the centrifuges at the Natanz nuclear facility; rather, the worm subtly manipulated the system. Stuxnet stealthily infiltrated the plant's networks, then hopped onto the protected control systems, intercepted input values from sensors, recorded these data, and then provided the legitimate controller code with pre-recorded fake input signals, according to researchers who have studied the worm. Its objective was not just to fool operators in a control room, but also to circumvent digital safety and monitoring systems so it could secretly manipulate the actual processes.

Building and deploying Stuxnet required extremely detailed intelligence about the systems it was supposed to compromise, and the same will be true for other dangerous cyberweapons. Yes, "convergence," standardization, and sloppy defense of control-systems software could increase the risk of generic attacks, but the same trend has also caused defenses against the most coveted targets to improve steadily and has made reprogramming highly specific installations on legacy systems more complex, not less.

"Cyberweapons Can Create Massive Collateral Damage."

Very unlikely. When news of Stuxnet broke, the New York Times reported that the most striking aspect of the new weapon was the "collateral damage" it created. The malicious program was "splattered on thousands of computer systems around the world, and much of its impact has been on those systems, rather than on what appears to have been its intended target, Iranian equipment," the Times reported. Such descriptions encouraged the view that computer viruses are akin to highly contagious biological viruses that, once unleashed from the lab, will turn against all vulnerable systems, not just their intended targets.

But this metaphor is deeply flawed. As the destructive potential of a cyberweapon grows, the likelihood that it could do far-reaching damage across many systems shrinks. Stuxnet did infect more than 100,000 computers -- mainly in Iran, Indonesia, and India, though also in Europe and the United States. But it was so specifically programmed that it didn't actually damage those machines, afflicting only Iran's centrifuges at Natanz. The worm's aggressive infection strategy was designed to maximize the likelihood that it would reach its intended target. Because that final target was not networked, "all the functionality required to sabotage a system was embedded directly in the Stuxnet executable," the security software company Symantec observed in its analysis of the worm's code. So yes, Stuxnet was "splattered" far and wide, but it only executed its damaging payload where it was supposed to.

Collateral infection, in short, is not necessarily collateral damage. A sophisticated piece of malware may aggressively infect many systems, but if there is an intended target, the infection will likely have a distinct payload that will be harmless to most computers. Especially in the context of more sophisticated cyberweapons, the image of inadvertent collateral damage doesn't hold up. They're more like a flu virus that only makes one family sick.

"In Cyberspace, Offense Dominates Defense."

Wrong again. The information age has "offense-dominant attributes," Arquilla and Ronfeldt wrote in their influential 1996 book, The Advent of Netwar. This view has spread through the American defense establishment like, well, a virus. A 2011 Pentagon report on cyberspace stressed "the advantage currently enjoyed by the offense in cyberwarfare." The intelligence community stressed the same point in its annual threat report to Congress last year, arguing that offensive tactics -- known as vulnerability discovery and exploitation -- are evolving more rapidly than the federal government and industry can adapt their defensive best practices. The conclusion seemed obvious: Cyberattackers have the advantage over cyberdefenders, "with the trend likely getting worse over the next five years."

A closer examination of the record, however, reveals three factors that put the offense at a disadvantage. First is the high cost of developing a cyberweapon, in terms of time, talent, and target intelligence needed. Stuxnet, experts speculate, took a superb team and a lot of time. Second, the potential for generic offensive weapons may be far smaller than assumed for the same reasons, and significant investments in highly specific attack programs may be deployable only against a very limited target set. Third, once developed, an offensive tool is likely to have a far shorter half-life than the defensive measures put in place against it. Even worse, a weapon may only be able to strike a single time; once the exploits of a specialized piece of malware are discovered, the most critical systems will likely be patched and fixed quickly. And a weapon, even a potent one, is not much of a weapon if an attack cannot be repeated. Any political threat relies on the credible threat to attack or to replicate a successful attack. If that were in doubt, the coercive power of a cyberattack would be drastically reduced.

"We Need a Cyberarms Control Agreement."

We don't. Cyberwar alarmists want the United States to see cybersecurity as a new challenge on a geopolitical scale. They see cyberspace becoming a new area for military competition with rivals such as Russia and China, and they believe new cyberarms limitation agreements are needed to prevent this. There are some rumblings to establish international norms on this topic: The British government convened a conference in London in late 2011, originally intended to make the Internet more secure by agreeing on new rules of the road, and Russia and China proposed at the U.N. General Assembly last September the establishment of an "international code of conduct for information security." Now, diplomats are debating whether the United Nations should try to forge the equivalent of nuclear arms control in cyberspace.

So, should it? The answer is no. Attempts to limit cyberweapons through international agreements have three principal problems. The first difficulty is drawing the line between cybercrime and potentially political activity in cyberspace. In January, for instance, a Saudi hacker stole about 20,000 Israeli credit card numbers from a shopping website and leaked the information to the public. In retaliation, a group of Israeli hackers broke into Saudi shopping sites and threatened to release private credit card information.

Where is the dividing line? Even if it were possible to distinguish criminal from state-sponsored political activity, they often use the same means. A second hitch is practical: Verification would be impossible. Accurately counting the size of nuclear arsenals and monitoring enrichment activities is already a huge challenge; installing cameras to film programmers and "verify" they don't design malicious software is a pipe dream.

The third problem is political, and even more fundamental: Cyberaggressors may act politically, but in sharp contrast with warfare, they are likely to have a strong interest in avoiding attribution. Subversion has always thrived in cyberspace because preserving one's anonymity is easier to achieve than ironclad attribution. That's the root of the political problem: Having a few states agree on cyberarms limitation is about as realistic as a treaty to outlaw espionage and about as practical as outlawing the general subversion of established order.

"The West Is Falling Behind Russia and China."

Yes, but not how you think. Russia and China are busy sharpening their cyberweapons and are already well steeped in using them. The Russian military clandestinely crippled Estonia's economy in 2007 and Georgia's government and banks in 2008. The People's Liberation Army's numerous Chinese cyberwarriors have long inserted "logic bombs" and "trapdoors" into America's critical infrastructure, lying dormant and ready to wreak havoc on the country's grid and bourse in case of a crisis. Both countries have access to technology, cash, and talent -- and have more room for malicious maneuvers than law-abiding Western democracies poised to fight cyberwar with one hand tied behind their backs.

Or so the alarmists tell us. Reality looks quite different. Stuxnet, by far the most sophisticated cyberattack on record, was most likely a U.S.-Israeli operation. Yes, Russia and China have demonstrated significant skills in cyberespionage, but the fierceness of Eastern cyberwarriors and their coded weaponry is almost certainly overrated. When it comes to military-grade offensive attacks, America and Israel seem to be well ahead of the curve.

Ironically, it's a different kind of cybersecurity that Russia and China may be more worried about. Why is it that those countries, along with such beacons of liberal democracy as Uzbekistan, have suggested that the United Nations establish an "international code of conduct" for cybersecurity? Cyberespionage was elegantly ignored in the suggested wording for the convention, as virtual break-ins at the Pentagon and Google remain a favorite official and corporate pastime of both countries. But what Western democracies see as constitutionally protected free speech in cyberspace, Moscow and Beijing regard as a new threat to their ability to control their citizens. Cybersecurity has a broader meaning in non-democracies: For them, the worst-case scenario is not collapsing power plants, but collapsing political power.

The social media-fueled Arab Spring has provided dictators with a case study in the need to patrol cyberspace not only for subversive code, but also for subversive ideas. The fall of Egypt's Hosni Mubarak and Libya's Muammar al-Qaddafi surely sent shivers down the spines of officials in Russia and China. No wonder the two countries asked for a code of conduct that helps combat activities that use communications technologies -- "including networks" (read: social networks) -- to undermine "political, economic and social stability."

**No meltdowns—backup power**

**Spencer 11** (Jack Spencer, Research Fellow in Nuclear Energy in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation “U.S. Nuclear Policy After Fukushima: Trust But Modify,” 5/18/11)[http://www.heritage.org/research/reports/2011/05/us-nuclear-policy-after-fukushima-trust-but-modify](http://opencaselist.paperlessdebate.com/xwiki/bin/create///www.heritage/org/research/reports/2011/?parent=Harvard.Herman%2DTandet+Neg" \t "_blank)

One of the problems with the emerging dialogue is that some commentators and U.S. policymakers have assumed that America’s nuclear industry and regulatory bodies and policies mirror those of Japan. They do not. The United States has an effective, multifaceted regulatory regime that has already addressed many of the mistakes and weaknesses that Fukushima seems to have exposed, including earthquake and tsunami preparedness and the modification of older reactors to meet new and evolving safety standards. On the other hand, the accident should raise serious questions about America’s lack of nuclear-waste disposal plans.¶ Earthquakes and Tsunamis¶ While building nuclear plants to withstand earthquakes and tsunamis (and other severe natural phenomena) is a new issue for many Americans, the U.S. nuclear industry and U.S. nuclear regulators have spent a great deal of time developing specific protocols for just such events. American regulators mandate that all U.S. reactors be built not only to withstand the most powerful earthquake ever recorded for their respective sites, but also to withstand the strongest earthquakes that geologists think are possible for each site. Current earthquake, tsunami, and flooding regulations are now under review, as indicated by the Nuclear Regulatory Commission (NRC).¶ As these reviews are conducted, the NRC and policymakers must ensure that additional regulations promote true safety, not just the perception of safety. Further, policymakers must recognize that plant owners and operators are highly motivated to maintain safe operations and are in many ways better prepared to ensure public health and safety than federal regulators. Under current U.S. policy, the plant operators are primarily responsible for plant safety. That is why the best approach will be for nuclear regulators to set and enforce high standards—and allow plant operators in the industry to determine how best to meet them.¶ The Mark I Containment System¶ According to the Nuclear Energy Institute, 23 U.S. boiling-water reactors share the same basic containment design, the Mark I, as the Fukushima reactors.[1] At first glance, this is troubling, especially in light of past NRC studies that had identified problems with the containment systems of those reactors. Often ignored, however, are the significant safety modifications made to these designs as a result of ongoing assessments of reactor safety.¶ The history of the Mark I containment design in the U.S. is a testament to the effectiveness of the American system of nuclear regulation for maintaining public health and safety. Federal regulators identified a number of shortcomings with the original design that posed potential safety problems. The industry responded by forming a Mark I Owners Group to determine how to change the designs to address the safety concerns; the plants were then modified accordingly. Additional reviews led to further upgrades. For example, procedures to supply off-site power and water to reactors and fuel pools have been developed in the event that all on-site power and backup power is lost. Hardened containment venting has been added to every plant to ensure that pressure can be safely released from the containment should there be a system breakdown. Recent reports indicate that a similar modification may have been added to the Japanese reactors but could have malfunctioned.[2] Regardless, U.S. plants have the new venting and nuclear operators should ensure that they are working properly.

**No impact to meltdowns – Fukushima proves**

**Wheeler 12** (John Wheeler, Producer of "This Week in Nuclear"; Manager in the Nuclear Industry; Former Senior Reactor Operator; Nuclear Workforce Planning and Workforce Development Expert, “Whos' Really to Blame for Fukushima Health Impacts?” 3/12/12)[http://theenergycollective.com/johnwheeler/79128/anti-nuclear-hysterics-not-melted-reactors-blame-fukushima-health-impacts](http://theenergycollective.com/johnwheeler/79128/anti-nuclear-hysterics-not-melted-reactors-blame-fukushima-health-impacts%22%20%5Ct%20%22_blank)

As is often the case, the passage of time yields clarity about events, and the nuclear power plant accident at Fukushima is no different. It has become clear that the misinformation and hysterics by anti-nuclear groups and individuals were mostly wrong. Their doomsday prophesizing actually worsened human suffering and environmental impacts by contributing to unwise decisions by political leaders in Japan and elsewhere to shut down nuclear plants. In contrast, bloggers and experts from within the nuclear community accurately predicted outcomes and human health impacts.¶ As was predicted on this blog and elsewhere, the multi-barrier reactor containment design protected the public. Contrary to claims by anti-nuclear groups, the melted cores did NOT burn through the reactor vessels. The containment structures remained virtually intact. The damaged reactor fuel remained inside the reactor vessels and containment systems.¶ Despite preposterous claims by Greenpeace and others, there were no chunks of plutonium scattered across the countryside. Only radioactive gasses escaped over the land, and most of that gas was short lived Iodine that has long since decayed away.¶ As reported on Bloomberg and other news sources, no one in the public was harmed by radiation from the damaged reactors. A small number of plant workers received higher than normal radiation exposures, without lasting effects. Any hypothetical future health effects will be immeasurably low and will be indistinguishable from normal disease rates within the general population.¶ No one, not even the “Fukushima 50″, was exposed to life threatening amounts of radiation. Journalists who flew across the Pacific to cover the story received more radiation exposure from cosmic rays in flight than they received from the reactors once on the ground.

# 1nc – adv 2

**Their food-based biotech breakthroughs bankrupt the health of our topsoil --- guarantees extinction**

**Friedemann 07** (Alice Friedemann, energy journalist, member of the Northern California Science Writers Association, B.S. in biology, University of Illinois, “Peak Soil: Why Cellulosic Ethanol, Biofuels are Unsustainable and a Threat to America,” Culture Change, April 10, 2007, http://www.culturechange.org/cms/content/view/107/1/)

Part 1. The Dirt on Dirt. Ethanol is an agribusiness get-rich-quick scheme that will **bankrupt our topsoil.** Nineteenth century western farmers converted their corn into whiskey to make a profit (Rorabaugh 1979). Archer Daniels Midland, a large grain processor, came up with the same scheme in the 20th century. But ethanol was a product in search of a market, so ADM spent three decades relentlessly lobbying for ethanol to be used in gasoline. Today ADM makes record profits from ethanol sales and government subsidies (Barrionuevo 2006). The Department of Energy hopes to have biomass supply 5% of the nation’s power, 20% of transportation fuels, and 25% of chemicals by 2030. These combined goals are 30% of the current petroleum consumption (DOE Biomass Plan, DOE Feedstock Roadmap). Fuels made from biomass are a lot like the nuclear powered airplanes the Air Force tried to build from 1946 to 1961, for billions of dollars. They never got off the ground. The idea was interesting -- atomic jets could fly for months without refueling. But the lead shielding to protect the crew and several months of food and water was too heavy for the plane to take off. The weight problem, the ease of shooting this behemoth down, and the consequences of a crash landing were so obvious, it’s amazing the project was ever funded, let alone kept going for 15 years. Biomass fuels have equally obvious and predictable reasons for failure. Odum says that time explains why renewable energy provides such low energy yields compared to non-renewable fossil fuels. The more work left to nature, the higher the energy yield, but the longer the time required. Although coal and oil took millions of years to form into dense, concentrated solar power, all we had to do was extract and transport them (Odum 1996) With every step required to transform a fuel into energy, there is less and less energy yield. For example, to make ethanol from corn grain, which is how all U.S. ethanol is made now, corn is first grown to develop hybrid seeds, which next season are planted, harvested, delivered, stored, and preprocessed to remove dirt. Dry-mill ethanol is milled, liquefied, heated, saccharified, fermented, evaporated, centrifuged, distilled, scrubbed, dried, stored, and transported to customers (McAloon 2000). **Fertile soil will be destroyed** if crops and other "wastes" are removed to make cellulosic ethanol. "We stand, in most places on earth, **only six inches from desolation,** for that is the thickness of the topsoil layer upon which the **entire life of the planet depends"** (Sampson 1981). Loss of topsoil has been a major factor in the **fall of civilizations** (Sundquist 2005 Chapter 3, Lowdermilk 1953, Perlin 1991, Ponting 1993). You end up with a country like Iraq, formerly Mesopotamia, where 75% of the farm land became a salty desert. Fuels from biomass are not sustainable, are ecologically destructive, have a net energy loss, and there isn’t enough biomass in America to make significant amounts of energy because essential inputs like water, land, fossil fuels, and phosphate ores are limited. Soil Science 101 – There Is No "Waste" Biomass Long before there was "Peak Oil", there was "Peak Soil". Iowa has some of the best topsoil in the world. In the past century, half of it’s been lost, from an average of 18 to 10 inches deep (Pate 2004, Klee 1991). Productivity drops off sharply when topsoil reaches 6 inches or less, the average crop root zone depth (Sundquist 2005). Crop productivity continually declines as topsoil is lost and residues are removed. (Al-Kaisi May 2001, Ball 2005, Blanco-Canqui 2006, BOA 1986, Calviño 2003, Franzleubbers 2006, Grandy 2006, Johnson 2004, Johnson 2005, Miranowski 1984, Power 1998, Sadras 2001, Troeh 2005, Wilhelm 2004). On over half of America’s best crop land, the erosion rate is 27 times the natural rate, 11,000 pounds per acre (NCRS 2006). The natural, geological erosion rate is about 400 pounds of soil per acre per year (Troeh 2005). Some is due to farmers not being paid enough to conserve their land, but most is due to investors who farm for profit. Erosion control cuts into profits. Erosion is happening ten to twenty times faster than the rate topsoil can be formed by natural processes (Pimentel 2006). That might make the average person concerned. But not the USDA -- they’ve defined erosion as the average soil loss that could occur without causing a decline in long term productivity. Troeh (2005) believes that the tolerable soil loss (T) value is set too high, because it's based only on the upper layers -- how long it takes subsoil to be converted into topsoil. T ought to be based on deeper layers – the time for subsoil to develop from parent material or parent material from rock. If he’s right, erosion is even worse than NCRS figures. Erosion removes the most fertile parts of the soil (USDA-ARS). When you feed the soil with fertilizer, you’re not feeding plants; you’re feeding the biota in the soil. Underground creatures and fungi break down fallen leaves and twigs into microscopic bits that plants can eat, and create tunnels air and water can infiltrate. In nature there are no elves feeding (fertilizing) the wild lands. When plants die, they’re recycled into basic elements and become a part of new plants. It’s a closed cycle. There is no bio-waste. Soil creatures and fungi act as an immune system for plants against diseases, weeds, and insects – when this living community is harmed by agricultural chemicals and fertilizers, even more chemicals are needed in an increasing vicious cycle (Wolfe 2001). There’s so much life in the soil, there can be 10 "biomass horses" underground for every horse grazing on an acre of pasture (Wardle 2004). If you dove into the soil and swam around, you’d be surrounded by miles of thin strands of mycorrhizal fungi that help plant roots absorb more nutrients and water, plus millions of creatures, most of them unknown. There’d be thousands of species in just a handful of earth –- springtails, bacteria, and worms digging airy subways. As you swam along, plant roots would tower above you like trees as you wove through underground skyscrapers. Plants and creatures underground need to drink, eat, and breathe just as we do. An ideal soil is half rock, and a quarter each water and air. When tractors plant and harvest, they crush the life out of the soil, as underground apartments collapse 9/11 style. The tracks left by tractors in the soil are the erosion route for half of the soil that washes or blows away (Wilhelm 2004). Corn Biofuel (i.e. butanol, ethanol, biodiesel) is especially harmful because: Row crops such as corn and soy cause 50 times more soil erosion than sod crops [e.g., hay] (Sullivan 2004) or more (Al-Kaisi 2000), because the soil between the rows can wash or blow away. If corn is planted with last year's corn stalks left on the ground (no-till), erosion is less of a problem, but only about 20% of corn is grown no-till. Soy is usually grown no-till, but insignificant residues to harvest for fuel. Corn uses more water, insecticide, and fertilizer than most crops (Pimentel 2003). Due to high corn prices, continuous corn (corn crop after corn crop) is increasing, rather than rotation of nitrogen fixing (fertilizer) and erosion control sod crops with corn. The government has studied the effect of growing continuous corn, and found it increases eutrophication by 189%, global warming by 71%, and acidification by 6% (Powers 2005). Farmers want to plant corn on highly-erodible, water protecting, or wildlife sustaining Conservation Reserve Program land. Farmers are paid not to grow crops on this land. But with high corn prices, farmers are now asking the Agricultural Department to release them from these contracts so they can plant corn on these low-producing, environmentally sensitive lands (Tomson 2007). Crop residues are essential for soil nutrition, water retention, and soil carbon. Making **cellulosic ethanol** from corn residues -- the parts of the plant we don’t eat (stalk, roots, and leaves) – **removes water, carbon, and nutrients** (Nelson, 2002, McAloon 2000, Sheehan, 2003). These practices lead to lower crop production and ultimately deserts. Growing plants for fuel will **accelerate** the already unacceptable levels of **topsoil erosion,** soil carbon and **nutrient depletion,** soil compaction, water retention, water depletion, water pollution, air pollution, eutrophication, destruction of fisheries, siltation of dams and waterways, salination, loss of biodiversity, and damage to human health (Tegtmeier 2004). Why are soil scientists absent from the biofuels debate? I asked 35 soil scientists why topsoil wasn’t part of the biofuels debate. These are just a few of the responses from the ten who replied to my off-the-record poll (no one wanted me to quote them, mostly due to fear of losing their jobs): "I have no idea why soil scientists aren't questioning corn and cellulosic ethanol plans. Quite frankly I’m not sure that our society has had any sort of reasonable debate about this with all the facts laid out. When you see that even if all of the corn was converted to ethanol and that would not provide more than 20% of our current liquid fuel use, it certainly makes me wonder, even before considering the conversion efficiency, soil loss, water contamination, food price problems, etc." "Biomass production is not sustainable. Only business men and women in the refinery business believe it is." "Should we be using our best crop land to grow gasohol and contribute further to global warming? What will our children grow their food on?" "As agricultural scientists, we are programmed to make farmers profitable, and therefore profits are at the top of the list, and not soil, family, or environmental sustainability". "Government policy since WWII has been to encourage overproduction to keep food prices down (people with full bellies don't revolt or object too much). It's hard to make a living farming commodities when the selling price is always at or below the break even point. Farmers have had to get bigger and bigger to make ends meet since the margins keep getting thinner and thinner. We have sacrificed our family farms in the name of cheap food. When farmers stand to make few bucks (as with biofuels) agricultural scientists tend to look the other way". "You are quite correct in your concern that soil science should be factored into decisions about biofuel production. Unfortunately, we soil scientists have missed the boat on the importance of soil management to the sustainability of biomass production, and the long-term impact for soil productivity." This is not a new debate. Here’s what scientists had to say decades ago: Removing "crop residues…would **rob organic** matter that is **vital to the maintenance of soil fertility** and tilth, leading to **disastrous soil erosion levels.** Not considered is the importance of plant residues as a primary source of energy for soil microbial activity. The most prudent course, clearly, is to continue to recycle most crop residues back into the soil, where they are vital in keeping organic matter levels high enough to make the soil more open to air and water, more resistant to soil erosion, and more productive" (Sampson 1981). "…Massive alcohol production from our farms is an immoral use of our soils since it rapidly promotes their wasting away. We must save these soils for an oil-less future" (Jackson 1980).

**It also makes bioterror inevitable**

**Galamas 11** – Social Sciences Institute at Lisbon University, Ph.D. Candidate (Francisco, Comparative Strategy, 30: 79—93, 2011, DOI: 10.1080/01495933.2011.545689, “Profiling Bioterrorism: Present and Potential Threats,” EBSCO Host)

The third and final trend showing a weakening in the past restrictions surrounding bioterrorism is the **new breakthroughs in biotechnology**. In recent years the world has witnessed the tremendous impact and beneficial effects of new biotechnologies, especially in the area of medicine. But new scientific discoveries in these areas can also be used to **improve biological weapons and make them better killing instruments**. As terrorists become aware of these advantages, the value of biological weapons for terrorist purposes is also likely to increase. But what type of manipulations can biotechnology perform in biological weapons? To begin with, biotechnology-based biological weapons can have better environmental resistance, thus eliminating the question of whether the pathogen would survive to reach its target or not. If the pathogen survives sufficient time to infect its target, medical services could fight it with medical countermeasures, such as antibiotics, or prevent infection through vaccination. Pathogens resistant to antibiotics are nothing new to the scientific community, but biotechnology can manipulate pathogens so they are able to resist multiple antibiotics simultaneously. Regarding vaccination, new techniques can allow manipulations of pathogens that can render previous immunization useless. But **these technologies not only make biological agents resistant to biodefense** countermeasures, **they can also make them** deadlier, **more contagious, and more precise** in order to attack specific biological systems. Worse, biotechnology allows specific genetic manipulations that could enable the control of contagious pathogens. This should prove quite useful if bioterrorists wish to prevent the highly contagious pathogens from infecting the population of a supporting country.34

**These biotech advances make bioterrorism an existential risk --- new pathogens won’t burn-out**

**Sandberg et al. 8** – Research Fellow at the Future of Humanity Institute at Oxford University. PhD in computation neuroscience, Stockholm—AND—Jason G. Matheny—PhD candidate in Health Policy and Management at Johns Hopkins. special consultant to the Center for Biosecurity at the University of Pittsburgh—AND—Milan M. Ćirković—senior research associate at the Astronomical Observatory of Belgrade. Assistant professor of physics at the University of Novi Sad. (Anders, How can we reduce the risk of human extinction?, 9 September 2008, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. **Advances in synthetic biology** might **make it possible to engineer pathogens capable of extinction**-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

**Even if the attack fails, synthbio lethality advances results in retaliation and global nuclear war**

**Conley 03** (Lieutenant Colonel Harry W. Conley, Chief of the System Analysis Branch, Headquarters Air Combat Command, “Not with Impunity: Assessing US Policy for Retaliating to a Chemical or Biological Attack,” Air & Space Power Journal, Spring 2003, http://www.airpower.maxwell.af.mil/airchronicles/apj/apj03/spr03/conley.html)

The number of American casualties suffered due to a WMD attack may well be the most important variable in determining the nature of the US reprisal. A key question here is how many Americans would have to be killed to prompt a massive response by the United States. The bombing of marines in Lebanon, the Oklahoma City bombing, and the downing of Pan Am Flight 103 each resulted in a casualty count of roughly the same magnitude (150–300 deaths). Although these events caused anger and a desire for retaliation among the American public, they prompted no serious call for massive or nuclear retaliation. The body count from a single biological attack could easily be one or two orders of magnitude higher than the casualties caused by these events. Using the rule of proportionality as a guide, one could justifiably debate whether the United States should use massive force in responding to an event that resulted in only a few thousand deaths. However, what if the casualty count was around 300,000? Such an unthinkable result from a single CBW incident is not beyond the realm of possibility: “According to the U.S. Congress Office of Technology Assessment, 100 kg of anthrax spores delivered by an efficient aerosol generator on a large urban target would be between two and six times as lethal as a one megaton thermo-nuclear bomb.”46 Would the deaths of 300,000 Americans be enough to trigger a nuclear response? In this case, proportionality does not rule out the use of nuclear weapons. Besides simply the total number of casualties, the types of casualties- predominantly military versus civilian- will also affect the nature and scope of the US reprisal action. Military combat entails known risks, and the emotions resulting from a significant number of military casualties are not likely to be as forceful as they would be if the attack were against civilians. World War II provides perhaps the best examples for the kind of event or circumstance that would have to take place to trigger a nuclear response. A CBW event that produced a shock and death toll roughly equivalent to those arising from the attack on Pearl Harbor might be sufficient to prompt a nuclear retaliation. President Harry Truman’s decision to drop atomic bombs on Hiroshima and Nagasaki- based upon a calculation that up to one million casualties might be incurred in an invasion of the Japanese homeland47- is an example of the kind of thought process that would have to occur prior to a nuclear response to a CBW event. Victor Utgoff suggests that “if nuclear retaliation is seen at the time to offer the best prospects for suppressing further CB attacks and speeding the defeat of the aggressor, and **if** the original attacks had caused **severe damage** that had **outraged American** or allied **publics, nuclear retaliation would be more than just a possibility, whatever promises had been made.”**48

# Adv 3 – Econ

# Defense

**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 – as 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 not 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

**Institutional mechanisms check decline --- there’s massive resiliency**

**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)

Prior to 2008, numerous foreign policy analysts had predicted a looming crisis in global economic governance. Analysts only reinforced this perception since the financial crisis, declaring that we live in a “G-Zero” world. This paper takes a closer look at the global response to the financial crisis. It reveals a more optimistic picture. Despite initial shocks that were actually more severe than the 1929 financial crisis, **global economic governance structures responded quickly and robustly.** Whether one measures results by economic outcomes, policy outputs, or institutional flexibility, global economic governance has displayed surprising **resiliency** since 2008. Multilateral economic institutions performed well in crisis situations to reinforce open economic policies, especially in contrast to the 1930s. While there are areas where governance has either faltered or failed, on the whole, the system has worked. Misperceptions about global economic governance persist because the Great Recession has disproportionately affected the core economies – and because the efficiency of past periods of global economic governance has been badly overestimated. Why the system has worked better than expected remains an open question. The rest of this paper explores the possible role that the distribution of power, the robustness of international regimes, and the resilience of economic ideas might have played.

**No escalation --- economic decline solves its own impact**

**Nordstrom 2k** – department of political science at Penn State (D Scott Bennett and Timothy Nordstrom, The Journal of Conflict Resolution, 44:1, “Foreign policy substitutability and internal economic problems in enduring rivalries”, ProQuest, WEA)

Conflict settlement is also a distinct route to dealing with internal problems that leaders in rivalries may pursue when faced with internal problems. Military competition between states requires large amounts of resources, and rivals require even more attention. Leaders may choose to negotiate a settlement that ends a rivalry to free up important resources that may be reallocated to the domestic economy. In a "guns versus butter" world of economic trade-offs, when a state can no longer afford to pay the expenses associated with competition in a rivalry, it is quite rational for leaders to reduce costs by ending a rivalry. This gain (a peace dividend) could be achieved at any time by ending a rivalry. However, such a gain is likely to be most important and attractive to leaders when internal conditions are bad and the leader is seeking ways to alleviate active problems. Support for policy change away from continued rivalry is more likely to develop when the economic situation sours and elites and masses are looking for ways to improve a worsening situation. It is at these times that the pressure to cut military investment will be greatest and that state leaders will be forced to recognize the difficulty of continuing to pay for a rivalry. Among other things, this argument also encompasses the view that the cold war ended because the Union of Soviet Socialist Republics could no longer compete economically with the United States.

# Non-Binding CP

**NNC 14** [The National Constitution Center is the first and only nonprofit, nonpartisan institution devoted to the most powerful vision of freedom ever expressed: the U.S. Constitution.] **January 17, 2014** **“Obama’s NSA reforms far-reaching but hinge on Congress”** <http://news.yahoo.com/obama-nsa-reforms-far-reaching-hinge-congress-165214828.html> date accessed [1-28-2014] NNF

President Barack Obama called for basic reforms to National Security Agency spying programs on Americans, but he also asked for help from his own administration and a divided Congress on a key reform. Obama asked for an end to direct government access to Americans’ phone data, recommending that Attorney General Eric Holder and intelligence officials to come up with a plan for moving the massive data collection out of government hands by March 28. “Today, I can announce a series of concrete and substantial reforms that my Administration intends to adopt administratively or will seek to codify with Congress,” he said. Congressional officials have already said some of the moves would need House and Senate approval anyway, after they are recommended or made by the President. Critics of the NSA say its surveillance programs violate the Constitution’s Fourth Amendment, which protects people against unreasonable searches and seizures. Supporters say the agency is acting legally under powers granted to it by Congress and policies monitor by the secret Foreign Intelligence Surveillance Court (or FISC) court. The most controversial of the programs has been the phone-data collection program, which would change significantly if the President and Congress can agree on a new plan. “I am therefore ordering a transition that will end the Section 215 bulk metadata program as it currently exists, and establish a mechanism that preserves the capabilities we need without the government holding this bulk meta-data,” Obama said. “I’ve ordered that the transition away from the existing program will proceed in two steps. Effective immediately, we will only pursue phone calls that are two steps removed from a number associated with a terrorist organization instead of three. And I have directed the Attorney General to work with the Foreign Intelligence Surveillance Court so that during this transition period, the database can be queried only after a judicial finding, or in a true emergency,” he said. “Next, I have instructed the intelligence community and Attorney General to use this transition period to develop options for a new approach that can match the capabilities and fill the gaps that the Section 215 program was designed to address without the government holding this meta-data. They will report back to me with options for alternative approaches before the program comes up for reauthorization on March 28.  During this period, I will consult with the relevant committees in Congress to seek their views, and then seek congressional authorization for the new program as needed.” At the start of the speech, the President gave a history lesson about the American intelligence community and safeguards put in place to shield citizens from surveillance without cause. That changed, said Obama, after the 9/11 terrorist attacks, saying it is “hard to understand the transformation” that has occurred within the intelligence community to meet the need to combat “real and novel” threats. “The danger of government overreach remains acute,” he said , about the broad technology tools used by the NSA, adding that the agency consistently followed protocols to protect the privacy of the American people.

# Court DA OV

**mutually assured destruction and human rationality check back their impacts but you can’t negotiate with the environment --- nuclear war won’t cause extinction and doesn’t hurt the environment**

**Robock 10** (Alan, Department of Environmental Sciences, Rutgers University, “Nuclear Winter,” WIREs Climate Change, May/June, Wiley Online Library via University of Michigan Libraries)

While it is important to point out the consequences of nuclear winter, it is also important to point out what will not be the consequences. Although extinction of our species was not ruled out in initial studies by biologists, it now seems that this would not take place. Especially in Australia and New Zealand, humans would have a better chance to survive. Also, Earth will not be plunged into an ice age. Ice sheets, which covered North America and Europe only 18,000 years ago and were more than 3-km thick, take many thousands of years to build up from annual snow layers, and the climatic disruptions would not last long enough to produce them. The oxygen consumption by the fires would be inconsequential, as would the effect on the atmospheric greenhouse by carbon dioxide production. The consequences of nuclear winter are extreme enough without these additional effects, however.

**Makes all of their war impacts inevitable**

**Homer-Dixon, 98** (ThomasHomer-Dixon, assistant professor of political science and director of the Peace and Conflict Studies Programme at the University of Toronto, associate fellow of the Canadian Institute for Advanced Research, World Security: Challenges for a New Century, Third Edition, edited by Michael Klare and Yogesh Chandrani, pg. 342-3, 1998)

Experts have proposed numerous possible links between environmental change and conflict. Some have suggested that environmental change may shift the balance of power between states either regionally or globally, causing instabilities that could lead to war. Another possibility is that global environmental damage might increase the gap between rich and poor societies, with the poor then violently confronting the rich for a fairer share of the world’s wealth. Severe conflict may also arise from frustration with countries that do not go along with agreements to protect the global environment, or that “free-ride” by letting other countries absorb the costs of environmental protection. Warmer temperatures could lead to contention over more easily harvested resources in the Antarctic. Bulging populations and land stress may produce waves of environmental refugees, spilling across borders and disrupting relations among ethnic groups. Countries might fight among themselves because of dwindling supplies of water and the effects of upstream pollution. A sharp decline in food crop production and grazing land could lead to conflict between nomadic tribes and sedentary farmers. Environmental change could in time cause a slow deepening of poverty in poor countries, which might open bitter divisions between classes and ethnic groups, corrode democratic institutions, and spawn revolutions and insurgencies. In general, many experts have the sense that environmental problems will “ratchet up” the level of stress within states and the international community, increasing the likelihood of many different kinds of conflict—from war and rebellion to trade disputes—and undermining possibilities for cooperation.

**a) Decision calculus polluted with “nuclear war” exaggerations and where questions of “link uniqueness” and “irreversible damage” are prioritized over whether or not something hurts other species is the exact type of impact calculus that makes all of their impacts possible and inevitable --- prioritizing the prevention of the loss of every species death flips try or die framing**

**Bookchin 87** (Murray Bookchin, co-founder of the Institute of Social Ecology, 1987, "An Appeal For Social and Psychological Sanity," The Modern Crisis, Published by Black Rose Books Ltd., ISBN 0920057624, p. 106-108)

Industrially and technologically, we are moving at an ever-accelerating pace toward a yawning chasm with our eyes completely blindfolded. From the 1950s onward, we have placed ecological burdens upon our planet that have no precedent in human history. Our impact on our environment has been nothing less than appalling. The problems raised by acid rain alone are striking examples of [end page 106] innumerable problems that appear everywhere on our planet. The concrete-like clay layers, impervious to almost any kind of plant growth, replacing dynamic soils that once supported lush rain forests remain stark witness to a massive erosion of soil in all regions north and south of our equatorial belt. The equator—a cradle not only of our weather like the ice caps but a highly complex network of animal and plant life—is being denuded to a point where vast areas of the region look like a barren moonscape. We no longer "cut" our forests—that celebrated "renewable resource" for fuel, timber, and paper. We sweep them up like dust with a rapidity and "efficiency" that renders any claims to restorative action mere media-hype. Our entire planet is thus becoming simplified, not only polluted. Its soil is turning into sand. Its stately forests are rapidly being replaced by tangled weeds and scrub, that is, where vegetation in any complex form can be sustained at all. Its wildlife ebbs and flows on the edge of extinction, dependent largely on whether one or two nations—or governmental administrations—agree that certain sea and land mammals, bird species, or, for that matter, magnificent trees are "worth" rescuing as lucrative items on corporate balance sheets. **With each** such **loss, humanity,** too, **loses** a portion of its own character structure: **its sensitivity toward** life as such, including human **life,** and its rich wealth of sensibility. If we can learn to ignore the destiny of whales and condors—indeed, turn their fate into chic cliches—we can learn to ignore the destiny of Cambodians in Asia, Salvadorans in Central America, [end page 107] and, finally, the human beings who people our communities. If we reach this degree of degradation, we will then become so spiritually denuded that we will be capable of ignoring the terrors of thermonuclear war. Like the biotic ecosystems we have simplified with our lumbering and slaughtering technologies, we will have simplified the psychic ecosystems that give each of us our personal uniqueness. We will have rendered our internal mileau as homogenized and lifeless as our external milieu—and a biocidal war will merely externalize the deep sleep that will have already claimed our spiritual and moral integrity. The process of simplification, even more significantly than pollution, threatens to destroy the restorative powers of nature and humanity—their common ability to efface the forces of destruction and reclaim the planet for life and fecundity. A humanity disempowered of its capacity to change a misbegotten "civilization," ultimately divested of its power to resist, reflects a natural world disempowered of its capacity to reproduce a green and living world.

**b) Defense doesn’t matter --- default to the precautionary principle --- avoiding irreversible impacts are a moral obligation**

**Cote 94** (Sherrie Marie Cote, “The Manatee: Facing Imminent Extinction,” Florida Journal of International Law, 189, Spring 1994)

It is our responsibility, as tenants on the global commons, to prevent that which is within our power to prevent. As Senator Alan Cranston once said: The death of a species is profound, for it means nature has lost one of its components, which played a role in the inter-relationship of life on earth. Here the cycle of birth and death ends. Here there is no life, no chance to begin again - simply a void. To cause the extinction of a species, whether by commission or omission, is unqualifiedly evil. The prevention of this extinction ... must be a tenet among [hu]man's **moral responsibilities.** n86 show how we are all connected."

**c) This arrogant destruction of a life form seethes with evil and outweighs the case**

**Watson 06** – President & Founder of the Sea Shepherd Conservation Society, 9-17-6 (Paul, “The Politics of Extinction,” \_\_http://www.eco-action.org/dt/beerswil.html)

Gone forever are the European elephant, lion and tiger. The Labrador duck, giant auk, Carolina parakeet will never again grace this planet of ours. Lost for all time are the Atlantic grey whales, the Biscayan right whales and the Stellar sea cow. Our children will never look upon the California condor in the wild or watch the Palos Verde blue butterfly dart from flower to flower. Extinction is a difficult concept to fully appreciate. What has been is no more and never shall be again. It would take another creation and billions of years to recreate the passenger pigeon. It is the loss of billions of years of evolutionary programming. It is the destruction of beauty, the obliteration of truth, the removal of uniqueness, the scarring of the sacred web of life To be responsible for an extinction is to commit blasphemy against the divine. **It is the greatest of all possible crimes,** more evil than murder, more appalling than genocide, more monstrous than even the apparent unlimited perversities of the human mind. To be responsible for the complete and utter destruction of a unique and sacred life form is arrogance that seethes with evil, for the very opposite of evil is live. It is no accident that these two words spell out each other in reverse.

**Legitimacy key to the constitution – conceded impact – decision-rule**

Luna 97—JD from Stanford University [Erik Grant Luna (Member of the State Bar of California), “ARTICLE: OF GYPSIES, JURIES AND JUDGES: CONSTITUTIONAL ADJUDICATION IN TRIAL COURTS,” Southwestern University Law Review, 26 Sw. U. L. Rev. 303, 1997]

2. Maintaining Judicial Legitimacy
Uniform application of the last resort rule can also engender credibility for the courts' actions n140 and continued respect for the institution of judicial review. Constitutional decisions depend in no small part on voluntary compliance by the political branches and their constituents. The perception of authority—both moral and legal—provides the slender basis for the finality of any court decision. n141 Since a court only has "limited resources of enforcement," n142 while public distrust and animosity can be inexhaustible, appropriate application of the last resort rule allows the courts to "husband" their judicial resources to preserve their credibility: "The indispensability of husbanding what powers one had, of keeping within bounds if action is not to outrun wisdom." n143

As posited by the Framers of the Constitution, the judiciary represents the "least dangerous branch"—it has neither the power of the purse (i.e., it cannot collect or spend taxes) nor the authority of the sword (i.e., it does not command the armed forces). n144 Further, there is an inherent distrust for an institution unaccountable to the populace, whose operations are wholly foreign to common knowledge. If constitutional rulings are to be heeded and enforced, a court must have a solid foundation for its decisions, tempered by time and buttressed by accretions of acceptance. This is not to suggest that extra-judicial material or cognition should taint the merits of an issue. But when the choice is between (1) an ignored ruling today attended by de jure or de facto abatement of judicial review, or (2) an accepted and enforced decision tomorrow bolstering the judiciary's constitutional authority—only the latter provides real equity without exorbitant (and possibly fatal) judicial costs. n145

So in one sense, the last resort rule allows the judiciary to discretely and shrewdly "pick a fight." For example, in Railroad Commission of Texas v. Pullman Co., n146 the Court abstained from determining the constitutionality of a state agency's order that only white Pullman conductors, but not black Pullman porters, could operate sleeping cars: "The complaint of the Pullman porters undoubtedly tendered a substantial constitutional issue. It is more than substantial. It touches a sensitive area of social policy upon which the federal courts ought not to enter unless no alternative to its adjudication is open." n147 The Court understood that a ruling for the porters would have been unacceptable in the  [\*333]  bigoted South of 1941. n148 A half-century ago, candidates for public office ran on separatist platforms, promising the continued subjugation of minorities, while the Klan served as an unofficial enforcement arm of local government. Forcing the constitutionally and morally correct decision down the throats of an obstinate, backward society would have been a formidable task for the political branches of the federal government. But sua sponte judicial action without express support from Congress or the Oval Office (as was the case in the early 1940's) would have been impossible. n149 By husbanding its limited judicial resources and public support, the Court set the stage for the desegregation decisions a decade later, as argued by one constitutional scholar: "While the public was more prepared for the Court's decision in 1954, Brown still did not meet with widespread acceptance. If the Court had found an equal protection violation in Pullman, resistance to desegregation might have been even more fervent and extended than it has been." n150

Thus the judiciary—whether manifested in a trial or appellate court—can succor its legitimacy and husband its limited resources by applying the last resort rule to sensitive constitutional issues which the public or the political branches are unprepared or unwilling to confront.

\* Sua sponte—act of authority not prompted by a political branch

# Link – Deference

**War Powers questions are central to overall judicial independence & deference – EACH assertion of authority that is challenged changes the game.**

REINHARDT 06 Judge, U.S. Court of Appeals for the Ninth Circuit [Stephen Reinhardt, THE ROLE OF THE JUDGE IN THE TWENTY-FIRST CENTURY: THE JUDICIAL ROLE IN NATIONAL SECURITY, Boston University Law Review, December, 2006, 86 B.U.L. Rev. 1309]

Another possible threat to judicial independence involves the position taken by the administration regarding the scope of its war powers. In challenging cases brought by individuals charged as enemy combatants or detained at Guantanamo, the administration has argued that the President has "inherent powers" as Commander in Chief under Article II and that actions he takes pursuant to those powers are essentially not reviewable by courts or subject to limitation by Congress. n7 The administration's position in the initial round of Guantanamo cases was that no court anywhere had any jurisdiction to consider [\*1311] any claim, be it torture or pending execution, by any individual held on that American base, which is located on territory under American jurisdiction, for an indefinite period. n8 The executive branch has also relied on sweeping and often startling assertions of executive authority in defending the administration's domestic surveillance program, asserting at times as well a congressional resolution for the authorization of the use of military force. To some extent, such assertions carry with them a challenge to judicial independence, as they seem to rely on the proposition that a broad range of cases - those that in the administration's view relate to the President's exercise of power as Commander in Chief (and that is a broad range of cases indeed) - are, in effect, beyond the reach of judicial review. The full implications of the President's arguments are open to debate, especially since the scope of the inherent power appears, in the view of some current and former administration lawyers, to be limitless. What is clear, however, is that the administration's stance raises important questions about how the constitutionally imposed system of checks and balances should operate during periods of military conflict, questions judges should not shirk from resolving.

**--Courts won’t change things—undermines court legitimacy**

SCHEPPELE 12 Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values; Director of the Program in Law and Public Affairs, Princeton University [Kim Lane Scheppele, The New Judicial **Deference**, Boston University Law Review, 92 B.U. L. Rev. 89 2012]

The individuals caught up in the assertions of new governmental powers in times of emergency might disagree that winning their cases actually helped them much, however. If petitioners start to believe that courts can really give them nothing in the end, we may start to see something dangerous. In fact, we have already seen danger signals in the reaction of petitioners who have "won" but do not feel they have gained anything. When Mr. Hamdan said at his military commission hearing that he didn't believe he had won his case yet after his "victory" at the Supreme Court, 409 or when Mr. Padilla said to his counsel that he wondered how often he would have to win before something good happened in his case,410 we can see the signs that those who might invoke the courts to help them have already realized that the courts are not particularly helpful after all. If the petitioners who need to bring the cases in order for the government to be kept in line by court decisions refuse to bring more cases, then the limited benefits of new deference for keeping constitutionalism intact through crises will disappear too. There is a very real risk in these new deference cases that the petitioners will turn from a peaceful resolution of their claims through court action to something far less constructive.

With new judicial **deference**, then, we are left with a dual legacy that consists of both constitutional vindication and disappointed petitioners. The two seemingly contradictory legacies are joined through the specific operation of the new judicial deference. Courts have become more assertive and less willing to tolerate governmental action that violates constitutional principles in time of crisis. They have been most reliable in defending constitutional principles when it has been their own constitutional status that has been threatened. What happens to the petitioners after they win their cases is not something that courts seem to track as their highest priority. And the petitioners who have relied on the courts for help may be excused for thinking that the resolution of their cases has not really been about vindicating their claims, but about something altogether over their heads. This is the shape of the new judicial deference.

**Aff plan is unpredictable- normal means for overruling a precedent would involve years of incremental judicial challenges- the fiat of the plan overrides the decision all at once, which destroys precedent**

Gerhardt, 06 (Michael, professor of law at UNC, 90 Minn. L. Rev. 1204, “Super Precedent”, May, lexis)

I agree that time alone is not the measure of a precedent's attainment of special status in constitutional law. Moreover, I concede the impossibility of determining a minimum length of time for a precedent to endure before it may be called a super precedent. It is of course impossible to know what will happen years or centuries from now. No one can prove that the Court will refrain from reconsidering for all time some decisions which we think are firmly settled. Nevertheless, focusing on the longevity of a precedent misses the point. Longstanding precedents, especially in important cases, are rarely overturned in a single bound. A case that can credibly be characterized as a super precedent is distinctive in part because it is so deeply engrained in constitutional law that it cannot be reconsidered - much less overturned - without considerable excavation. In practice, this means that if and when the time ever came to reconsider super precedent it would only occur after persistent warnings and attacks (both on and off the Court). Plessy v. Ferguson, [77](http://web.lexis-nexis.com.proxy.library.emory.edu/universe/document?_m=ae5188de22b9246458c51c58dcf18287&_docnum=1&wchp=dGLbVtz-zSkVA&_md5=6bfa1e1ddc089a33c5e5339a4798332e#n77) for example, was not simply left untouched in a shrine until the Court began to dismantle the decision in the 1950s. To the contrary, it was attacked systematically in a series of lawsuits brought by the NAACP, culminating in Brown. [78](http://web.lexis-nexis.com.proxy.library.emory.edu/universe/document?_m=ae5188de22b9246458c51c58dcf18287&_docnum=1&wchp=dGLbVtz-zSkVA&_md5=6bfa1e1ddc089a33c5e5339a4798332e#n78) Similarly, the so-called right to contract recognized in Lochner v. New York [79](http://web.lexis-nexis.com.proxy.library.emory.edu/universe/document?_m=ae5188de22b9246458c51c58dcf18287&_docnum=1&wchp=dGLbVtz-zSkVA&_md5=6bfa1e1ddc089a33c5e5339a4798332e#n79) was not only overruled sub silentio a few years later [80](http://web.lexis-nexis.com.proxy.library.emory.edu/universe/document?_m=ae5188de22b9246458c51c58dcf18287&_docnum=1&wchp=dGLbVtz-zSkVA&_md5=6bfa1e1ddc089a33c5e5339a4798332e#n80) but the right to contract it recognized was the target of a good deal of litigation for decades. [81](http://web.lexis-nexis.com.proxy.library.emory.edu/universe/document?_m=ae5188de22b9246458c51c58dcf18287&_docnum=1&wchp=dGLbVtz-zSkVA&_md5=6bfa1e1ddc089a33c5e5339a4798332e#n81) Important cases tend not to disappear in the absence of concerted, sustained efforts to overrule them. The time required for precedents to become deeply entrenched and immune to reconsideration is less important than the fact that persistent challenges are indicia of the failure of precedents to achieve super precedent status.

# Link

**Judicial Backlash – Status quo avoids judicial backlash—decisions that restrict authority will undermine the judiciary and won’t be enforced**

SCHEPPELE 12 Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values; Director of the Program in Law and Public Affairs, Princeton University [Kim Lane Scheppele, The New Judicial **Deference**, Boston University Law Review, 92 B.U. L. Rev. 89 2012]

The case for self-regarding courts can be made even more strongly, on the evidence we've seen in this Article. As long as courts still exercise a certain degree of deference to the way that governments are dealing with specific cases, courts can avoid incurring the wraths of those governments. Governments care primarily in times of crisis about having a green light to go on detaining those whom they want to detain and about stringing out the day of reckoning when proof has to be provided. If governments receive that deference, then governments have no reasons to attack the courts when the courts assert themselves on matters of relatively abstract principle. If courts stay within these limits, doing whatever they feel they need to do to the law while letting the governments prevail on the facts, then governments are likely to appear to follow the court decisions, insist on their respect for the courts, and in general let courts get away with issuing governments these "defeats." Of course, governments would probably prefer to do whatever they want without being hauled before courts to justify their actions, but as long as being hauled before courts comes with the territory of being a constitutional state, new judicial deference may be the best they can expect.

As we have seen, courts have slapped the government on the wrist and forced it to readjust its policies at the margins. But courts have not required the release of detainees, the immediate provision of evidence against them, or absolutely normal tribunals. It is much easier for governments to comply with court decisions when those court decisions do not in fact second-guess concrete decisions of the government to detain specific individuals in a crisis. In fact, court decisions that issue a lot of smoke and noise but do little to require immediate action may appear to be upholding constitutional principles while in fact strengthening the hands of governments who can then rightly say that they are doing what the law requires.

After 9/11, then, courts have been willing to stand up to governments in times of crisis, using their substantial heft against the government's bulked-up war powers. Governments, in turn, have been willing to comply with court decisions because doing so has not really threatened the immediate actions they have already taken.