# T

#### The phrase “introduction of United States Armed Forces into hostilities” is based on the part of the WPR whose intent was to restrict military executive action in hostilities that lead to war.

Ray Forrester ’89, Professor, Hastings College of the Law, University of California, 57 Geo. Wash. L. Rev. 1636

A basic theory--if not the basic theory of our Constitution--is that concentration of power in any one person, or one group, is dangerous to mankind. The Constitution, therefore, contains a strong system of checks and balances, starting with the separation of powers between the President, Congress, and the Supreme Court. The message is that no one of them is safe with unchecked power. Yet, in what is probably the most dangerous governmental power ever possessed, we find the potential for world destruction lodged in the discretion of one person. As a result of public indignation aroused by the Vietnam disaster, in which tens of thousands lost their lives in military actions initiated by a succession of Presidents, Congress in 1973 adopted, despite presidential veto, the War Powers Resolution. Congress finally asserted its checking and balancing duties in relation to the making of presidential wars. Congress declared in section 2(a) that its purpose was to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations. The law also stated in section 3 that [t]he President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated. . . . Other limitations not essential to this discussion are also provided. The intent of the law is clear. Congress undertook to check the President, at least by prior consultation, in any executive action that might lead to hostilities and war. [\*1638] President Nixon, who initially vetoed the resolution, claimed that it was an unconstitutional restriction on his powers as Executive and Commander in Chief of the military. His successors have taken a similar view. Even so, some of them have at times complied with the law by prior consultation with representatives of Congress, but obedience to the law has been uncertain and a subject of continuing controversy between Congress and the President.

#### B. VIOLATION

#### The plan controls the environment-related activities of the military in war time, not the introduction of troops into hostilities.

#### C. REASONS TO PREFER.

#### 1. Limits.

Their interpretation opens aff case choice to any regulation of military activities, including how troops relate to each other interpersonally, like sexual harassment. Case specific preparation would be impossible

#### 2. Ground

Changing military activities should be negative counterplan ground against reducing presidential war powers. They steal DA ground on presidential powers by regulating internal military affairs.

#### 3. Bright line

Plan should restrict presidential war power to commit troops to hostilities. They have no bright line, which requires subjective judge intervention

#### D. TOPICALITY IS A VOTER.

For reasons of education, fairness and jurisdiction.

# DA

#### Obama has political leverage and momentum to prevent default

David Gergen, 10/1/13, CNN, Former presidential advisor who served during the administrations of Richard Nixon, Gerald Ford, Ronald Reagan, and Bill Clinton, Shutdown could be shock therapy, www.cnn.com/2013/09/30/opinion/gergen-shutdown/index.html?hpt=op\_t1

But a shutdown could have a silver lining. It could be such an electric shock to the political system that it forces the politicians in Washington to settle their squabbles before the default deadline. What we know from past shutdowns is that not only citizens -- especially older ones dependent on Social Security and Medicare -- start raising hell, but so do buisness and financial leaders who see damage rippling across their economic interests. Politicians are increasingly seen as villains. Pressure tends to grow so unbearable that eventually Washington finds a solution. Most of the pressure this time will be directed toward Republicans who have misplayed their hand. A new poll by CNN/ORC shows that 46% of Americans blame the shutdown on Republicans, seeing them as spoiled children. Thirty six percent blame President Obama, and 13% point fingers at both. Seasoned GOP leaders across the country know that if the shutdown does serious damage, chances of Republicans picking up Senate seats in 2014 and the White House in 2016 could evaporate. Those leaders will push intensely for a way out. But Republicans are not the only ones who will come under pressure to find a settlement. So will Democrats, starting with President Obama. We expect our presidents to be leaders of all the people, not a single party or ideology. We want them to rise above the squabbling and keep us on track. The harsh rhetoric that the president has been directing at Republicans suggests that he is less interested in settlement than unconditional surrender. Moreover, as Republicans make their counterarguments, it is becoming increasingly apparent that they have some valid questions. Is Obamacare truly ready for prime time? Shouldn't the two parties work together on the tax code? When is Washington going to get serious about overhauling the entitlement programs so they will survive for coming generations? Yes, conservative hard-liners have chosen the wrong place to fight; arguments over Obamacare are no excuse to shut down the government. Yes, hard-liners like Sen. Ted Cruz, R-Texas, are creating deeper partisan divides. But Democrats can ill afford to continue rejecting any talks or negotiations. Now that the shutdown has happened, Obama has a fresh opportunity -- indeed a fresh responsibility -- to seize the mantle of leadership and get us out of this mess. Instead of just blaming the Republicans, he should call in the leaders of both parties and in Lyndon Johnson fashion, keep 'em talking till they get a deal. With the shutdown underway, the president has new leverage to say, "Look, we are here to negotiate a settlement so that we can reopen the government. We are not here to negotiate over a possible default; I have said all along that I won't do that. But those of you who have been listening closely know that I have also been saying that I am open to conversations about settling our policy differences so that we can keep the government running. "Tax reform, entitlement reform and even some tweaking of the Affordable Care Act are on the table now. I have only two conditions: I will not accept a gutting of Obamacare -- we settled that at the ballot box in 2012 -- and any settlement here must include a pledge not to let the country go into default. So, let's get started." Would it work? Who knows for sure? But one thing is clear: If enough Americans rise up now and pressure politicians in Washington to call off this circus, we could not only end this foolishness over a shutdown, but we could also avoid a truly dangerous default. And we could hold our heads up again.

#### Plan sparks an inter-branch war powers fight – directly trades off with the debt ceiling.

**Seeking Alpha 9-10** [“Syria Could Upend Debt Ceiling Fight” http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight]

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. **To forbid the Commander-in-Chief of ~~his~~ primary power renders ~~him~~ all but impotent**. At this point, a rebuff from the House is a 67%-75% probability. I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four. While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling. Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this**. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened** that they can beat him **on domestic spending** issues. Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. **With the President rendered hapless** on Syria, **they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight**. **I currently believe the two sides will** pass a short-term continuing resolution to keep the government open, and then the GOP will **wage a massive fight over the debt ceiling**. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. **In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal,** essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011. As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. **Investors must be prepared for this "black swan" event.**  Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, **news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree** (Syria said it was willing to consider), **the U.S. would not have to strike, canceling the congressional vote.** The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, **Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates** but **not outright disastrous.** As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, in politics everything is connected. **Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight** even worse**, spooking markets, and threatening default on U.S. obligations** unless another last minute deal can be struck.

#### Decks global growth and US economic leadership.

Adam Davidson 9/10, co-founder of NPR’s “Planet Money,” a podcast and blog, “Our Debt to Society”, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&_r=0>, CMR

**If the debt ceiling isn’t lifted** again this fall, some **serious financial decisions will have to be made**. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually **the big-ticket items**, like **Social Security and Medicare, will have to be cut**. At some point, **the government won’t be able to pay interest on its bonds and will enter** what’s known as **sovereign default**, the ultimate **national financial disaster** achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). **In the case of the U**nited **S**tates, though, **it won’t be** an **isolated** national crisis. **If the American government can’t stand behind the dollar, the world’s benchmark currency**, then **the global financial system will** very likely **enter a new era in which there is much less trade and** much less **economic growth. It would be**, by most accounts, **the largest self-imposed financial disaster in history**.¶ **Nearly everyone** involved **predicts** that **someone will blink before this disaster occurs. Yet a small number of House Republicans** (one political analyst told me it’s no more than 20) **appear willing to see what happens if the debt ceiling isn’t raised** — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, **the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds**. **The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing** — **which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years**.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that **while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable**. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, **the U.S. would lose its** unique role **in the global economy**.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, **the U.S. economy’s peaks will be lower and recessions** deeper; **future generations will have fewer job opportunities and suffer more when the economy falters**. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier **and costlier**.

#### Nuclear war.

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? Survival, 53:2, 117 – 130

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving *the use of nuclear weapons*. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

#### Economic lead prevents nuclear war.

**Khalilzad ’11** Zalmay was the United States ambassador to Afghanistan, Iraq, and the United Nations during the presidency of George W. Bush and the director of policy planning at the Defense Department from 1990 to 1992, “ The Economy and National Security”, 2-8-11, <http://www.nationalreview.com/articles/print/259024>, CMR

Today, **economic** and fiscal **trends pose the most severe** long-term **threat to the U**nited **S**tates’ **position as global leader**. While the United States suffers from fiscal imbalances and low economic growth, the economies of rival powers are developing rapidly. The **continuation of** these two **trends could lead to a shift from American primacy toward a multi-polar global system, leading in turn to increased geopolitical rivalry and** even **war among** the **great powers**. The current recession is the result of a deep financial crisis, not a mere fluctuation in the business cycle. Recovery is likely to be protracted. The crisis was preceded by the buildup over two decades of enormous amounts of debt throughout the U.S. economy — ultimately totaling almost 350 percent of GDP — and the development of credit-fueled asset bubbles, particularly in the housing sector. When the bubbles burst, huge amounts of wealth were destroyed, and unemployment rose to over 10 percent. The decline of tax revenues and massive countercyclical spending put the U.S. government on an unsustainable fiscal path. Publicly held national debt rose from 38 to over 60 percent of GDP in three years. Without faster economic growth and actions to reduce deficits, publicly held national debt is projected to reach dangerous proportions. If interest rates were to rise significantly, annual interest payments — which already are larger than the defense budget — would crowd out other spending or require substantial tax increases that would undercut economic growth. Even worse, if unanticipated events trigger what economists call a “sudden stop” in credit markets for U.S. debt, **the U**nited **S**tates **would be unable to roll over its outstanding obligations, precipitating a sovereign-debt crisis that would almost certainly compel a radical retrenchment of the U**nited **S**tates **internationally**. **Such scenarios would reshape the international order**. It was the **economic devastation** of Britain and France **during World War II**, as well as the rise of other powers, that **led** both **countries to relinquish their empires**. In the late 1960s, British leaders concluded that they lacked the economic capacity to maintain a presence “east of Suez.” Soviet economic weakness, which crystallized under Gorbachev, contributed to their decisions to withdraw from Afghanistan, abandon Communist regimes in Eastern Europe, and allow the Soviet Union to fragment. If the U.S. debt problem goes critical, **the U**nited **S**tates **would be compelled to retrench, reducing its military spending and shed**ding **international commitments**. We face this domestic challenge while other major powers are experiencing rapid economic growth. Even though **countries** such as China, India, and Brazil have profound political, social, demographic, and economic problems, their **economies are growing faster than ours, and this could alter the global distribution of power.** **These trends could** in the long term **produce a multi-polar world**. **If U.S. policymakers fail to act** and other powers continue to grow, **it is not a question of whether but when a new international order will emerge**. **The closing of the gap** between the United States and its rivals **could intensify geopolitical competition among major powers, increase incentives for local powers to play major powers against one another, and undercut our will to preclude or respond to international crises because of the higher risk of escalation.** **The stakes are high**. In modern history, **the longest period of peace among the great powers has been the era of U.S. leadership**. By contrast**, multi-polar systems have been unstable, with their competitive dynamics resulting in frequent crises and major wars among the great powers**. **Failures of multi-polar international systems produced both world wars**. **American retrenchment could have devastating consequences.** **Without an American security blanket, regional powers could rearm in an attempt to balance against emerging threats**. Under this scenario, **there would be a heightened possibility of arms races, miscalc**ulation, **or other crises spiraling into all-out conflict.** Alternatively, **in seeking to accommodate the stronger powers, weaker powers may shift their geopolitical posture away from the U**nited **S**tates. Either way, **hostile states would be emboldened to make aggressive moves in their regions**.

# DA

#### Court limiting ATCA now.

Daniel Fisher 9/5/13, Forbes Staff, http://www.forbes.com/sites/danielfisher/2013/09/06/affirmative-action-labor-law-international-suits-lead-supreme-courts-business-docket/3/

The Ninth Circuit allowed 22 Argentinians who accused the Mercedes-Benz owner of collaborating in that country’s “Dirty War” from 1975-77 to sue in California under the Alien Tort Statute, citing the carmaker’s extensive sales in the state. The decision is contradicted by the Supreme Court’s Goodyear v. Brown, however, handed down just a month later. That decision rejected a North Carolina court’s “general jurisdiction” to hear a lawsuit by the parents of two North Carolina teens who were killed when a bus equipped with Goodyear tires made in Turkey crashed in France. The Supreme Court also gutted most ATS cases with this year’s decision in Kiobel vs. Shell. The Obama administration supports Daimler, saying granting jurisdiction to a U.S. court simply because a company sells products here would hurt international trade. Sounding almost like they were channeling Justice Oliver Wendell Holmes, lawyers in the Solicitor General’s Office said the Ninth’s ruling “is divorced from the background principles of law that fairly set corporations’ expectations about their responsibilities for their corporate affiliates.” Given that SCOTUS has shut the door on most ATS cases as well as lawsuits against foreign companies for torts that occurred overseas, this one’s just another opportunity for the high court to nullify a Ninth Circuit decision. My call: The Argentinians lose.

#### Expanding the judicial power through customary international law expands the ATCA -- kills US competitiveness.

**D'Amore ‘6** (Carolyn, law at Akron, 39 Akron L. Rev. 593, lexis)

Indeed, as a practical matter, lower courts that were willing to infer international law-based causes of action from the pure jurisdictional language of the ATS before Sosa may only be emboldened by the court's decision announcing that the federal courts possess an inherent lawmaking authority when it comes to policing the violation of **c**ustomary **i**nternational **l**aw norms the world over. [162](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n162" \t "_self) The fluidity of the "residual common law discretion" signals hope for human rights advocates, [163](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910#n163) threatens the deep pockets of multinational corporations, [164](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n164" \t "_self) and has elicited opposition by the  [\*621]  executive branch of the U.S. government. [165](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910#n165) 3. "The deed was done in Erie" [166](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910#n166) The federal courts would be giving the ATS its most accurate interpretation by recognizing that the extinction of federal common law also destroyed any causes of action that arise from the customary international law suggested by the "law of nations" in the ATS. [167](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910#n167) Limiting the ATS's substantive reach would be consistent with the Supreme Court's other efforts to restrict the "extraterritorial scope" of the courts, which can interfere with the policy considerations of the political branches. [168](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n168" \t "_self) This approach would reduce the ATS to a statute  [\*622]  allowing the claims of aliens only for law of nations violations embedded in the original intent of the Framers: "Violations of safe conduct, infringement of the rights of ambassadors, and piracy." [169](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n169" \t "_self) To do otherwise would perpetuate a modern trend of the federal courts to impinge on the duties more appropriately handled by the other branches of government: in this case making foreign policy decisions better left to the Executive. [170](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n170" \t "_self) It is unlikely that the First Congress ever intended the ATS to create "federal substantive rights" or the "federal common law making" that the plurality's decision authorizes. [171](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n171" \t "_self) Giving the statute an interpretation that is inconsistent with Erie is "a structurally objectionable step." [172](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n172" \t "_self) The ATS should have new life as a viable  [\*623]  jurisdictional statute in U.S. courts only after Congress codifies those international law causes of action for which jurisdiction can apply. [173](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n173" \t "_self) If a lack of authority for the federal courts to create federal common law were properly acknowledged, [174](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n174" \t "_self) the courts could not recognize any causes of action under the ATS, even as extrapolation from the core conceptual basis of the Founder's "law of nations." [175](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n175" \t "_self) B. The Alien Tort Statute's Modern Importance Regardless of the interpretation given to the ATS, the efforts of litigators have already resurrected the statute, and it will play a pivotal role in the United States approach to human rights violations, cooperation with multinational corporations, and its own foreign policy. [176](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n176" \t "_self) Observers can glean the potential consequences of Sosa from the range of amicus curiae briefs filed in the case. [177](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n177" \t "_self) 1. Human Rights Activists Emboldened By not seizing the opportunity to forever banish international human rights claims from federal courts, the Supreme Court sustained hope for numerous human rights victims and their supporting organizations. [178](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n178" \t "_self) The ATS, when given the interpretation of the  [\*626]  Filartiga court or Justice Souter's "ajar door" approach, is "a basic tool to apply limited - but binding - standards to corporations in their international operations." [179](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n179" \t "_self) The accessibility of federal courts to human rights victims has numerous positives. [180](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n180" \t "_self) However, in order to preserve judicial resources and prevent abuse of the federal court system by litigious aliens, the courts must restrict this access by recognizing only those victims of the most widely accepted customary international law violations. [181](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n181" \t "_self) Human rights activists will seize on to the ATS as a means to redress the violations of the host nations where multinational  [\*627]  corporations are often immersed in human rights predicaments. [182](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n182" \t "_self) 2. Multinational Corporations Threatened The **potential litigation** against multi-national corporations under the ATS raises **concern for American businesses** and their continued competitiveness in the global economy. **[183](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n183" \t "_self)** Despite activists' strong support for federal jurisdiction over human rights violations, concerns emerge as to the impact this course could have on major U.S. corporations, specifically those with multinational operations. **[184](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n184" \t "_self)** Multinational corporations risk exposure to human rights litigation by virtue of doing business in a country that perpetrates, sponsors, endorses, or even tolerates human rights abuses. **[185](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n185" \t "_self)** If these multinational corporations are subject to alien tort claims, the magnitude of the damages would be noticeable in the U.S. economy. **[186](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n186" \t "_self)** In the minds of the foremost trade and business organizations in the United States, "the erroneous interpretation and expansion of the [ATS] ... wreaks economic damage." **[187](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n187" \t "_self)** Corporations are already settling suits [188](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910" \l "n188" \t "_self) to avoid  [\*629]  the escalating litigation successfully squeezed through the door for alien tort claims against multinational corporations in U.S. federal courts - suggesting that Justice Souter's slightly ajar door could easily be thrown open. [189](http://web.lexis-nexis.com/universe/document?_m=fd80405987f555559620c4784aff6e44&_docnum=17&wchp=dGLbVlz-zSkVA&_md5=1193aff314e9442881d3a0be45f22910#n189)

#### Competitiveness prevents great power war.

Baru 9 Sanjaya is a Professor at the Lee Kuan Yew School in Singapore Geopolitical Implications of the Current Global Financial Crisis, Strategic Analysis, Volume 33, Issue 2 March 2009 , pages 163 – 168

Hence, economic policies and performance do have **strategic consequences.**2 In the modern era, the idea that strong economic performance is the **foundation of power** was argued most persuasively by historian Paul Kennedy. 'Victory (in war)', Kennedy claimed, 'has repeatedly gone to the side with more flourishing productive base'.3 Drawing attention to the interrelationships between economic **wealth, technological innovation, and the ability of states to** efficiently **mobilize economic and technological resources for power projection and national defence**, Kennedy argued that nations that were able to better combine military and economic strength scored over others. 'The fact remains', Kennedy argued, 'that all of the major shifts in the world's military-power balance have followed alterations in the productive balances; and further, that the rising and falling of the various empires and states in the international system has been confirmed by the outcomes of the **major Great Power wars**, where victory has always gone to the side with the greatest material resources'.4 In Kennedy's view, the geopolitical consequences of an economic crisis, or even decline, would be transmitted through a nation's inability to find adequate financial resources to simultaneously sustain economic growth and **military power**.

#### Nuclear war.

Gholz, Press, & Sapolsky ‘97 (PhD candidates – Dept. Poli. Sci. @ MIT, Prof. Public Policy and Organization @ MIT, International Security, Vol. 21, No. 4)

The larger long-term cost of selective engagement is the risk of involvement in faraway great power wars. Great power conflicts will continue to be a rare occurrence, but when they happen, the United States is much better off staying as far away from the combatants as possible. World War II resulted in the deaths of 400,000 Americans, many times that number wounded, and nearly 40 percent of GDP devoted to defense (compared to 4 percent today). A new great power conflict, with the possibility of nuclear use, might exact even higher costs from the participants. World War II was fought to prevent the consolidation of Europe and Asia by hostile, fanatical adversaries, but a new great power war would not raise that specter. The biggest cost of selective engagement is the risk of being drawn into someone else’s faraway great power war. The global economy may be disrupted by war, depending on who is involved, but even in the worst case, the costs would be manageable. Trade accounts for roughly 20 percent of the American economy, and sudden, forced autarky would be devastating for American prosperity. But no great power war could come close to forcing American autarky: essentially all goods have substitute sources of supply at varying marginal increases in cost. Furthermore, wars never isolate the fighting countries completely from external trade. Some dislocation is a real possibility, but these short-term costs would not justify the risks of fighting a great power war. The risk of nuclear escalation is a reason to worry about great power war, but it is a highly suspect reason to favor a military policy that puts U.S. forces between feuding powers. Nuclear weapons may not be used in a future great power war; the fear of retaliation should breed great caution on the part of the belligerents. But the larger point is that the possibility of a faraway nuclear exchange is precisely the reason that America should keep its military forces out of other country’s disputes. An Indo-Pakistani nuclear war would be a terrible thing, but it makes no sense to get in the middle. Distant wars would be costly, but not nearly as costly as the solution that selective engagers propose.

# Counterplan

#### Text: The President of the United States’ should substantially increase environmental restrictions on the President of the United States’ authority to introduce armed forces into hostilities.

#### Self-restraint solves—signals credibility and curbs abuses of power

Posner and Vermeule 2007 (Eric and Adrian, Professor of Law and the University of Chicago, and Professor of Law at Harvard, University of Chicago Law Review, "The Credible Executive", Lexis)

We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895] Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law, then examine a set of possible mechanisms -- emphasizing both the conditions under which they might succeed and the conditions under which they might not -- and conclude by examining the costs of credibility. A. A Preliminary Note on Law and Self-Binding: Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A [\*896] president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president's own future choices in ways that impose greater costs on ill-motivated [\*897] presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

# K

#### Any judicial restriction is an indeterminate check on rampant militarism without engaged public reaction. Only an engaged anti-imperialist mass movement can create political pressure.

**Stone '73** I.F. American investigative journalist and author, New York Review of Books, May 17

http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false

**As the means, the secret commitments, and the occasions for intervention have grown, the power of Congress to make the final decisions of war and peace have dwindled. Until the problem is attacked as a function of imperialism and militarism, constitutional and statutory tinkerings with war powers are likely to prove ineffective.** Here and there, in the voluminous hearings, reports, and debates on the pending legislation, this truth occasionally surfaces. **The Senate Foreign Relations Committee said some of this when it reported out the Javits-Stennis-Eagleton war powers bill last year.**[**4**](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn4-875844702) **If the United States, the committee report said, “is to be continually at war, or in crisis, or on the verge of war, or in small-scale, partial or surrogate war, the force of events must lead inevitably toward Executive domination despite any legislative roadblocks that may be placed in the Executive’s way.”** Senator Javits also touched on the more fundamental factors when Senate debate on the measure began last year.[5](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn5-875844702) The Founding Fathers were deeply distrustful of “standing armies.” At the time of the ratification of the Constitution, the United States Army consisted of a total of 719 officers and men. On the eve of the Civil War it was only 28,000 and in 1890 it was only 38,000. Even in 1915, the Army numbered less than 175,000. However, since 1951 [the Korean War] the size of our “standing” armed forces rarely has dipped below 3,000,000 men. These forces under the President’s command are equipped with nuclear weapons…and they are deployed all over the world…. It is the convergence of the President’s role of conducting foreign policy with his role as Commander-in-Chief of the most potent “standing army” the world has ever seen that has tilted the relationship between the President and Congress so far out of balance…. The imbalance will be tilted even further by the completion of the new all-volunteer army, which puts all the armed forces on a professional basis and relieves the President and the Pentagon from the need to rely on the draft except in the case of a major war. The army will no longer be a citizens’ army but a professional force largely enlisted from among the poor and desperate. As Joseph A. Califano, Jr., who was President Johnson’s assistant for domestic affairs, has pointed out,[6](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn6-875844702) **An all-volunteer force that subjects only the ones at the bottom to military service will effectively reduce the need for future rulers to be concerned about the more affluent majority in America and its judgments about foreign adventures, at least until those adventures are so far along that they will be virtually impossible to stop**. II The character and course of the war powers legislation in Congress show the same weaknesses that have allowed presidential power to grow so strong in the past. One difficulty is that of foreseeing the contingencies under which war may arise. **When the Constitution was being written, Congress was first given the power to “make” war, but this was changed to “declare.” The purpose of this change was twofold: to allow the President to repel sudden attacks and to free him as commander in chief from interference by Congress in the day-to-day operations of the armed forces once war had been declared.** Too specific a spelling out of presidential powers would either restrict his powers too greatly or give him a blank check in advance for actions that might go far beyond legitimate limits. Last year both houses of Congress passed war powers bills but they died with the session when the differences between them could not be reconciled. Each passed with majorities big enough to override a veto. The Javits-Stennis-Eagleton bill passed the Senate by a vote of 68 to 16 on April 13, 1972. The Zablocki bill passed the House 344 to 13 last August 14. The lopsided vote testifies to the wide discontent in Congress. It is not often that Democrats as different as Stennis and Eagleton can agree with a Republican like Javits to merge their respective bills. In the House there are more than a dozen bills to limit the President’s war-making powers. Their sponsors range from Ronald Dellums, the black militant Democrat from California, to John Rarick of Louisiana, who has been described as a Birchite with a Southern accent. But the coming legislative battle will be between revised versions of the Javits-Stennis-Eagleton bill in the Senate and the new Zablocki bill in the House, as they emerge from committee shortly. The contest will be over which bill will prevail in a showdown or fare best in a compromise. Both bills were extremely cautious in their draftsmanship, though in quite different ways. The House bill[7](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn7-875844702) in its original form won such wide support because it sought to do so little. It merely required the President promptly to inform Congress whenever he committed US military forces to armed conflict abroad “without specific prior authorization by Congress.” A salutary provision of the bill is that it applied not only to the commitment of troops to actual hostilities but also to their deployment abroad, though with a loophole: “except…for humanitarian or other peaceful purposes.” Our purposes are always peaceful. As we shall see, this House bill has now been strengthened. The Senate bill sought to disarm White House opposition by exempting the Indochina war; it does not apply to “hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.” Whether it would apply after a Vietnam cease-fire and troop withdrawal remains a cloudy question. The bill contains enough loopholes to allow a wide range of future “undeclared” presidential wars. The President is allowed to use troops abroad without a declaration of war in order to repel an attack upon the United States and its possessions, or on its armed forces outside the United States, or “to forestall the direct and imminent threat of such an attack,” or to evacuate citizens from an area in which they are endangered. The last was the excuse for the invasion of the Dominican Republic by Lyndon Johnson. Such “undeclared” presidential wars are limited to thirty days unless authorized by Congress and may be terminated sooner by act or joint resolution (the latter is not subject to veto) unless the President certifies in writing that “unavoidable military necessity respecting the safety” of these armed forces requires their continued use “in the course of bringing about a prompt disengagement.” Nixon’s disengagement from Indochina is still incomplete after four years. These **loopholes could make the situation worse by giving advance congressional authority to presidential actions of dubious constitutional validity or even patent usurpations.** When the bill was reported by the Senate Foreign Relations Committee, Senator Fulbright noted in his “Additional Views” that the provisions authorizing the President “to forestall the direct and imminent threat” of an attack could have been used to justify the Cambodian invasion of 1970 and the Laotian invasion of 1971, “both of which were explained as necessary to forestall attacks on American forces.” Fulbright feared that under these provisions a future President might cite secret or classified data “to justify almost any conceivable military initiative.” He warned that this authority could be construed “as sanctioning a pre-emptive, or first, attack solely on the President’s own judgment.” Since such a first strike might be nuclear, Fulbright suggested that the bill be amended (in accordance with a proposal advocated by the Federation of American Scientists) to forbid a nuclear first strike under any circumstances “without the prior explicit authorization of Congress.”[8](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn8-875844702) But this was not accepted by the Senate.[9](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn9-875844702) Another weakness in the Javits-Stennis-Eagleton bill is that it does not automatically provide for calling Congress into session once an “undeclared” war begins. The bill says that such “undeclared” wars shall not continue for more than thirty days without specific authorization by Congress. This could prove quite a loophole. Twenty-nine days of sustained bombing would be enough to cripple many a small country which had provoked the chief executive’s ire. Congress could terminate hostilities sooner than thirty days by bill or joint resolution (the latter not subject to presidential veto) unless the President had certified that “military safety for prompt disengagement” made continued fighting necessary. That is another big loophole. Senator John Sherman Cooper would have substituted for all these elaborate thirty-day procedures a simple joint resolution requiring the President to notify Congress whenever he uses the armed forces abroad in an undeclared war or “believes” that such use is “imminent.” Congress, if not already in session, would convene itself within twenty-four hours and proceed immediately to decide whether to authorize such use of the armed forces “and the expenditure of funds for purposes relating to these hostilities or imminent hostilities.” This would avoid the labyrinthine booby-traps and loopholes of the Javits-Stennis-Eagleton bill and confront Congress immediately with the question of whether it concurred or disapproved. Cooper said there was doubt whether Congress could constitutionally limit hostilities to thirty days “or any period of time, except by the denial of funds.” But he said there was no question that “a prompt meeting and consideration by the Congress of any involvement in hostilities is the power and the duty of the Congress.”[10](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn10-875844702) The Cooper approach would avoid many constitutional problems and also the danger of providing new loopholes for undeclared presidential wars. Cooper’s suggestions are not in the Senate bill, but roughly the same approach is taken in the newly revised version of the Zablocki bill, the main bill in the House.[11](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn11-875844702) This is a far stronger bill than last year’s version and may be preferable to the complicated Rube Goldberg contraptions of the Javits-Stennis-Eagleton bill. It reaffirms the congressional right to declare war, recognizes that the President has “in certain extraordinary and emergency circumstances” “authority to defend” the country and its citizens, but limits the exercise of this authority to two kinds of cases. One is to “respond to any act or situation that endangers” the United States or its citizens (but not their property) abroad when the necessity to respond does not allow time for advance congressional authorization; the word “endangers” may be far too broad. The other class of cases is pursuant to specific prior authorization by Congress. “But at the same time,” the Zablocki bill says, “nothing in this resolution should be construed to represent Congressional acceptance of the proposition that executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party.” Since these treaties cover some forty-three separate nations it is important to make clear—it is dangerously vague now—that they cannot be used to authorize war without specific congressional authorization. Otherwise they become blank checks for undeclared presidential wars. A similar provision (Sec. 3[4]) of the Senate bill would in effect recall the many blank checks outstanding in existing treaties by requiring specific congressional authorization for the use of troops under them. But both bills leave untouched the special blank checks for war in the Formosa, Middle East, and Cuba resolutions, leftovers from the Eisenhower and Kennedy Administrations. The new Zablocki bill requires the President to report to Congress and ask its approval not only when he commits armed forces to conflict but when he “commits military forces equipped for combat to the territory, airspace or waters of a foreign nation” or “substantially enlarges military forces already located in a foreign nation.” These contingencies are not covered by the Javits-Stennis-Eagleton bill. If Congress is not in session, the President under the Zablocki bill must convene it. This differs from the Cooper proposal in that the latter would have the President pro tempore of the Senate and the Speaker of the House reconvene Congress if it were not in session.[12](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn12-875844702) **A President in a time of undeclared war might refuse to reconvene Congress, on the claim that this provision was unconstitutional or on some other pretext. Lest this be thought far-fetched we call attention to the war powers testimony of Charles N. Brower, acting legal adviser of the Department of State, before the House Foreign Affairs Committee on March 13. He objected to any legislation that would require the President to reconvene Congress in the event of undeclared war. “A decision to convene Congress,” Mr. Brower told the House committee, “constitutionally lies within the discretion of the President, and should depend on the circumstances prevailing at the time.”** The Framers would have been startled to hear it argued that the President has a constitutional right *not* to reconvene Congress under circumstances nullifying its constitutional power to declare war. III The reconvening of Congress to deal with an undeclared war would merely be the beginning of the battle. **No legislation restricting “undeclared wars” can be any better than the will of Congress to stop them.** It is the will that has been lacking in the past. Generally speaking Congress has been alert in preventing the last war and slack in dealing with the next one. None of these war powers bills, if enacted, will make much difference if Congress is as supine as it has been in the past. Senator Cooper, in his “individual views” appended to last year’s Senate Foreign Relations Committee report, recalled that as early as 1954, when the Korean Defense Treaty was under consideration, Senator Stennis, former Senator Watkins, and himself warned that the Senate should make clear in all these so-called mutual defense treaties that the term “constitutional processes” used in them should not be used to send troops into combat without a declaration of war by Congress. These misgivings were brushed aside by the Senate Foreign Relations Committee and the Senate. **Later as the blank check war resolutions came up on Formosa, the Middle East, Berlin, Cuba, and Tonkin Gulf, reservations to the same effect were offered in committee and on the Senate floor and rejected. The record showed that Congress had consistently voted away its own constitutional war powers.**[**13**](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn13-875844702) The record was put into longer perspective and in a cynical but more searching light by Secretary of State Rogers during the Senate Foreign Relations Committee hearings on the war powers bills in 1971**. Rogers recounted with smug satisfaction the “undeclared” presidential actions as far back as the Mexican war, which triggered American imperial expansion at the expense of our Latin neighbors**. He paused especially to savor the undeclared war in which the US Marines occupied and governed Nicaragua from 1926 to 1933. This history, Rogers said, shows an increasing use of presidential powers, “and yet,” he observed, “there was remarkably little complaint from the Congress.” “It is interesting to speculate,” the secretary went on, “why this is so. It seems to me there may have been several possible factors. In the first place, I suppose that Presidents were acting in the context of a generally popular consensus in the country that the United States should assume a posture consistent with its emerging power, particularly in the Western Hemisphere.” Indeed “big stick” tactics toward our weaker neighbors have been generally popular in our history, and attacks upon this attitude have been a lonely exercise as far back as Lincoln’s opposition, while a congressman, to the Mexican war. “Secondly,” Rogers said, “a large majority of the nineteenth- and early twentieth-century presidential actions occurred in the Caribbean, where this country’s power was so predominant that there was little or no chance of forcible response to our actions.”[14](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn14-875844702) **Tough tactics were applauded, so long as we dealt with nations too weak to hit back**. A third element, on which the secretary did not touch, is that almost all of these actions in the Caribbean and Central America were designed to collect debts for American banks and enforce the will of American sugar, fruit, and other interests to which Congress is sensitive (and beholden) both at home and abroad. **In every generation there have been Americans to protest imperialism but they have been in a minority**. Henry Steele Commager at the same hearings showed that presidential “undeclared wars” have almost always been used against “small, backward and distraught” peoples. He asked, “**Does it really comport with the honor and dignity of a great nation to indulge its chief executive in one standard of conduct for the strong and another for the weak?”**[**15**](http://www.nybooks.com/articles/archives/1973/apr/19/can-congress-stop-the-president/?pagination=false#fn15-875844702) **The answer seems to be that the country rather enjoys it, unless—as in Korea and Indochina—the victim shows an unexpected capacity to resist. There is no reason to believe that under any of the pending war powers bills—had they then been on the statute books—Truman could not have obtained congressional authorization for the Korean War or Johnson for the Vietnam war.** As Arthur Schlesinger, Jr., told the House Foreign Affairs Committee the other day, **“All wars are popular the first thirty days.”** Javits, the principal sponsor of the Senate war powers bill, still accepts conventional clichés about the Vietnam war and only turned against it when it became too expensive. As recently as last May 1, in a speech in Chicago, he said, It is not in the interest of the United States to allow the ARVN to be overrun, and the Thieu government to be overthrown by this current North Vietnamese offensive. But we have already done in Vietnam all that any nation could ever do for an ally in terms of our own casualties and treasure spent…. If the South Vietnamese people want a country, they can have it, because we have equipped them for the purpose. But…we cannot continue for the indefinite future to underwrite the survival and security of South Vietnam. This embodies the conventional and propagandistic view which identifies the Thieu dictatorship with the people of South Vietnam, and paints our purpose there as one of benevolent concern for their self-determination. It is only the cost that separates Javits from Nixon. In fact, the more one studies the record the more one feels that it is neither lack of power nor lack of information that has led Congress to acquiesce in the war powers of the President but the fact that it usually shares much the same outlook. Senator Eagleton provided another example of this before the House Foreign Affairs Committee March 7. He said that while the Senate war powers bill would allow presidential military action to rescue endangered citizens, it was tightly worded to prevent a President from using this excuse “to pursue a policy objective over and above their safe evacuation.” Eagleton cited the Dominican affair when President Johnson expanded a rescue operation “into an invasion” of the Dominican Republic in 1965. “It should be emphasized,” Senator Eagleton said, “that the policy considerations that motivated President Johnson *may* [italics in original] have been correct. They were, however, legally questionable since Congress was excluded from the decision-making process.” It must make Latin Americans wince to read such stuff from a liberal US senator. We helped to overthrow a constitutional and democratic government, on the pretext that it was in danger of a communist takeover, and thus to replace the liberal regime of Bosch with the repressive regime of Trujillo’s long-time aide, Balaguer. **It is hard to arouse Congress over legally or constitutionally questionable acts by the Executive when it agrees with the policy considerations. The biggest obstacle of all to congressional restraint on the Executive is the instinctive reaction that once war begins, the patriotic duty is to rally behind the war, however disastrous or wrong one may believe it to be.** Thus Senator Stennis voiced misgivings about the Indochinese intervention very early in the Sixties but swallowed his doubts once combat operations began.

#### The formal legislative process leads to cooption and causes an endless series of trivial battles. This trades off with radical opposition necessary to solve

**Ford '13** Matt, history teacher "The Left Had No Choice But To Die" 5/31

http://www.counterpunch.org/2013/05/31/the-left-had-no-choice-but-to-die/

Mussolini himself gained his political stripes by roughing up striking workers. Later, a plank of his National Fascist Party’s political platform was hyper-industrialization. In Spain, Franco’s coup was supported by his Fascist allies in Italy and Germany. The Spanish Republic, the Socialist and Anarchist worker organizations, and hope for a life of dignity for the Spanish working class was killed with the victory of Franco. However, it was obvious that throughout Europe, the **workers had the power to determine the destiny of the country**. **Not only did they have the power to shape the economy, but the ability to fight wars depended on their obedience as workers and soldiers**. Enough with history. I hope the point has been made and accepted that in industrial economies the workers that manufacture goods or mine raw materials are the most important social group for any type of progress- left or right. In an industrial economy, workers are listened to because economies depend on their labor. **In the US today, these circumstances no longer exist**. Manufacturing has been outsourced and most of the working class is employed in the service sector. Wars are no longer fought by the working class, and their continuance does not depend on the obedience of the workers. Modern technology has made human power less important in warfare and production. Furthermore, industrial society has given us the poison of environmental destruction**. Therefore, we would be naïve to ignore these realities and continue to use outdated tactics to achieve a bigger piece of the industrial society’s pie. We find ourselves lost and directionless.** In a position without precedent. In the US, the left has not adapted to these new situations. **With these new conditions, the working class simply has little or no power using the same tactics that were used in the past.** Strikes in the service sector typically result in nothing due to the ability of technology to supplant human labor or because of the low-skill nature of service sector jobs. Marches or rallies without the threat of affecting profits are without potency. **To a great extent, the demands of the working class have been funneled into the political process where, as always, they are watered down and co-opted. The political process is controlled by the rich who no longer have to answer to the demands of the workers that create their wealth, because those workers are either outside of our borders or are Wall Street gamblers.** Other demands of the working class are channeled into social movements that adopt the same tactics of the bygone era. Numbers of people in the streets are no longer a threat because profits still roll into the bank accounts of the rich. Picket signs and organized marches with police escorts do not have the power to make change. The Occupy movement serves as the most glaring example. Another factor that must be taken into account in examining our new situation is the growth of the non-profit industrial complex. Social movements are frequently co-opted by the paid community organizers of non-profit organizations. Non-profit organizations cannot be expected to make meaningful change due to their very structure. The budgets of the organizations and the paychecks of the organizers depend on grants from government agencies and endowments. These funds exist -in theory- to combat social problems. So, if these social problems disappear, the funding will disappear. The existence of these organizations and the jobs of the organizers, depend on the existence of social problems. Non-profit organizations do not want to put themselves out of business, therefore they can not be expected to make change. An analogy may be useful: An industrial capitalists exists to make profit. He will not share his profits because doing this threatens his existence. A non-profit organization will not eliminate social problems because doing so threatens their existence. Certainly there are non-profit organizations that are funded by donations from rich people, but this shouldn’t require an explanation of why these will not alleviate the plight of the working class. Not every sector of the working class has been stripped of their labor power. The massive population of farm workers have an immense about of labor power. The profits of the agriculture industry depend on their labor. However the plight of the farm workers has also been co-opted by the political pimps of the unions and the non-profits. Since most of these workers are immigrants, and a sizeable portion is undocumented, the labor power of this group has been diluted into demands for new immigration legislation. Unfortunately, the American elite doesn’t care about the horrendous stories of inhumane treatment of migrant workers, deportations and separation of families, and deaths on the border. They care about their profits. But “immigration reform” movement continues trying to tap into the non-existent consciousness of political elites by begging for crumbs in the immigration debate. If the labor power of this group was not ignored and the crops went unpicked, the elite would be forced to listen. Instead, the watered-down “immigration reform” movement remains as a movement of annual marches and lobby days organized by non-profit community organizers. Further complicating the issue is the impending environmental disaster**. Industrial economies, whether their workforce is outsourced or not, will result in the destruction of the planet. It should be noted that industrial agriculture is equally part of this problem. We must recognize this. Clinging to old traditional leftist ideologies of proletarian organization in industrial economies will almost certainly result in the extinction of species. The old tactics of the traditional Left are obsolete. We live in a new world. If the modern working class adopts the tactics of the past, we cannot expect any meaningful change. A new working class must adopt new tactics. A working class facing ecological disaster must address the cause of that disaster (ie: industrial civilization).** Technology has isolated us and controls us through distraction and surveillance. **Outsourcing has made us powerless and our demands fall on deaf ears because we no longer pose a threat to those who pull the levers of power. History shows us that “progress” has limits and the evidence shows us that the planet has reached its limit.** As Jeffrey St. Clair has noted, the Left is dead. It had no choice but to die. It grew from a world that no longer exists.

#### Our alternative is a form of civil disobedience which enacts a utopian seizing of collective agency against the representational logic which grants executive war powers in the first place This is key to solve

**Vrasti '12** Wanda, Alexander von Humboldt Postdoctoral Fellow at the Humboldt University in Berlin "This Courage Called Utopia" *The Disorder of Things* http://thedisorderofthings.com/2012/11/09/this-courage-called-utopia-2/

**The concrete utopia enacted in the Occupy camps** was, of course, never as detailed and complex as those represented in science fiction literature. The encampments were fairly short-lived social experiments, far messier and short-lived. They **managed**, however, **to take the anti-authoritarian sensibility** seen in Le Guin’s The Dispossessed and Piercy’s Woman on the Edge of Time **out into the streets and give it a concrete social and spatial dimension. Instead of placing specific demands on the state, as is usually expected from social movements, Occupy rejected everything and demanded nothing.** Occupy was a scream of outrage against capitalist society, as John Holloway (2002) would call it or in the words of the inexhaustibly eloquent Matt Taibbi (2011), a “visceral, impassioned, deep-seated rejection of the entire direction of our society, a refusal to take even one more step forward into the shallow commercial abyss of phoniness, short-term calculation, withered idealism and intellectual bankruptcy that American mass society has become.” Of course, **pundits complained the movement lacked a coherent political vision or a clearstrategy for moving from means to ends, and this was partly true but only because Occupy intentionally replaced strategy for process and instrumental rationality for collective ritual. Their tactic was to capture as much public space as possible and transform it in accordance with a distinct utopian program from the ground up.** This program, which was evident both in the political content of the movement and the aesthetic from of the encampments, was an eclectic mélange of New Left currents and principles from autonomist Marxism to anarchism, ecofeminism, anti-racism, indigenous struggles, and other social justice movements against the dispossessions of global neoliberal capital. Let’s take, for instance, the camp at Liberty Plaza in New York. It was a kind of “living installation or social sculpture” (Schwendener 2011) made of assembly and lecture spaces, information booths and media centers, cooking tents, day care corners, barter tables, a library space, drum circles and an endless array of banners and posters separating it from the curious eyes of tourists, press and police officers. Inside the camp magical things took place: people made their first contact with direct democracy, homeless people found food and shelter, work was cooperative, art and music were made, social cohesion emerged in the place of isolation and depression. In the words of a participant in the May ’68 events in Paris, people were *“l*iving beyond their intellectual, emotional and sensorial limits: each person existed above and beyond himself” (cited in Haiven 2011:71). The Occupy camps were, first of all, a great meeting ground for people who usually only communicate online, as it was a great antechamber of politicization for people not previously involved in activism. Political theorist Jodi Dean (2011)*,* who covered the New York occupation relentlessly, recalls she was spending three hours a day in face-to-face meetings, a rarity for an academic whose work consists mostly of sitting alone at the desk or being part of some surrogate community on social networking sites. Against the segregation and isolation of everyday life Occupy offered participatory structures and open communication. It invited people to experience first-hand what an inclusive and egalitarian society might look like and how far we were from it. **The general assemblies and working groups, while famously grueling and time-consuming, allowed an entire generation of otherwise voiceless and apathetic people to come into contact with direct democracy. Learning how to plan an agenda, speak up, listen to others, work towards consensus, and take collective action will have an enduring impact on these people’s lives and actions, if it is only to doubt the mantra that There Is No Alternative**. Also important, the camps allowed people to live in public, to do things usually reserved for the private sphere – cooking, cleaning, and caring, or things deemed suspicious when they occur in public without state supervision or corporate endorsement – assembling, camping (loitering), and celebrating. If one of the greatest forces behind the political apathy of our generation is that “[w]e have lost the pleasure of being together” (Bifo and Lovink 2011), cooking together in the camps, sharing free goods, building a people’s library, and so on was the simplest and yet most efficacious way of counteracting the isolation, consumerism and competition responsible for our powerlessness. Renown Marxist feminist writer, Silvia Federici, has long been making the case for “put[ting] an end to the separation between the personal and the political, and political activism and the reproduction of everyday life” (cited in Caffentzis 2012). Where many of our strategies on the Left focus on one-off spectacular events, such as demonstrations and strikes, greater concern for the social reproduction of resistance would help the struggle extend to all moments of our lives, throughout the entire fabric of our communities until it became a self-reproducing “round-the-clock bodily presence” like the Occupy camps (ibid., Federici 2005). **The experience of Occupy confirmed Marge Piercy and so many other feminists’ intuition: utopia is in the quotidian details, it is in the way we organize the mundane activities that reproduce our collective existence. Utopia starts at home. Living in public was also the surest way to demonstrate just how militarized and corporatized public space has become in recent years and how distant this was from people’s real needs and from real democracy. Taking public squares and filling them with networks of mutual aid and voluntary cooperation, free food and education, spontaneous creativity and participatory structures, especially in countries like Greece, Spain and the United States where people have to bear the brunt of austerity politics, was less an act of occupation than a liberation of space from the hands of corporate interests and riot police**. Even more upsetting than living in public was perhaps the public display of collective enjoyment. Protest and art, politics and festival were integrated in a “carnival of resistance” many bystanders found ineffectual, if not outright offensive*.* Carnival, street theatre, drumming circles, surrealist and situationist artistic practices have been staples of the alter-globalization movement since the 90s, to the exasperation of police and public officials who never know how to respond to this “non-violent warfare” other than by using violence and demagogy, which only further delegitimize their rule (for a quick summary of carnivalesque tactics see Graeber 2002). For protesters, however, these rituals of collective enjoyment forge a sense of solidarity and social cohesion, crucial at a time when the moralization of debt and the humiliation of precarious work, not to mention police repression are working to obscure the chains that oppress us along with the bonds that could empower us. Rebecca Solnit (2012) captures the spirit well: There was a tremendous emotion around it [the camps] – the joy of finding you were not alone, the shame that was shed as the prisoners of debt stepped out of the shadows, the ferocity of solidarity when so many of us were attacked by the police, the dizzying hope that everything could be different, and the exhilaration in those moments when it was. Finally, there were the esoteric looks of the camps, the most dubious element of them all. New Age rituals, drum circles, free hugs, incense and all sorts of cliché “hippie” paraphernalia were a constant presence in Occupy encampments. Conservative pundits treated these as a threat to public “health and safety” or an obstacle to rational discourse, but here is more to the spiritual element in Occupy, which can range from ecofeminism to New Age mysticism. **Used to an instrumentalist conception of politics that separates rulers and ruled, private and public, and reason from emotion, we sometimes rush to dismiss all collective displays of ecstasy and spirituality as indications of “savagery.”** In the ecofeminist tradition, however, spirituality comes from *the* rediscovery of the sacredness of life, human and non-human, and is essential for liberating women, nature and subaltern people from patriarchal and technocratic rule. Metaphors like “reweaving the world”, “healing the wound”, and re-connecting and interconnecting the “web” are not alwaysNew Age affectations. Sometimes they are serious attempts to imbue reality with a spiritual dimension explicitly shunned in all modern traditions of thought, liberal or socialist, that equate the highest human potential with the expansion of material wealth*.* A spiritual orientation that is mindful of the material relations underlying the estrangement and isolation it is supposed to heal can go a long way in repairing the destruction of traditional knowledge and self-sufficient life forms stretching back to the “witch hunts” and the early days of colonialism (Mies and Shiva 1993). Without a doubt, the Occupy movement has allowed millions of people to participate in (or at least witness) a post-capitalist anti-authoritarian utopia never before seen outside science fiction literature. It created a utopianism for the here and now. Concrete representations of utopia such as these are powerful weapons of struggle in so far as they affectively invest us in the promise of an alternative future and stir our collective desire for it. But how exactly do representations of utopia embolden transformative action? Is there not a danger for the utopian feeling to start eclipsing the strategic kind of action needed to generalize and normalize utopia? This has certainly been the greatest concern with the Occupy camps, which echoes earlier misgivings about intentional communities and direct-action campaigns of the ‘60s and 70s. In the concluding section, I discuss this problem only with reference to *c*oncrete utopia of the Occupy movement because it is a more recent example I am far more familiar with than the events and debates Marge Piercy and Ursula Le Guin were writing against in the 70s. Utopia Don’t Be Shy Despite pundits declaring Occupy Wall Street dead on the one-year anniversary of the occupation at Zucotti Park in New York, Occupy has accomplished more in a year than any other leftist social movement or organization over the past few decades. Of course, if one equates Occupy with the encampments in Zucotti Park and other squares across the globe, the conclusion must be that the movement is already history. But this is an incredibly narrow and outright ignorant understanding of what Occupy stood for. Occupy was, from the very beginning, about creating alternative pathways for political organization and communication to prefigure the real democracy to come. **Within only one year, Occupy introduced millions of people to the experience of direct democracy; it radicalized an entire generation of previously discouraged and apathetic youth; it built test zones for imagining and living out a post-capitalist utopia organized outside profit or competition; it created a global network of activists that remain active in neighborhood assemblies, guerilla gardens, soup kitchens, direct action campaigns and independent media forms; and it radically shifted the terms of the debate from the morality of austerity to a collective resistance movement against the dictate of public and private debt** (Roos 2012). **The success of Occupy cannot be measured by or reduced to the longevity of the encampments, but neither would Occupy have had such resonance had there not been the concrete utopias of the camps to give people a sensorial taste and participatory stake in its oppositional vision. For change to be effective it must be affective. It cannot just offer a critique of the present, no matter how correct or convincing, it must also substantiate this narrative with an experience people can relate to and have a part in.** This is the principal task of the radical event. Writing about May ’68, Max Haiven describes the radical event as follows: Radical events of collective action are animated by and refract a “flash” of a utopia of unalienated labor. […] Here collectivities, to the extent that they are able to create temporary (even partial and problematic) conditions of autonomy, create their own form of life and collaborate “biopolitically” on their own accord. These events are, at least in one valence, radical experiments with organizing social cooperation another way. As such, they (often inadvertently) open themselves to the raw ‘magma’ of human cooperation or the “social flow of doing.” It is precisely this openness that marks the event as “radical,” as fundamentally at odds with a form of capitalist biopolitics that tyrannically seeks monopoly over the possibilities of social cooperation. (2011:70) Radical events are moments when politics explodes from its “representational” casket, erasing the lag between speech and behavior, theory and action, public and private. **Divisions of labor, hierarchies and socially assigned roles, official channels of communication and the very category of “the public” as an entity that needs representation by either political or media vehicles dissipate. Radical events release individuals and collectivities from the “done” of their being into an unalienated social flow of “doing.” The normal order of things dissolves, however briefly, to reveal vulnerable cracks and surprising possibilities.** In such days of intense social activity, like the three months that passed before most American Occupy camps were removed in a coordinated “shock and awe” operation, time moves faster, events seems more real, experiences arrive unmediated, and people become makers of their own history (Haiven 2011:72). Politics assumes a sensuous quality like in this famous Paris ‘68 slogan: *“*The more I make love, the more I want to make revolution. The more I make revolution, the more I want to make love.”This is “a utopia in which the production and reproduction of reality is totally unalienated and monstrously democratic” (Haiven 2011:75). None of this is to paper over the many political and organizational problems that plagued the Occupy movement and especially the camps: power differentials, exclusions, activist snobbery, and so on. Often the strong social cohesion and aesthetic dimension of the camps came at the expense of an institutional structure or strategy that could have helped make the social relations built in the camps durable and generalizable. But such is the nature of radical events: their obstreperous temporality can rarely accommodate questions of strategy and organization (Haiven 2011:70, 73). In return they leave an enduring affective trace on their participants. Radical experiments in social cooperation like the Occupy camps will shape an entire generation’s sense of what is politically possible and desirable. This might not mean much in terms of concrete strategies for winning either the “war of position” or the “war of maneuver,” but it is certainly more than any previous social movement since the radical events of ’68 can boast.**The critique of banks, big business and the collusion with state power prompted by the movement would have never been as widely shared and deeply felt had there not been the encampments to demonstrate a positive, life-affirmative corollary to this critical impulse.** No matter how fleeting or foolish it might have seemed, without the prefigurative utopia of the camps it would have been nearly impossible for this movement to prove that life after capitalism might be worth fighting for. The next step, already on the minds of many Occupy activists today, should be how to translate the affective content of the radical event into a strategy of self-sustainable radical politics, how to turn counter-culture into counter-institutions. After all, **it is only by enabling mass participation in transformative action that representations of utopia can remain politically useful in the long run**. However, this cannot happen by erasing or denying the contribution of the Occupy camps, with all their aesthetic dramatizations, carnivalesque tactics, and time-consuming decision-making structures. When the forces of reaction are engaged in a campaign of erasing any collective memory of success, it is our task to remember that other forms of living and cooperating are possible. When the capitalist economy is being presented as unassailable truth, it is up to us to keep our dissident history alive, and recognize its power over the present and over who we are today (Haiven 2011:84).

# Case

## Environment

#### They don’t solve other countries military emissions which makes their impacts inevitable

#### No internal link-environmentalists using the legal system and the military changed its policy

Russell McLendon 8/13/13, Science editor at Mother Nature Network, 8/13/13, "American military, wildlife learning to coexist," http://www.mnn.com/earth-matters/animals/blogs/american-military-wildlife-learning-to-coexist

This coexistence isn't necessarily selfless, as the AP points out: If endangered species decline too much, military bases could face tougher rules or even be forced to relocate. Conger acknowledges this, telling the AP "our conservation efforts are first and foremost focused on protecting readiness and eliminating the need for restrictions on training."¶ ¶ Regardless of the military's motivation, though, it's in a unique position to influence the fate of American wildlife. According to a report by nonprofit conservation group NatureServe, DOD territory harbors a greater density of endangered species than any other federal land-management agency. It has nearly seven times more threatened and endangered species per acre than the Forest Service, for example, with especially dense concentrations in Hawaii, California and Florida.¶ ¶ The Pentagon still struggles to share land with some endangered wildlife, such as desert tortoises the Army has relocated from Fort Irwin in California. But one of its most persistent ecological problems is now at sea, where Navy sonar exercises have raised widespread concerns about noise-sensitive whales and other marine mammals.¶ ¶ "As part of these exercises, the Navy will repeatedly broadcast high-intensity sound waves into a vast stretch of ocean, containing some of the most biologically productive marine habitat in the United States," environmentalists argued in a 2012 lawsuit against the use of naval sonar off the U.S. West Coast, one of several such cases in recent years.¶ ¶ But as the AP reports, the DOD has already learned what can happen if it's too cavalier about the wildlife whose habitats it shares. San Clemente Island is currently the U.S. Navy's only ship-to-shore bombing range, but it used to have two: A former range on Vieques, Puero Rico, was closed in 2003 after years of protests over the environmental and health effects of naval exercises. Much of Vieques is now a national wildlife refuge.¶ ¶ "If we were to abuse the island," a naval commander tells the AP, "we would lose it."¶ ¶ Many environmentalists and scientists are still worried about the effect of sonar on whales, and while the Navy has at times reacted defensively to such concerns, it's not ignoring them. As part of a "ground-breaking" behavioral response study on cetaceans and sonar, two Navy ships recently joined independent researchers off the California coast to tag several whales and dolphins. The Navy is currently seeking renewal of federal permits for testing and training exercises in the Atlantic and Pacific, and data from such studies are used in yearly "adaptive management discussions" with the National Marine Fisheries Service. A second phase of the research is slated to begin in September.¶ ¶ "USS Dewey was honored to be a part of this vital study," Cmdr. Jake Douglas, commanding officer of USS Dewey, says in a statement. "We take environmental stewardship seriously in our role as operators, and want nothing more than to be able to do our mission while protecting our environment."

#### Status quo solves- new military programs help the environment

Russell McLendon 8/13/13, Science editor at Mother Nature Network, 8/13/13, "American military, wildlife learning to coexist," http://www.mnn.com/earth-matters/animals/blogs/american-military-wildlife-learning-to-coexist

¶ War is hell for everyone involved, including wildlife. But beyond the heat of the battle — where large tracts of land are often set aside for training, storage or other purposes — human conflict can actually be a boon for wild plants and animals.¶ ¶ One well-known example is the Korean Demilitarized Zone, a forested border between North and South Korea where the danger to people has created an inadvertent nature preserve. But smaller military menageries exist in many parts of the world, including North America, and some are less accidental than others. The U.S. military is increasingly embracing this role, for example, protecting national ecology as well as security.¶ ¶ "The Defense Department has a dedication to the environment that is wider in scope than a lot of people are familiar with," said John Conger, acting deputy undersecretary of defense for installations and environment, at a panel discussion on the issue last month. "We spend $4 billion a year on our environmental programs."¶ ¶ The U.S. military manages nearly 30 million acres of land nationwide, Conger added, on which it hosts 420 federally listed endangered or threatened species and 523 at-risk species. About 2 percent of the former and 14 percent of the latter exist only on Department of Defense property. And according to a recent report by the Associated Press, DOD spending on endangered and threatened species grew by nearly 45 percent over the past decade, from about $50 million in 2003 to about $73 million in 2012.¶ ¶ The Pentagon doesn't have a stellar reputation as an ecological steward. Military leaders have long sought exemptions from environmental laws, and the Navy still frequently clashes with animal advocates who say its sonar harms whales. At the same time, though, U.S. armed forces have been quietly setting aside swaths of habitat for hundreds of vulnerable plants and animals, often partnering with environmental advocacy groups.¶ ¶ The military's ecological efforts vary widely in scale. The Army's Joint Base Lewis-McChord, for example, has installed bridges over streams to prevent military vehicles from damaging the waterways and disrupting salmon spawning grounds. In July, the base also received $12.6 million from governments and nonprofit groups to preserve prairie habitat for Mazama pocket gophers, Taylor's checkerspot butterflies and other native species.

#### No base kickout – no impact to public resentment

Yeo 10 (Andrew, “Anti-Base Movements in South Korea: Comparative Perspective on the Asia-Pacific”, 14 June 2010, http://www.japanfocus.org/-Andrew-Yeo/3373, ZBurdette)

Although anti-base movements may successfully mobilize, as witnessed in Maehyangri and Pyeongtaek, they may **not be** equally **successful in shaping policy outcomes.** More often than not, activists face significant structural constraints. In all anti-base movements, whether in Okinawa, South Korea, Guam or the Philippines, activists face great challenges when confronting U.S. base issues because political elites tend to prioritize robust alliance relations with the U.S. Whether a progressive or conservative-leaning government, **regardless of who comes to power**, political **leaders in Tokyo** and Seoul generally **accept** in principle **the necessity for U.S. forces** to provide regional stability in the mid- to long-term. A pro-U.S. consensus among political leaders and bureaucracies, particularly within the defense and foreign policy establishments, drowns out activist calls for an alternative security framework centered on a reduction of U.S. forces. This ideological constraint makes it difficult for anti-base movements to shift public discussion on U.S. base issues. Moreover, host governments constantly receive a mixture of political pressure and economic incentives to support U.S. alliance obligations. While some government elites are genuinely sympathetic to the plight of local residents, in most cases political and economic forces **prevent** these actors from executing **policy changes that would significantly eliminate** or ameliorate the negative effects of U.S. military **presence**.

#### And, their ev is all rhetoric – politicians will stop opposing the US as soon as they get enough concessions

Harlan 10 (Chico, Washington Post Foreign Service, “Okinawa election likely to hinder U.S. base plans”, Sunday, November 21, 2010, http://www.washingtonpost.com/wp-dyn/content/article/2010/11/20/AR2010112003744.html, ZBurdette)

During the half-century of almost uninterrupted Liberal Democratic Party supremacy in Tokyo, Okinawan politicians tolerated the U.S. military presence here in exchange for pork - construction projects, new roads, a monorail. Even now, there are plans for an airport expansion and a graduate school. If Nakaima wins, Tokyo will try to use the subsidies as leverage, boosting the local economy in return for agreement on the base issue. **Even** some of **Nakaima's supporters want him to bend**. "Clearly, **he is leaving room for negotiation** with Tokyo," said Jun Shimabukuro, a professor of political science at Okinawa's University of the Ryukyus. "That may be his weakness, but also his strength."

### Bio D

#### Alt causes to species loss—9 reasons at least

Tonn ‘7 (Bruce, school of planning prof at U of Tenn, “Futures Sustainability,” Futures, November, lexis)

Threats to biodiversity are numerous and well known. Studies suggest that the number of species on earth is decreasing faster than the 'natural' rate [19]. It can be strongly argued that the biodiversity of the earth is decreasing mostly as the result of human behavior. The relentlessexpansion ofhuman settlements hasresulted in widespread destruction of habitats. The loss of tropical rainforests, estuaries and wetlands to development have been particularly ruinous. Of course, over the course of historyhumans have also hunted numerous species into extinction [20] and are threatening to over-harvest many aquatic species to extinction. Industrial waste also has the capability to kill species outright and to prevent their reproduction. The transport ofinvasive species around the worldis another near-term threat to the earth's biodiversity. Human-induced climate change is threatening many species in the near-term, such as the polar bear. Rapid global climate change and nuclear war could result in catastrophic species extinction similar to massive extinctions in the earth's geologic past. There are also numerous natural threats to biodiversity. Naturally occurring viruses and otherpathogens could become more virulent and uncontrollable and could threaten numerous flora and fauna alike. However, long-term threats to biodiversity mostly stem from extreme climate change. Volcanic eruptions, collisions with asteroids, plate tectonics, changes in ocean currents, and even minute changes in the energy output of the sun could cause rapid global cooling. Cooling could not only spread ice over most of the earth's surface again, killing the majority of species outright, but could also lower sea floors enough to foster massive oxidation, thereby reducing oxygen levels enough in the atmosphere to asphyxiate all oxygen breathing species [17].

#### Impact to Biodiversity is a myth

NPR, 7 (5/30/2007, Donald J. Dodds M.S. P.E., President of the North Pacific Research, “The Myth of Biodiversity,” northpacificresearch.com/downloads/The\_myth\_of\_biodiversity.doc CS)

Biodiversity is a corner stone of the environmental movement. But there is no proof that biodiversity is important to the environment. Something without basis in scientific fact is called a Myth. Lets examine biodiversity through out the history of the earth. The earth has been a around for about 4 billion years. Life did not develop until about 500 million years later. Thus for the first 500 million years bio diversity was zero. The planet somehow survived this lack of biodiversity. For the next 3 billion years, the only life on the planet was microbial and not diverse. Thus, the first unexplainable fact is that the earth existed for 3.5 billion years, 87.5% of its existence, without biodiversity. Somewhere around 500 million years ago life began to diversify and multiple celled species appeared. Because these species were partially composed of sold material they left better geologic records, and the number of species and genera could be cataloged and counted. The number of genera on the planet is a indication of the biodiversity of the planet. Figure 1 is a plot of the number of genera on the planet over the last 550 million years. The little black line outside of the left edge of the graph is 10 million years. Notice the left end of this graph. Biodiversity has never been higher than it is today.

### Iran Heg

#### Multiple barriers to Iran heg

Savyon, director – Iranian Media Project @ Middle East Media Research Institute, 7/4/’11

(A, “Iran's Defeat in the Bahrain Crisis: A Seminal Event in the Sunni-Shi'ite Conflict,” http://www.memri.org/report/en/0/0/0/0/0/0/5424.htm#\_ednref6)

Despite its image as a looming superpower, which revolutionary Iran has sought for years to cultivate, its actual policy reveals a deep recognition of its weakness as a representative of the Shi'ites, who constitute a 10% minority in a Sunni Muslim region. Historically persecuted over centuries, the Shi'ites developed various means of survival, including taqiya – the Shi'ite principle of caution, as expressed in willingness to hide one's Shi'ite affiliation in order to survive under a hostile Sunni rule – and passivity, reflected in the use of diplomacy alongside indirect intimidation, terrorism, etc. The ideological change pioneered by the founder of the Islamic Revolution in Iran, Ayatollah Ruhollah Khomeini – who transformed the passive perception characteristic of the of the Shi'a (which was based on the legend of the martyrdom of Hussein at the Battle of Karbala) into an active perception of martyrdom (shahada)[26] – is not being carried out by Iran. Tehran is refraining from sending Iranian nationals to carry out martyrdom operations, despite its years-long glorification of this principle. It is also not sending Iranians to Gaza, either on aid missions or to carry out suicide attacks – and this despite the fact that regime-sponsored organizations are recruiting volunteers for such efforts. Moreover, it appears that the Shi'ite regime in Iran is utilizing the legend of Hussein's martyrdom solely for propaganda purposes, in order to glorify its own might and intimidate the Sunni and Western world. Such intimidation is in keeping with Shi'ite tradition, as a way to conceal Tehran's unwillingness to take overt military action against external challenges. Conclusion Tehran's defeat in the Bahrain crisis reflects characteristic Shi'ite restraint, stemming from recognition of its own weakness in the face of the vast Sunni majority. The decade during which Iran successfully expanded its strength and power exponentially via threats and creating an image of superpower military strength has collapsed in the Bahrain crisis; Iran is now revealed as a paper tiger that will refrain from any violent conflict. When it came to the crunch, it became clear that the most that Iran could do was threaten to use terrorism or to subvert the Shi'ite citizens of other countries – in keeping with customary Shi'ite behavior – and these threats were not even implemented. It can be assumed that the Sunni camp, headed by Saudi Arabia, is fully aware of the political and military significance of Iran's weakness and its unwillingness to initiate face-to-face conflict. This will have ramifications on both the regional and the global levels. In addition to having its weakness exposed by the Bahrain situation, Tehran has also taken several further hits to its prestige and geopolitical status. These include: the popular uprisings in Syria against the regime of Syrian President Bashar Al-Assad, weakening the Tehran-Damascus axis; post-revolutionary Egypt's refusal to renew relations with Iran; and the fact that the E.U. was capable of uniting and leading a military attack against the regime of Libyan leader Mu'ammar Al-Qadhafi as well as its refusal to renew the nuclear negotiations with Tehran based on Iran's demands. All this, added to the serious internal rift between Iranian Supreme Leader Ali Khamenei and his long-time ally Iranian President Mahmoud Ahmadinejad, have today left the Iranian regime in clearly reduced circumstances.

#### No Iran war scenario

**Riedel 12** – Senior Fellow in the Saban Center for Middle East Policy at the Brookings Institution and a professor at Georgetown University (Bruce, 01/20, “Iran is not an existential threat,” http://thedailynewsegypt.com/global-views/iran-is-not-an-existential-threat.html)

The danger of war is growing again over Iran's nuclear ambitions. Iran is rattling its sabers, the Republican presidential candidates and others are rattling theirs. But even if Iran gets the bomb, Israel will have **overwhelming** military superiority over Iran, a fact that should not be lost in all the heated rhetoric. Former head of the Mossad, Meir Dagan, says Iran won't get the bomb until at least 2015. In contrast, Israel has had nuclear weapons since the late 1960s and has jealously guarded its monopoly on them in the region. Israel has used force in the past against developing nuclear threats. Iraq in 1981 and Syria in 2007 were the targets of highly effective Israeli air strikes against developing nuclear weapons programs. Israel has **seriously considered** conducting such a strike against Iran and may well do so especially now that it has special bunker-busting bombs from the US. Estimates of the size of the Israeli arsenal by international think tanks generally concur that Israel has about 100 nuclear weapons, possibly 200. Even under a crash program, Iran won't achieve an arsenal that size for many years — perhaps **decades**. Israel also has multiple delivery systems. It has intermediate range ballistic missiles, the Jericho, that are capable of reaching **any target** in Iran. Its fleet of F15 long-range strike aircraft can also deliver nuclear payloads. Some analysts have suggested that it can also deliver nuclear weapons from its German-made Dolphin submarines using cruise missiles. Israel will also continue to have conventional military superiority over Iran and the rest of the region. The Israel Defense Forces has a demonstrated qualitative edge over all of its potential adversaries in the region, including Iran. The Israeli air force has the capability to penetrate air defense systems with virtual impunity as it demonstrated in 2007 when it destroyed Syria's nascent nuclear capability. The IDF's intelligence and electronic warfare capabilities are vastly superior to its potential rivals. The 2006 Lebanon war and the 2009 Gaza war demonstrated that there are limits to Israel's conventional capabilities but those limits should not obscure the underlying reality of Israel's conventional military superiority over its enemies. Iran, on the other hand, has never fully rebuilt its conventional military from the damage suffered in the Iran-Iraq war. It still relies heavily for air and sea power on equipment purchased by the Shah 40 years ago, much of which is antique today. Moreover, the June 2010 United Nations sanctions, UN Security Council resolution 1929, impose a very stringent arms ban on Iran. Virtually **all** significant weapons systems — tanks, aircraft, naval vessels, missiles, etc — are banned from sale or transfer to Iran. Training and technical assistance for such systems is also banned. In other words, even if Iran wants to try to improve its conventional military capability in the next few years and has the money to do so, the UN arms ban will make that close to impossible. Iran does not have the capability to produce state-of-the-art weapons on its own, despite its occasional claims of self-sufficiency. It certainly cannot build a modern air force to compete with the IDF on its own. Finally, Israel will continue to enjoy the support of the world's only superpower for the foreseeable future. Assistance from the United States includes roughly $3 billion in aid every year. That is the longest running financial assistance program in American history, dating back to the 1973 war. It is never challenged or cut by Congress and permits Israeli planners to do multi-year planning for defense acquisitions with great certitude about what they can afford to acquire. When Texas Governor Rick Perry suggested cutting aid to Israel to zero in one Republican debate, his poll numbers plummeted. He backtracked fast. US assistance is also far more than just financial aid. The Pentagon and Israel engage in constant exchanges of technical cooperation in virtually all elements of the modern battle field. Missile defense has been at the center of this exchange for over 20 years now. The United States and Israel also have a robust and dynamic intelligence relationship, which helps ensure Israel's **qualitative** edge. Every American president from Richard Nixon to Barack Obama has been a supporter of maintaining Israel's qualitative edge over its potential foes, including US allies like Egypt and Saudi Arabia. Iran, in contrast, has no major power providing it with financial help. Its arms relationships with Russia and China have been severed by Security Council Resolution 1929. Its only military ally is Syria, not exactly a powerhouse. And Syria is now in the midst of a civil war; its army is dissolving. If President Bashar Al-Assad falls, Iran is the biggest loser in the "Arab spring". Hezbollah will be the second largest loser. The deputy secretary general of Hezbollah and one of its founders, Sheikh Naim Qassem, wrote in 2007 that Syria is "the cornerstone" of Hezbollah’s survival in the region. While Syria and Hezbollah have their differences, the relationship is a "necessity" for Hezbollah. So don't let the hot air from Tehran or the Republican debates confuse the reality on the ground. Iran is a dangerous country but it is **not an existential threat** to either Israel or America.

### China Asia WAr

#### China won’t fight US for superpower status – doesn’t want to draw a conflict

Skidelsky 5/21/12, Robert, professor Emeritus of Political Economy at Warwick University and a fellow of the British Academy in history and economics, “Why China Won’t Rule”, http://www.project-syndicate.org/commentary/why-china-won-t-rule#P3YC3PdKhDdDE0Uo.99

The sensible question, then, is not whether China will replace the US, but whether it will start to acquire some of the attributes of a world power, particularly a sense of responsibility for global order. Even posed in this more modest way, the question does not admit of a clear answer. The first problem is China’s economy, so dynamic on the surface , but so rickety underneath. analyst Chi Lo lucidly presents a picture of macro success alongside micro failure. The huge stimulus of RMB4 trillion ($586 billion) in November 2008, mostly poured into loss-making state-owned enterprises via directed bank lending, sustained China’s growth in the face of global recession. But the price was an increasingly serious misallocation of capital, resulting in growing portfolios of bad loans, while excessive Chinese household savings have inflated real-estate bubbles. Moreover, Chi argues that the crisis of 2008 shattered China’s export-led growth model, owing to prolonged impairment of demand in the advanced countries. China now urgently needs to rebalance its economy by shifting from public investment and exports towards public and private consumption. In the short run, some of its savings need to be invested in real assets abroad, and not just parked in US Treasuries. But, in the longer term, Chinese households’ excessive propensity to save must be reduced by developing a social safety net and consumer credit instruments. Moreover, to be a world economic power, China requires a currency in which foreigners want to invest. That means introducing full convertibility and creating a deep and liquid financial system, a stock market for raising capital, and a market rate of interest for loans. And, while China has talked of “internationalizing” the renminbi, it has done little so far. “Meanwhile,” writes Chi, “the dollar is still supported by the strong US political relations with most of the world’s largest foreign-reserve-holding countries.” Japan, South Korea, Saudi Arabia, Kuwait, Qatar, and the United Arab Emirates all shelter under the US military umbrella. The second problem is one of political values. China’s further “ascent” will depend on dismantling such classic communist policy icons as public-asset ownership, population control, and financial repression. The question remains how far these reforms will be allowed to go before they challenge the Communist Party’s political monopoly, guaranteed by the 1978 constitution. Two important cultural values underpin China’s political system. The first is the hierarchical and familial character of Chinese political thought. Chinese philosophers acknowledge the value of spontaneity, but within a strictly ordered world in which people know their place. As the Analects of Confucius puts it: “Let the ruler be a ruler, the subject a subject, a father a father, and a son a son.” There is also very little belief in the sanctity of human life: Buddhism holds that there is no difference between humans and animals and plants. A pledge to protect human rights was written into the Chinese constitution in 2004; but, as the recent case of the blind dissident Chen Guangcheng illustrates, this is mostly a dead letter. Similarly, private property ranks below collective property. Then there is the Confucian doctrine of the “mandate of heaven,” by which political rule is legitimized. Today, the mandate of Marxism has taken its place, but neither has any room for a mandate of the people. Ambivalence about the source of legitimate government is not only a major obstacle to democratization, but is also a potential source of political instability. These historical legacies limit the extent to which China will be able to share in global leadership, which requires some degree of compatibility between Chinese and Western values. The West claims that its values are universal, and the US and Europe will not cease pressing those values on China. It is hard to see this process going into reverse, with China starting to export its own values. China has a choice: it can either accept Western values, or it can try to carve out an East Asian sphere to insulate itself from them. The latter course would provoke conflict not only with the US, but also with other Asian powers, particularly Japan and India. China’s best possible future thus probably lies in accepting Western norms while trying to flavor them with “Chinese characteristicsBut neither choice is a scenario for China “replacing” the US. Nor, I think, is this what China wants. Its goal is respect, not dominance.

#### Regional stability initiatives solve.

Bitzinger & Desker, ‘8 (Senior fellow and dean of S. Rajaratnam School of International Studies respectively, “Why East Asian War is Unlikely,” Survival, December)

The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnationa terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints. Yet **despite all these potential crucibles of conflict,** the **Asia**-Pacific, if not an area of serenity and calm, **is certainly** more **stable** than one might expect. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common eopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. **All this suggests that war in Asia** – while not inconceivable **– is unlikely.**

#### B. No Asian great power wars.

White 09 [Hugh, Professor of Strategic Studies at Australian National University and a Visiting Fellow at the Lowy Institute for International Policy, Survival vol. 50 no. 6]

If we conceive of ‘wars’ the way our parents and grandparents did – as major conflicts among powerful states that disrupt the lives of billions and transform the international order – then war in Asia today seems close to unthinkable. For over 30 years, East Asia has enjoyed peace such as it has probably never known before. In Northeast Asia, the region’s major powers – China, Japan and the United States – have maintained harmonious and cooperative relationships. Moreover, excluding only minor incidents in the Spratly Islands, none of East Asia’s major powers has used significant force against another Asian country since China’s limited war against Vietnam in 1979. For 40 years, the members of ASEAN have largely forsworn the use of force against one another; difficult issues like Taiwan, North Korea and the Spratlys have been effectively managed, and the deep problems of Indochina have been addressed. Minor clashes remain possible in trouble spots such as the Thailand–Myanmar border, and on Asia’s western margin there remains a real risk of major, even nuclear, war between India and Pakistan. But even the risk of an India–Pakistan war does not seem to threaten an outbreak of major war in East Asia.

## Suits

#### Court will never get involved – deference inevitable.

Entin 12 (Jonathan L. Entin is Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science, Case Western Reserve University, “War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations,” http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.21.Article.Entin.pdf)

Beyond the limitations of the Supreme Court rulings, the judiciary probably will not contribute very much to the debate. Various procedural and jurisdictional obstacles make it difficult for courts to address the merits of disputes about war powers and foreign affairs. Even if those obstacles can be surmounted, those who decry what they view as presidential excess should note that the judiciary typically has taken a deferential role in reviewing challenges to executive action. A. Standing Because the judicial power of the United States encompasses only cases and controversies,12 neither Congress nor the president could obtain an advisory opinion about war powers or foreign affairs, even if they were so inclined. To satisfy the requirement of standing, an appropriate plaintiff must allege a legally cognizable injury that was caused by the defendant and could be redressed by a suitable judicial remedy.13 Most citizens will lack standing to challenge military actions or foreign policy decisions because they would be asserting a generalized grievance. This was the basis for rejecting a challenge to the constitutionality of the Vietnam War. The plaintiffs in Schlesinger v. Reservists Committee to Stop the War14 claimed that members of Congress who were members of the military reserve were susceptible to undue influence by the executive branch, but the Supreme Court never reached the merits. The Court concluded that the plaintiffs lacked standing because they were asserting “an interest shared by all citizens.” 15 Although most citizens would be foreclosed from suing, perhaps a member or group of members of Congress might have standing. Legislators might try to assert that executive actions infringed their constitutional authority. This possibility seems to have been foreclosed by Raines v. Byrd, 16 which held that individual members of Congress lacked standing to challenge the constitutionality of the Line Item Veto Act.17 The challengers, four Senators and two Representatives,18 could not and did not allege that their votes against the measure had been “completely nullified”; 19 they opposed the bill and “simply lost.” 20 Accordingly, these individual legislators lacked standing.21

#### Court action won’t help international law or US soft power.

Rabkin, ‘3 (Government Professor – Cornell, June-July, American Spectator

If our own courts can defy norms of customary international practice (when U.S. law requires them to do so), why should American judges worry about whether their rulings encourage other countries to reinterpret customary law? The short answer is that trying to get other countries to respect American ideas about international law is a challenge for American diplomacy-and always has been**. It's not a challenge made easier by letting American courts**, egged on by American law professors, proclaim their own new ideas about what international law should be. Meanwhile, the first priority of American policy must be security for the American people. That means we should not want even our own courts to hobble necessary military action. Yes, we need legal constraints on executive actions in our own country. But we can only retain our own country if we can secure it against threats from abroad, **and that kind of security can't be delivered by lawyers and judges**. Federal courts are getting it. Good for them. Good for us.

#### Plan wrecks warfighting and naval training

Major Charles Gartland 12, J.D., United States Air Force judge advocate currently serving as the Environmental Liaison Officer for the Air Force Materiel Command, “AT WAR AND PEACE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT: WHEN POLITICAL QUESTIONS AND THE ENVIRONMENT COLLIDE,” 68 A.F. L. Rev. 27

The preceding cases illustrate, at best, inconsistent application of injunction analyses and the political question doctrine. n375 At worst they illustrate no injunction analysis and total disregard of the political question doctrine. n376 A lasting solution to this problem calls for more than merely advocating that the policy preference [\*67] that happened to be imposed by five Justices in Winter be universally applied. Over forty years of NEPA case law shows that when it collides with national defense, not all judges will agree with how the scales tipped in Winter; indeed, many judges will not agree that the factual scenario in Winter presents a Constitutional issue at all. n377 Consequently, the most manageable solution is one that removes the grounds for a disagreement over all the foregoing issues: amending NEPA to create a national defense exception. The remainder of this article will further expound on the necessity of this solution, the form this solution might take, and finally show that it is consistent with both the Constitutionally prescribed role for national defense and the statutorily prescribed role for NEPA.¶ A. The Basis for a National Defense Exemption¶ Entertaining political questions in the courtroom has consequences, both legal and practical. The argument for a national defense exemption to NEPA can be reduced to three bases: (1) the impracticality of hearing national defense political questions in the courtroom; (2) the real-world impact that results; and (3) that the very nature of injunction law causes the first two bases to blend in a manner that is particularly virulent to national defense.¶ 1. Policy and Politics in the Courtroom¶ Trident, Weinberger v. Wisconsin, and Callaway amply illustrate the issues that trial courts are unequipped to resolve, as tactical, strategic, and foreign policy elements figure into national defense undertakings. n378 One District Court judge hearing a NEPA case with foreign policy implications remarked on the oddity of the testimony given in his courtroom, more akin to a "legislative hearing" than a trial. n379 As noted in McQueary v. Laird, national security does not blend well with evidentiary hearings. n380¶ 2. Real-World Adverse Impact to the National Defense¶ The consequences of judicial intervention in national defense can be more than academic: Army units n381 and naval fleets not training adequately or at all, n382 [\*68] nuclear tests jeopardized, n383 and diplomatic missions put at risk. n384 Winter is but the most recent and highest profile example of unwieldy judicial process outcomes: uniformed personnel devoted to being lookouts with binoculars and adjusting sonar decibel levels as whales approach and disperse--in the middle of a warfighting exercise. n385¶ 3. The Nature of Injunction Law Forces Judicial Policy-Making¶ The law surrounding injunctions guarantees unsatisfactory results because the third and fourth prongs of the injunction test in essence require the courts to make a policy choice that, in the national defense context at least, involves the constitutional separation of powers. Some courts have simply avoided the dilemma by ignoring the portion of the injunction test corresponding to the agency's equity and the public interest in national defense, n386 while others have plainly considered the former to be more important. n387 Either way, the NEPA injunction often decides a question that the Constitution and statute intended to be handled differently.

#### Naval training key to global sea-lanes---key to the economy

John Kirby 12, Rear Adm., U.S. Navy, Chief of Information, 11/14/12, “Keeping the Sea Lanes Open: Mine Countermeasures,” http://navylive.dodlive.mil/2012/11/14/keeping-the-sea-lanes-open-mine-countermeasures-2/

At the most basic level, the mission of our Navy is to defend our homeland while keeping global sea lanes open and free. In fact, the latter actually helps us do the former, since so much of our nation’s prosperity and security comes for the free flow of maritime commerce. Naval strategist Rear Adm. Bradley Fiske said it best, way back in 1916: “As long as a maritime country carried on trade within its own borders exclusively, as long as it lived within itself, so long as its people did not go to countries oversea, a navy was not necessary. But when a maritime country is not contented to live within its own borders, then a navy becomes essential to guard its people and their possessions on the highways of the sea; to enforce, not municipal or national law, as an army does, but international law.” To enforce that law and to defend those highways, the Navy must expend the appropriate effort, training and resources on the threats and obstacles which hinder this flow of commerce. One such threat — cheap and deadly — is the naval mine. Mines are indiscriminate, easily procured and laid. And they have a potent psychological effect on commercial shippers. Not only can they sink vessels, they can grind the gears of international business to a halt. By limiting our access, naval mines can also put at jeopardy our ability to defend national interests in a given area or chokepoint. And there are vital chokepoints all over the world. Consistent with the new Defense Strategy, we will place a renewed emphasis on those chokepoints in the Asia-Pacific region while continuing to focus on the same in the Middle East. We need the capability to find and clear mines in both these critical regions — and we’ve got it.

### Warming

#### An international solution to global warming is impossible – entrenched interests in key stakeholders mean that no agreement will ever be reached

Rachman 11 (Gideon Rachman, Financial Times chief foreign affairs commentator, Zero-Sum Future, 2011, pp 203-204)

As for the Americans themselves, faced with foreign suggestions that America's love affair with the open road would have to be modified, President George W. Bush was fond of replying that "the American way of life is not negotiable." Barack Obama might not be that blunt, but he too knows that it would be electoral suicide to impose huge new environmental costs on the American economy while apparently giving China a free pass. It was this impasse that helped to cause the Copenhagen climate talks to fail. There will be efforts to revive a global climate deal, but they all risk falling foul of the same zero-sum economic logic. Most of the proposed global deals on climate change envisage the United States and Europe essentially bribing the developing world to cut carbon emissions by funding the transfer of technology. But any such deal will be very tough to sell politically in the United States with America running record budget deficits and China sitting on more than $2 trillion worth of reserves. Even if some sort of global climate deal is reached, it will just be the first of many such negotiations as both global warming and technology advance. The trouble is that agonizing global negotiations are likely to deliver an agreement that falls well short of what scientific advice deems to be necessary-and any such deal will, in any case, prove to be almost impossible to monitor and enforce. That in turn will ensure that climate change continues to be a major source of tension within the international system.

#### Can’t solve climate – too fast, stays in the air, and cuts won’t happen.

David G. Victor et al 12, Professor at the School of International Relations and Pacific Studies at the University of California, San Diego, May/Jun (with Charles F. Kennel and Veerabhadran Ramanathan, Foreign Affairs, Vol. 91 Issue 3)

FOR MORE than two decades, diplomats have struggled to slow global warming. They have negotiated two major treaties to achieve that goal, the 1992 UN Framework Convention on Climate Change and the 1997 Kyoto Protocol. And last year, at the UN Climate Change Conference in Durban, South Africa, they agreed to start talking about yet another treaty. A small group of countries, including Japan and the members of the European Union, now regulate their emissions in accord with the existing agreements. But most states, including the largest emitters of greenhouse gases, China and the United States, have failed to make much progress. As a result, total emissions of carbon dioxide, the leading long-term cause of global warming, have risen by more than 50 percent since the 1980s and are poised to rise by more than 30 percent in the next two to three decades.¶ The ever-increasing quantity of emissions could render moot the aim that has guided international climate diplomacy for nearly a decade: preventing the global temperature from rising by more than two degrees Celsius above its preindustrial level. In fact, in the absence of significant international action, the planet is now on track to warm by at least 2.5 degrees during the current century -- and maybe even more. The known effects of this continued warming are deeply troubling: rising sea levels, a thinning Arctic icecap, extreme weather events, ocean acidification, loss of natural habitats, and many others. Perhaps even more fearsome, however, are the effects whose odds and consequences are unknown, such as the danger that melting permafrost in the Arctic could release still more gases, leading to a vicious cycle of still more warming.¶ All these risks are rising sharply because the traditional approach to international climate diplomacy has failed. For too long, climate science and policymaking have focused almost exclusively on emissions of carbon dioxide, most of which come from burning fossil fuels. Weaning the planet off fossil fuels has proved difficult, partly because expensive and rapid shifts to new energy systems could have negative effects on the competitiveness of modern economies. What is more, carbon dioxide inconveniently remains in the atmosphere for centuries, and so even keeping carbon dioxide at current levels would require deep cuts sustained over many decades -- with economic consequences that states are unlikely to be willing to bear unless they are confident that their competitors will do the same. No permanent solution to the climate problem is feasible without tackling carbon dioxide, but the economic and geophysical realities of carbon dioxide emissions almost guarantee political gridlock.

#### Warming won’t cause extinction

Scott Barrett 7, professor of natural resource economics – Columbia University

(Why Cooperate? The Incentive to Supply Global Public Goods, introduction)

First, climate change does not threaten the survival of the human species.5 If unchecked, it will cause other species to become extinction (though biodiversity is being depleted now due to other reasons). It will alter critical ecosystems (though this is also happening now, and for reasons unrelated to climate change). It will reduce land area as the seas rise, and in the process displace human populations. “Catastrophic” climate change is possible, but not certain. Moreover, and unlike an asteroid collision, large changes (such as sea level rise of, say, ten meters) will likely take centuries to unfold, giving societies time to adjust. “Abrupt” climate change is also possible, and will occur more rapidly, perhaps over a decade or two. However, abrupt climate change (such as a weakening in the North Atlantic circulation), though potentially very serious, is unlikely to be ruinous. Human-induced climate change is an experiment of planetary proportions, and we cannot be sur of its consequences. Even in a worse case scenario, however, global climate change is not the equivalent of the Earth being hit by mega-asteroid. Indeed, if it were as damaging as this, and if we were sure that it would be this harmful, then our incentive to address this threat would be overwhelming. The challenge would still be more difficult than asteroid defense, but we would have done much more about it by now.

#### Temperatures have peaked – best models prove.

Zhang and Liu 12 [Wenjun, School of Life Sciences, Sun Yat-sen University, and Chunhua, International Academy of Ecology and Environmental Sciences, Hong Kong, “Some thoughts on global climate change: will it get warmer and warmer?” Environmental Skeptics and Critics, 2012, 1(1):1-7]

Many studies discussed climate change without considering the complexity of climate system. In our view, climate system is a complex and non-linear system. It possesses all properties that a complex system will have, such as non-linearity, chaos, catastrophe, multiple stable or unstable equilibrium states, etc. It is increasingly obvious that the equilibrium state of climate system is being broken by destructive human activities. There are several possibilities that global climate will proceed. We would not exactly predict what outcome will finally occur if destructive human activities continue. In the farther future, in addition to the scenario of continuous warming, there is also possibility that the climate would proceed and reach a new stable or unstable equilibrium state, and the new equilibrium state would be realized in a smooth and continuous way, or realized in an abrupt way by jumping or plummeting. Recent years’ and the coming tens of years’ unusual change in global climate would be a prelude for dramatic climate change in the far future. We found that global annual mean temperature since 1880 has been rising in sinusoidal-type, similar to a superposition of sine curve and exponential curve, in which a periodicity of about 60 years existed and in the first ~40 years the temperature rose and in the second ~20 years it declined or approximately to be constant. Accordingly, we predicted that the global annual mean temperature had reached a peak around 2005, and would decline or be approximately constant until around 2030. Some models, equations and parameters on climate change were also developed based on past hundreds of years’ historical records.

#### Adaptation solves.

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006). These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### CO2 isn’t key

Watts 7/25, 25-year climate reporter, works with weather technology, weather stations, and weather data processing systems in the private sector, (Anthony, <http://wattsupwiththat.com/2012/07/25/lindzen-at-sandia-national-labs-climate-models-are-flawed/>)

ALBUQUERQUE, N.M. — Massachusetts Institute of Technology professor Richard Lindzen, a global warming skeptic, told about 70 Sandia researchers in June that too much is being made of climate change by researchers seeking government funding. He said their data and their methods did not support their claims. “Despite concerns over the last decades with the greenhouse process, they oversimplify the effect,” he said. “Simply cranking up CO2 [carbon dioxide] (as the culprit) is not the answer” to what causes climate change. Lindzen, the ninth speaker in Sandia’s Climate Change and National Security Speaker Series, is Alfred P. Sloan professor of meteorology in MIT’s department of earth, atmospheric and planetary sciences. He has published more than 200 scientific papers and is the lead author of Chapter 7 (“Physical Climate Processes and Feedbacks”) of the International Panel on Climate Change’s (IPCC) Third Assessment Report. He is a member of the National Academy of Sciences and a fellow of the American Geophysical Union and the American Meteorological Society. For 30 years, climate scientists have been “locked into a simple-minded identification of climate with greenhouse-gas level. … That climate should be the function of a single parameter (like CO2) has always seemed implausible. Yet an obsessive focus on such an obvious oversimplification has likely set back progress by decades,” Lindzen said. For major climates of the past, other factors were more important than carbon dioxide. Orbital variations have been shown to quantitatively account for the cycles of glaciations of the past 700,000 years, he said, and the elimination of the arctic inversion, when the polar caps were ice-free, “is likely to have been more important than CO2 for the warm episode during the Eocene 50 million years ago.” There is little evidence that changes in climate are producing extreme weather events, he said. “Even the IPCC says there is little if any evidence of this. In fact, there are important physical reasons for doubting such anticipations.” Lindzen’s views run counter to those of almost all major professional societies. For example, the American Physical Society statement of Nov. 18, 2007, read, “The evidence is incontrovertible: Global warming is occurring.” But he doesn’t feel they are necessarily right. “Why did the American Physical Society take a position?” he asked his audience. “Why did they find it compelling? They never answered.” Speaking methodically with flashes of humor — “I always feel that when the conversation turns to weather, people are bored.” — he said a basic problem with current computer climate models that show disastrous increases in temperature is that relatively small increases in atmospheric gases lead to large changes in temperatures in the models. But, he said, “predictions based on high (climate) sensitivity ran well ahead of observations.” Real-world observations do not support IPCC models, he said: “We’ve already seen almost the equivalent of a doubling of CO2 (in radiative forcing) and that has produced very little warming.”He disparaged proving the worth of models by applying their criteria to the prediction of past climatic events, saying, “The models are no more valuable than answering a test when you have the questions in advance.” Modelers, he said, merely have used aerosols as a kind of fudge factor to make their models come out right. (Aerosols are tiny particles that reflect sunlight. They are put in the air by industrial or volcanic processes and are considered a possible cause of temperature change at Earth’s surface.) Then there is the practical question of what can be done about temperature increases even if they are occurring, he said. “China, India, Korea are not going to go along with IPCC recommendations, so … the only countries punished will be those who go along with the recommendations.” He discounted mainstream opinion that climate change could hurt national security, saying that “historically there is little evidence of natural disasters leading to war, but economic conditions have proven much more serious. Almost all proposed mitigation policies lead to reduced energy availability and higher energy costs. All studies of human benefit and national security perspectives show that increased energy is important.” He showed a graph that demonstrated that more energy consumption leads to higher literacy rate, lower infant mortality and a lower number of children per woman. Given that proposed policies are unlikely to significantly influence climate and that lower energy availability could be considered a significant threat to national security, to continue with a mitigation policy that reduces available energy “would, at the least, appear to be irresponsible,” he argued. Responding to audience questions about rising temperatures, he said a 0.8 of a degree C change in temperature in 150 years is a small change. Questioned about five-, seven-, and 17-year averages that seem to show that Earth’s surface temperature is rising, he said temperatures are always fluctuating by tenths of a degree.

### Soft Power

#### Snowden crushes soft power

John Parisella 6/27/13 is a contributing blogger to AQ Online. He is the former Québec delegate general in New York and currently an invited professor at University of Montréal’s International Relations Center, The Americas Quarterly, June 27, 2013, "The Effect of Edward Snowden-A Canadian Perspective", http://www.americasquarterly.org/content/effect-edward-snowden-canadian-perspective

To some, former CIA and National Security Administration (NSA) employee Edward Snowden is seen as a classic whistleblower, who divulged government secrets that contradict the U.S. Constitution and its 4th amendment. Many who espouse his view—on both the left and right—have applauded his courage and regard him as a hero. To others—especially within the U.S. political class—he is now considered a charged felon, who has willingly pursued a plan to embarrass his government, and in so doing, has breached matters of national security and made the United States less safe. His weekend flight from Hong Kong to Russia may lead some to go as far as to label him a “traitor”. Which is it—hero, felon or traitor? It is too early to answer this. But the longer the situation drags on, the more damage it will inflict on the reputation of the United States on the world stage. The 4th amendment of the U.S. Constitution sets guidelines to protect individual privacy. Even in matters of national security, we are told that due process must be followed. NSA programs, including the ones covering telephone records as well as internet activity that Snowden denounced, must be subjected to safeguards that protect the right to privacy. President Barack Obama has since justified these NSA programs as the necessary balance between privacy and security in this post-9-11 world. While his administration has been careful in its choice of vocabulary, it has decided to charge Snowden with contravening the Espionage Act. The spectacle of the strongest power on earth chasing Snowden around the globe is not reassuring to those who believe in the value of U.S. diplomacy, U.S. intelligence capacity or U.S. military might. The ease with which Snowden accessed sensitive material and subjected his government to this embarrassing game of “cat and mouse” is also not comforting to those who count on U.S. intelligence forces to keep them safe. Clearly, at the outset, the initial effect of Snowden’s action was to spark a legitimate debate about privacy, security and the importance of the 4th amendment. Libertarian politicians like Rand Paul did not condemn Snowden outright. Snowden also has significant support in progressive circles. Others, like influential Democratic Senator Diane Feinstein and Republican Congressman Mike Rogers—normally on opposite sides, argued that maintaining national security and keeping America safe requires measures that could affect some privacy issues. Together, however, they have vehemently condemned Snowden’s actions .The flight to Russia may have deviated what was becoming a necessary debate in a democracy from matters of substance to theatrics. Snowden detractors refer to another famous whistleblower incident: that of Daniel Ellsberg and the release of the Pentagon papers, which gradually led to the questioning of the Vietnam War. Unlike Snowden, they argue, Ellsberg stayed in the U.S. and faced the justice system. In contrast, Snowden’s behavior, which has been backed by some advocacy journalists such as Glen Greenwald of The Guardian and Wikileaks, seems set on evading the U.S. justice system. The polemics around Snowden’s whereabouts seem to confuse the nature of the conversation America should be having at this time in its history. In the meantime, The United States’ image is not improving around the world. Its government seems hesitant and vulnerable. The ‘soft power’ strengths of the U.S. are being questioned. Countries such as China and Russia, with poor human rights records, are openly defying the wishes of the world’s oldest and strongest democracy, and its rule of law. At the end of the day, the privacy versus security debate is rapidly becoming a secondary issue, and this entire episode is turning into a zero-sum game for the United States where no individual or principle wins the day. And this may well be the unintended consequence of Edward Snowden’s actions.

#### No impact to soft power

Daniel W. Drezner 11, Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, Foreign Affairs, July/August 2011, "Does Obama Have a Grand Strategy?", <http://www.foreignaffairs.com/print/67869>

What went wrong? The administration, and many others, erred in believing that improved standing would give the United States greater policy leverage. The United States' standing among foreign publics and elites did rebound. But this shift did not translate into an appreciable increase in the United States' soft power. Bargaining in the G-20 and the UN Security Council did not get any easier. Soft power, it turns out, cannot accomplish much in the absence of a willingness to use hard power. The other problem was that China, Russia, and other aspiring great powers did not view themselves as partners of the United States. Even allies saw the Obama administration's supposed modesty as a cover for shifting the burden of providing global public goods from the United States to the rest of the world. The administration's grand strategy was therefore perceived as promoting narrow U.S. interests rather than global public goods.

#### Soft power can’t solve global problems

Rachman, 9 (Gideon, chief foreign affairs commentator at the Financial Times, “Obama and the limits of soft power,” June 1, FT,

http://www.ft.com/cms/s/0/e608b556-4ee0-11de-8c10-00144feabdc0.html#axzz2b85RSNek)

Barack Obama is a soft power president. But the world keeps asking him hard power questions. From North Korea to Guantánamo Bay, from Iran to Afghanistan, Mr Obama is confronting a range of vexing issues that cannot be charmed out of existence. The problem is epitomised by the US president’s trip to the Middle East this week. Its focal point will be a much-trailed speech in Cairo on Thursday June 4, in which he will directly address the Muslim world. The Cairo speech is central to Mr Obama’s efforts to rebuild America’s global popularity and its ability to persuade – otherwise known as soft power. The president has been trying out potential themes for the speech on aides and advisers for months. He is likely to emphasise his respect for Islamic culture and history, and his personal links to the Muslim world. He will suggest to his audience that both the US and the Islamic world have, at times, misjudged and mistreated each other – and he will appeal for a new beginning. George W. Bush launched a military offensive in the Middle East. Mr Obama is launching a charm offensive. There is plenty to be said for this approach. Mr Bush embroiled America in a bloody war in Iraq that strengthened Iran and acted as a recruiting sergeant for America’s enemies. Mr Obama’s alternative strategy is based on diplomacy, engagement and empathy. Mr Bush had a shoe thrown at him in his last appearance in the Middle East. So if Mr Obama receives his customary standing ovation in Cairo, that will send a powerful symbolic message. But the president should not let the applause go to his head. Even if his speech is a success, the same foreign-policy problems will be sitting in his in-tray when he gets back to the Oval Office – and they will be just as dangerous as before. In particular, there is chatter in official Washington that the Israelis may be gearing up to attack Iran’s nuclear facilities before the end of the year. The Obama administration is against any such move and it is normally assumed that Israel would not dare to pull the trigger without the go-ahead from Washington – not least because the Israelis would have to fly across US-controlled airspace to get to their targets. But the Americans do not have a complete veto over Israel’s actions. One senior US official asks rhetorically: “What are we going to do? Shoot down their planes?” A conflict between Israel and Iran would scatter the Obama administration’s carefully laid plans for Middle East peace to the winds. It would also make talk of improving American soft power around the world seem beside the point. The immediate task would be to prevent a wider regional war. In the meantime, the US will press on with the effort to achieve peace between the Israelis and the Palestinians. But even that goal is unlikely to be advanced much by Mr Obama’s trip to the Middle East. Many in the audience in Cairo and in the wider Islamic world will want and even expect the new president to lay out a complete vision for a peace settlement and to apply unambiguous pressure on Israel. For reasons of domestic politics, diplomacy and timing, Mr Obama is highly unlikely to do this. Yet while his Arab audience may be disappointed by what he has to say about the Middle East peace process, Mr Obama is already facing an increasingly tense relationship with the new Israeli government. The administration has now clashed openly with the Israelis over the Netanyahu government’s tolerance of expanded settlements in occupied Palestinian land. Mr Obama is also running up against the limits of soft power elsewhere. Closing the prison camp at Guantánamo was meant to be the ultimate tribute to soft power over hard power. The Obama team argued consistently that the damage that Guantánamo did to America’s image in the world outweighed any security gains from holding al-Qaeda prisoners there. Yet, faced with the backlash against releasing the remaining 240 prisoners or imprisoning them in the US, the Obama administration has back-tracked. It is not clear whether Guantánamo will be closed on schedule or what will happen to the riskier-sounding prisoners, who may still be held indefinitely. The much-criticised military trials are likely to be revived. In Afghanistan, Mr Obama is trying a mixture of hard and soft power. There will be a military surge – but also a “civilian surge”, designed to build up civil society and governance in Afghanistan. Old hands in Washington are beginning to shake their heads and mutter about Vietnam. Mr Obama’s preferred tools of diplomacy, engagement and charm do not seem to be of much use with Kim Jong-il of North Korea, either. The North Koreans have just tested a nuclear weapon – leaving the Obama administration scratching its head about what to do. The president’s charisma and rhetorical skill are real diplomatic assets. If Mr Obama can deploy them to improve America’s image and influence around the world, that is all to the good. There is nothing wrong with trying to re-build American “soft power”. The danger is more subtle. It is that President Yes-we-can has raised exaggerated hopes about the pay-off from engagement and diplomacy. In the coming months it will become increasingly obvious that soft power also has its limits.

#### Soft power irrecoverably gone – economic malaise, debt, and partisan gridlock.

C. Richard Neu 2/8/13, Senior economist at the nonprofit, nonpartisan RAND Corporation, http://www.rand.org/blog/2013/02/us-soft-power-abroad-is-losing-its-punch.html?utm\_campaign=rand\_socialflow\_twitter&utm\_source=rand\_socialflow\_twitter&utm\_medium=socialflow

The way America flexes it economic muscle around the world is changing dramatically—and not necessarily for the better. In 1997, facing a wave of sovereign debt defaults, the International Monetary Fund asked its member states to pledge lines of credit to support Fund rescue efforts. The United States and other nations did as asked. In 2009, the United States responded again to a call for expanded credit lines. When the Fund sought yet another expansion of these credit lines last April, 39 countries, including China, Russia, Brazil, Mexico, India, and Saudi Arabia, stepped up. Even cash-strapped Italy and Spain pledged support. But the United States was conspicuously absent. A pledge from the United States requires congressional authorization. In the midst of last spring's contentious debate over U.S. government deficits and debts, support for an international body was a political nonstarter. Where the United States had previously demonstrated international leadership, other countries—some of them America's rivals for international influence—now make the running. This is a small example of what may be a troubling trend: America's fiscal predicament and the seeming inability of its political system to resolve these matters may be taking a toll on the instruments of U.S. “soft power” and on the country's ability to shape international developments in ways that serve American interests. The most potent instrument of U.S. soft power is probably the simple size of the U.S. economy. As the biggest economy in the world, America has a lot to say about how the world works. But the economics profession is beginning to understand that high levels of public debt can slow economic growth, especially when gross general government debt rises above 85 or 90 percent of GDP. The United States crossed that threshold in 2009, and the negative effects are probably mostly out in the future. These will come at a bad time. The U.S. share of global economic output has been falling since 1999—by nearly 5 percentage points as of 2011. As America's GDP share declined, so did its share of world trade, which may reduce U.S. influence in setting the rules for international trade. And it's not just the debt itself that may be slowing GDP growth. Economists at Stanford and the University of Chicago have demonstrated that uncertainty about economic policy—on the rise as a result of political squabbling over U.S. fiscal policy—typically foreshadows slower economic growth. Investors may be growing skittish about U.S. government debt levels and the disordered state of U.S. fiscal policymaking. From the beginning of 2002, when U.S. government debt was at its most recent minimum as a share of GDP, to the end of 2012, the dollar lost 25 percent of its value, in price-adjusted terms, against a basket of the currencies of major trading partners. This may have been because investors fear that the only way out of the current debt problems will be future inflation. The dollar has also given up a bit of its dominance as the preferred currency for international reserves among advanced economies. And the renminbi appears to have replaced the dollar as the “reference currency” for most of East Asia. (The good news is that in recent years U.S. banks have increased their share of deposits from foreigners, mostly at the expense of banks in London.) More troubling for the future is that private domestic investment—the fuel for future economic growth—shows a strong negative correlation with government debt levels over several business cycles dating back to the late 1950s. Continuing high debt does not bode well in this regard. But perhaps the worst consequences of U.S. debt are actions not taken. U.S. international leadership has been based, in part, on contributions—political and financial—to major institutions and initiatives—International Monetary Fund, World Bank, General Agreements on Tariffs and Trade (and later World Trade Organization), NATO, North America Free Trade Agreement, the Marshall Plan, and so on. These served U.S. interests and made the world better. But what have we done lately? The Doha round of trade negotiations has stalled. Ditto efforts at coordinated international action on climate change. Countries of the Arab Spring need rebuilding. Little progress is apparent on the Transpacific Partnership, a proposed new free-trade area. And warnings from the U.S. treasury secretary to his European counterparts about the dangers of failing to resolve the fiscal crisis in the eurozone met with public rebukes: Get your own house in order before you lecture us. Have U.S. fiscal problems undermined America's self confidence and external credibility to the extent that it can no longer lead? And what about unmet needs at home—healthcare costs, a foundering public education system, deteriorating infrastructure, and increasing inequality? A strained fiscal situation that limits resources for action and absorbs so much political energy cannot be helping with any of these matters. But without progress on such things, what becomes of the social cohesion necessary for unified action abroad or the moral authority to lead other nations by example? America's fiscal predicament is serious. The problem has become obvious in the last few years, but it has been building for decades, largely the result of promises of extensive social benefits without a corresponding willingness to pay for them. Putting U.S. government financing on a sustainable path will require painful adjustments over a number of years—increased government revenue and painful reductions in government outlays, almost certainly including outlays for defense and international affairs. During the necessary period of fiscal adjustment and constrained government resources, U.S. international influence may decline yet further. But there is no alternative to getting on with the task. The world has not yet found an acceptable substitute for U.S. leadership.

# Terrorism

#### No scenario for nuclear terror---consensus of experts

Matt Fay 13, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

For over a decade now, one of the most oft-repeated threats raised by policymakers—the one that in many ways justified the invasion of Iraq—has been that of nuclear terrorism. Officials in both the Bush and Obama administrations, including the presidents themselves, have raised the specter of the atomic terrorist. But beyond mere rhetoric, how likely is a nuclear terrorist attack really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of scholars in recent years have pushed back against this trend. Frank Gavin has put post-9/11 fears of nuclear terrorism into historical context (pdf) and argued against the prevailing alarmism. Anne Stenersen of the Norwegian Defence Research Establishment has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon. John Mueller ridiculed the notion of nuclear terrorism in his book Atomic Obsessions and highlighted the numerous steps a terrorist group would need to take—all of which would have to be successful—in order to procure, deliver, and detonate an atomic weapon. And in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the United States—citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: states will not turn over nuclear weapons terrorists. To back up this claim, Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from the constraints of deterrence.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, fears of nuclear terrorism have been used to justify a wide-range of policies—up to, and including, military action. Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants the type of exertions many alarmist assessments indicate it should.