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### 1

#### Restrictions are prohibitions on action --- the aff is not

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### “Introduction of United States Armed Forces into hostilities” means deployments 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—plan only regulates the conduct of military operations, not their introduction into combat zones

#### Violation: aff doesn’t directly limit executive authority- just makes it more difficult to employ

#### Vote neglimits and ground- anything can indirectly affect war powers-- makes the topic bidirectional and steals core neg counterplan ground

#### Precision- restrictions is a term of art—precision key to predictable division of ground and directs our research—uniquely important early in the year

### 2

#### Court legitimacy is high– the court is staying moderate

The Economist 13 (S.M., 6/27/13, “Moderately legitimate”, Democracy in America, http://www.economist.com/blogs/democracyinamerica/2013/06/supreme-courts-term-review, zzx)

It would be very hard to find someone who is happy with every decision the court has issued this term. This fact alone lends legitimacy to the Supreme Court as an institution and eases the “counter-majoritarian difficulty” diagnosed by Mr Bickel. Several patterns in the court’s 78 opinions this year give it an air of moderation. First, while there were many 5-4 splits (23% of the total), a surprising proportion of decisions—43 percent—were unanimous. So the Roberts court is often cohesive, but it is not ideologically monolithic the way, say, the Warren court was. While it leans conservative and is undoubtedly pro-business (witness the two cases sharply limiting the rights of employees to sue their employers for sexual harassment or retaliation), the Roberts court splits differences and tends to rule on narrow grounds in hot-button cases. Second, this year's court has splintered in unpredictable ways over some sensitive issues: in the Native American adoption case, liberal stalwart Justice Breyer joined the conservatives in the majority and Justice Scalia sided with the liberals in dissent. Justice Scalia is a favorite whipping boy of the left, but he received kudos from the editorial board of the New York Times for opposing Arizona's proof of citizenship law in Arizona v. Inter Tribal Council of Arizona. Approval ratings for the Supreme Court are about five times higher than they are for Congress, and there seems to be good reason for this: both the left and the right have reason to cheer certain rulings and to jeer others. Love them, hate them, or (more likely), love them and hate them, there is little reason to worry that the institution's legitimacy in the eyes of the public is in much trouble as the gavel comes down for the last time this summer.

#### Plan causes fights with the President that kill court legitimacy and cause circumvention

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

Civil libertarians have urged the Court to exercise the same sort of judicial review over war powers as it does in purely domestic cases—i.e., independently interpreting and applying the law of the Constitution, despite the contrary view of the political branches and regardless of the political repercussions.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the war rages, the President’s action is set in stone, and he will ignore any judicial orders that he conform his conduct to constitutional norms.58 In such critical situations, issuing a judgment simply weakens the Court as an institution, as Chief Justice Taney learned the hard way.59 Professor Wells understands the foregoing institutional differences and thus does not naively demand that the Court exercise regular judicial review to safeguard individual constitutional rights, come hell or high water. Nonetheless, she remains troubled by cases in which the Court’s examination of executive action is so cursory as to amount to an abdication of its responsibilities—and a stamp of constitutional approval for the President’s actions.60 Therefore, she proposes a compromise: requiring the President to establish a reasonable basis for the measures he has taken in response to a genuine risk to national security.61 In this way, federal judges would ensure accountability not by substituting their judgments for those of executive officials (as hap-pens with normal judicial review), but rather by forcing them to adequately justify their decisions.62 This proposal intelligently blends a concern for individual rights with pragmatism. Civil libertarians often overlook the basic point that constitutional rights are not absolute, but rather may be infringed if the government has a compelling reason for doing so and employs the least restrictive means to achieve that interest.63 Obviously, national security is a compelling governmental interest.64 Professor Wells’s crucial insight is that courts should not allow the President simply to assert that “national security” necessitated his actions; rather, he must concretely demonstrate that his policies were a reasonable and narrowly tailored response to a particular risk that had been assessed accurately.65 Although this approach is plausible in theory, I am not sure it would work well in practice. Presumably, the President almost always will be able to set forth plausible justifications for his actions, often based on a wide array of factors—including highly sensitive intelligence that he does not wish to dis-close.66 Moreover, if the President’s response seems unduly harsh, he will likely cite the wisdom of erring on the side of caution. If the Court disagrees, it will have to find that those proffered reasons are pretextual and that the President overreacted emotionally instead of rationally evaluating and responding to the true risks involved. But are judges competent to make such determinations? And even if they are, would they be willing to impugn the President’s integrity and judgment? If so, what effect might such a judicial decision have on America’s foreign relations? These questions are worth pondering before concluding that “hard look” review would be an improvement over the Court’s established approach. Moreover, such searching scrutiny will be useless in situations where the President has made a wartime decision that ~~he~~ [they] will not change, even if judicially ordered to do so. For instance, assume that the Court in Korematsu had applied “hard look” review and found that President Roosevelt had wildly exaggerated the sabotage and espionage risks posed by Japanese-Americans and had imprisoned them based on unfounded fears and prejudice (as appears to have been the case). If the Court accordingly had struck down FDR’s order to relocate them, he would likely have disobeyed it. Professor Wells could reply that this result would have been better than what happened, which was that the Court engaged in “pretend” review and stained its reputation by upholding the constitutionality of the President’s odious and unwarranted racial discrimination. I would agree. But I submit that the solution in such unique situations (i.e., where a politically strong President has made a final decision and will defy any contrary court judgment) is not judicial review in any form—ordinary, deferential, or hard look. Rather, the Court should simply declare the matter to be a political question and dismiss the case. Although such Bickelian manipulation of the political question doctrine might be legally unprincipled and morally craven, 67 at least it would avoid giving the President political cover by blessing his unconstitutional conduct and instead would force him to shoulder full responsibility. Pg. 968-970

#### Loss of legitimacy kills compliance with court decisions – turns case

Hansford 06 (Thomas Hansford, Assistant Professor of Political Science, University of South Carolina and James Spriggs, Associate Professor of Political Science, University of California, Davis, “The Politics of Precedent on the U.S. Supreme Court,” p. 18-24)

Judges promote legitimacy because they recognize that it encourages acceptance of and compliance with their decisions(Gibson 1989; Mon¬dak 1990, 1994; Tyler and Mitchell 1994). In our view of Supreme Court decision making, the justices value legitimacy for instrumental reasons, namely, as a means to the end of producing efficacious policy (see Epstein and Knight 1998). As discussed more fully below, court decisions are not self-executing and thus third parties must implement them before they have any real effects. **Since** legitimacy encourages compliance, **it enhances the power of courts and** facilitates their ability to cause legal **and** political change. Landes and Posner (1976, 273) make this point when stating: "No matter how willful a judge is, he is likely to follow precedent to some extent, for if he did not the practice of decision according to precedent (stare decisis, the lawyers call it) would be undermined and the precedential significance of his own decisions thereby reduced." Justice Stevens (1983, 2) reiterates this point by noting that stare decisis "obvi¬ously enhances the institutional strength of the judiciary." The significance of institutional and decisional legitimacy follows from two well-known characteristics of the judiciary. While these features apply to all courts, we will discuss them in the context relevant for our purposes-the U.S. Supreme Court. First, unlike elected officials or bureaucrats, the justices are expected to provide neutral, legal justifica¬tions for their decisions (Friedman et al. 1981; Maltz 1988). One important element of this expectation is that the justices show respect for the Court's prior decisions (Powell 1990). A recent national survey, for instance, demonstrates that the American public expects the Court to decide based on legal factors (Scheb and Lyons 2001). Nearly eighty-five percent of respondents to this survey indicated that precedent should have some or a large impact on the justices' decisions. By contrast, over seventy-three percent of respondents thought that whether judges were Democrats or Republicans should have no influence on their decisions. As these data indicate, Americans overwhelmingly believe in the idea that judges should make decisions based on neutral, legal criteria. Second, the Court lacks significant implementation powers and thus relies on its external reputation to encourage implementation of and compliance with its decisions. Alexander Hamilton pointed this idea out in Federalist 78: "The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm for the efficacy of its judgments." The basic idea is that the Court must rely on third parties to implement its policies, and a central way to promote compliance is through fostering institutional and decisional legitimacy (see Knight and Epstein 1996). If the Court, or a particular majority opinion, is perceived as somewhat illegitimate, then the prospects for compliance may decrease. The power of the Court, that is, rests on its "prestige to persuade" (Ginsburg 2004, 199).

#### Legitimacy is key to democracy

Federal Document Clearing House, 2005

(Congressional Testimony June 23)

 "Like the character of an individual, the legitimacy of the Court must be earned over time. So, indeed, must be the character of a Nation of people who aspire to live according to the rule of law. Their belief in themselves as such a people is not readily separable from their understanding of the Court invested with the authority to decide their constitutional cases and speak before all others for their constitutional ideals. If the Court’s legitimacy should be undermined, then, so would the country be in its very ability to see itself through its constitutional ideals. The Court's concern with legitimacy is not for the sake of the Court but for the sake of the Nation to which it is responsible." 505 U.S. at 868.

#### Democracy checks war, genocide and mass murder

#### Diamond 99

[Larry, Senior Research Fellow at the Hoover Institute, “Developing Democracy: Toward Consolidation,” Johns Hopkins University Press, p. 6]

Beyond the violence between states and between or against ethnic groups within states lies a more stunning generalization: "Power kills, absolute power kills absolutely. 112 2 Rudolph Rummel's exhaustive study of deaths from war, genocide, mass murder, and domestic violence in this, history's most murderous, century, demonstrates that every instance of mass murder by a state against its own people has happened under authoritarian rule and that the more absolutist the regime the greater the tendency toward democide (genocide and mass murder of innocent civilians. Thus, "the way to virtually eliminate genocide and mass murder appears to be through restricting and checking power. This means to foster democratic freedom."

### 3

#### 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.

#### Economic collapse causes global 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, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

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**.**

### 4

#### The President of the United States of America should issue an Executive Order requiring that environmental regulations apply to the introduction of Armed forces into hostilities.  This order will specify that citizens have the right to sue the military over environmental regulation violations.

#### Merryman powers mean we solve your aff

Michael Stokes Paulsen, Associate Professor, Law, University of Minnesota, GEORGETOWN LAW JOURNAL v. 83, 1994, LN.

This article is about executive branch authority to interpret the law. My thesis is one that, on first blush, may seem radical, but that I believe is thoroughly consistent with the vision of *The Federalist,* with the reasoning of *Marbury v. Madison,* with the Constitution's separation of powers, and with the well-reasoned constitutional views of some of the brightest and strongest chief executives in the first half of our nation's existence: The power to interpret law is not the sole province of the judiciary; rather, it is a divided, *shared* power not delegated to any one branch but ancillary to the functions of all of them within the spheres of their enumerated powers. The President's power to interpret the law is, within the sphere of his powers, precisely coordinate and coequal in authority to the Supreme Court's. In James Madison's words in *The Federalist* No. 49, "[t]he several departments being perfectly coordinate by the terms of their common commission, neither of them, it is evident, can pretend to an exclusive or superior right of settling the boundaries between their respective powers." n13 Thus, "[i]t is emphatically the province and duty" of the executive department, no less than the judiciary, "to say what the law is." n14 Moreover, as a consequence of our constitutional system of separation of powers, the executive's power to interpret the law may, and should, be exercised independently of the interpretations of other branches, including those of the federal courts. The Supreme Court's interpretations of treaties, federal statutes, or the Constitution do not bind the President any more than the President's or Congress's interpretations bind the courts. Rather, the President possesses the power of full "legal review" of the actions of the other branches -- the full power to review the lawfulness or correctness of their legal interpretations of the Constitution, of federal statutes, and of treaties -- in any matter that falls within the sphere of his governing powers as President. He may decline to execute acts of Congress  [\*222]  on constitutional grounds, even if it is those grounds have been rejected by the courts. In executing a statute he determines is constitutionally valid, he may use his own interpretation of the statute, even if it is contrary to the interpretation placed on it by the courts. And he may exercise such powers of legal review even in the specific case where courts have ruled against his position; that is, he may refuse to execute (or, where directed specifically to him, refuse to obey) judicial decrees that he concludes are contrary to law.

### No Das

**Supreme Court is restrained now**

**Liptak 10-12**-13 (Adam, Supreme Court correspondent for The New York Times, “How Activist Is the Supreme Court?” New York Times) http://www.nytimes.com/2013/10/13/sunday-review/how-activist-is-the-supreme-court.html

WASHINGTON — JUSTICES Antonin Scalia and Ruth Bader Ginsburg are ideological antagonists on the Supreme Court, but they agree on one thing. Their court is guilty of judicial activism. “If it’s measured in terms of readiness to overturn legislation, this is one of the most activist courts in history,” Justice Ginsburg said in August in an interview with The New York Times. “This court has overturned more legislation, I think, than any other.” But Justice Ginsburg overstated her case. If judicial activism is defined as the tendency to strike down laws, **the court led by** Chief Justice John G. **Roberts** Jr. **is less activist than any court in the last 60 years.** Nonetheless, Justice Ginsburg’s impression fits with a popular perception of the court. In 2010 in Citizens United, it struck down part of a federal law regulating campaign spending by corporations and unions, overruling two precedents in the bargain. In June, it struck down parts of the **Voting Rights Act and the Defense of Marriage Act.** The court will no doubt be accused of yet more activism if it continues to dismantle campaign finance restrictions, as it seemed ready to do Tuesday at arguments in a case about limits on campaign contributions from individuals. But these decisions **are outliers when measured against the court’s overall record over the last nine years.** It is perhaps unsurprising that the liberal court led by Chief Justice Earl Warren from 1953 to 1969 invalidated federal, state and local laws at almost twice the rate of the Roberts court. But the more conservative court that followed, led by Chief Justice Warren E. **Burger** from 1969 to 1986, **was even more activist, striking down laws in almost 9 percent of its cases, compared with just over 7 percent in the Warren court and just 4 percent in the Roberts court. The court led by** Chief Justice William H. **Rehnquist** from 1986 to 2005 **was also more activist** than the current one, at 6.4 percent. Lee **Epstein**, who teaches law and political science at the University of Southern California, cautioned that it was dangerous to draw definitive conclusions from a fairly small number of decisions from the Roberts court. Still, she **said, “claims about the Roberts court’s activism seem overwrought.”**

**No controversial decisions coming—Roberts wants to maintain incrementalism**

**Sherman 10-6**-13 (Mark, staff writer, "Lots of controversy facing Supremes in new court term" Capitol Hill Blue) www.capitolhillblue.com/node/49395

Paul Clement, a frequent advocate before the court and the top Supreme Court lawyer under President George W. Bush, agreed that the opportunity exists for dramatic precedent-busting decisions**. But Clement said each case also offers the court “an off-ramp,” a narrower outcome that may be more in keeping with** Chief Justice John **Roberts**‘ stated **desire for incremental decision-making** that bridges the court’s ideological divide.

#### Strict adherence to the political question doctrine now

Curtis A. Bradley, Professor, Law, Duke University, “War Powers, Syria, and Non-Judicial Precedent,” Lawfare, 9—2—13,

[www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/](http://www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/)

As an initial matter, we need to bracket the issue of whether Obama’s action will weaken his own power as a political matter. This is a complicated issue: on the one hand, it may signal weakness both to Congress and to other nations; on the other hand, if he obtains congressional authorization, he may be in an ultimately stronger political position, as Jack Goldsmith has pointed out. As I understand it, the claim being made by Spiro, Rothkopf, and others is that the power of the presidency more generally is being weakened. How might this happen? Not through an influence on judicial doctrine: Although courts sometimes take account of historic governmental practices when assessing the scope of presidential authority, they have consistently invoked limitations on standing and ripeness, as well as the political question doctrine, to avoid addressing constitutional issues relating to war powers. In the absence of judicial review, what is the causal mechanism by which the “precedent” of Obama seeking congressional authorization for the action in Syria could constrain future presidential action? When judicial review is unavailable, the most obvious way in which the President is constrained is through the political process—pressure from Congress, the public, his party, etc. In an extreme case, this pressure could take the form of impeachment proceedings, but it does not take such an extreme case for the pressure to have a significant effect on presidential decisionmaking. Indeed, it is easy to think of political considerations that might have motivated Obama to go to Congress with respect to Syria.

### The Law

#### Can’t solve bio-d—alt causes

Bruce Tonn, School of Planning, Universtiy of Tennessee, “Futures Sustainability,” FUTURES, 11—07, LN.

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].

#### No bio-d impact

Donald Dodds, M.S. and President, North Pacific Research, “The Myth of Biodiversity,” 5—30—07, northpacificresearch.com/downloads/The\_myth\_of\_biodiversity.doc

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.

#### Impact on environment is small—their ev

Cohan 3 (John Alan – J.D., Loyola Law School, “MODES OF WARFARE AND EVOLVING STANDARDS OF ENVIRONMENTAL PROTECTION UNDER THE INTERNATIONAL LAW OF WAR”, 2003, 15 Fla. J. Int'l L. 481, lexis)

A further problem is that predictions of the extent of damage to an environment are somewhat tentative. The reverberations from environmental harm are quixotic compared to the reverberations from harm done to conventional targets such as a military air field or radar apparatus. The building can be rebuilt, and the impact on the surrounding infrastructure is somewhat straightforward. But in contrast, environmental damage, whether based on collateral damage or direct attacks on the environment itself, is something that has much more complex reverberations. Moreover, environmental damage is often difficult to contain or control, regardless of the intent of the actor. The environmental harm caused by Iraq's actions during Desert Storm continues to have adverse effects in terms of poisoning of the soil and waters, and will continue to have adverse effects on the local region, if not the world's oceans, for many years to come. On the other hand, "many predictions of what Gulf War damage would do to the environment proved exaggerated." n228 Thus, operations in future wars may well need to undergo scrutiny over a period of time before the degree of environmental risk can be established. Often enough, environmental damage may prove irreversible. Destruction or contamination of an area by chemical or biological agents may require the relocation of people and the migration (or extinction) of local species. An example of this, mentioned above, is the Scottish island of Gruinard which to this day remains contaminated with the causative agent of anthrax. Today military leaders and policymakers often display a growing concern for the environment by considering the foreseeability of environmental damage when they calculate proportionality. This is in contrast to wars of, say, fifty years ago, where concern over war's devastating effects on the environment was somewhat remote by comparison. The future will certainly bring us greater abilities to effectively manipulate the potentially dangerous forces that are pent-up in [\*538] the environment. On humanitarian principles, our efforts to develop environmental modification techniques needs to be dedicated to the benefit of humankind and nature. They must be carried out in good faith, facilitated by international understanding and cooperation and in the spirit of good neighborliness. The global environment is being subjected to ever more serious strains by a growing world population that seeks at least the basic necessities of life as well as some of its amenities. In order to help ensure that the increasingly limited resources of our environment are not further reduced by hostile military activities, it is urged that environmental issues in general and those raised by environmental warfare in particular be widely publicized, through schools, the press and by other means, in order to help develop and strengthen cultural norms in opposition to military activities that cause direct or indirect environmental harm.

#### Other militaries overwhelm

Parsons 98 (Rymn James – Lieutenant Commander, JAGC, U.S. Navy. Staff Judge Advocate to Commander, “The Fight to Save the Planet: U.S. Armed Forces, "Greenkeeping," and Enforcement of the Law Pertaining to Environmental Protection During Armed Conflict”, 1998, 10 Geo. Int'l Envtl. L. Rev. 441, lexis)

Environmental damage occurs with any adverse, incremental change in the existing status of the environment. n138 What then, is the "environment"? There are many definitions but none is universally accepted. n139 One might define the environment as the sum total of the components and constituents of the atmosphere, [\*460] biosphere, geosphere, hydrosphere, and lithosphere. n140 Another definition is that the environment is anything not made by humans. n141 States have been reluctant to expand the definition of environment to include such things as natural resources, climate modification, biodiversity, and ecosystems for fear of limiting their military options. n142 The U.S. Council on Environmental Quality's definition of the environment is "the natural and physical environment and the relationship of people with that environment." n143 This definition illustrates the problems of breadth, ambiguity, and circularity that plague this most basic concept, viz., exactly what are we attempting to protect. The real controversy lies not in defining "environment" but in identifying the threshold of damage that will give rise to a violation of international law. n144 In the future, armed conflict will continue and the damage from armed conflict, based on current trends, is certain to increase. n145 Modern technology has brought us to the age of new and more powerful precision guided or "smart" weapons, n146 but not every combatant has "smart" weapons in its arsenal and even those powers with "smart" weapons may not use them exclusively. For example, in the Gulf War, the United States mixed laser-guided bomb and missile attacks on Iraqi military installations with "carpet bombing" of the Iraqi Republican Guard. The former were much reported on the nightly television news; the latter was a much greater portion of the total ordnance expended in the air campaign. n147 Despite significant advances, "surgical precision" in the delivery of weapons is not yet [\*461] the norm even among the best of modern armed forces. n148 Significant collateral damage to the environment must therefore be anticipated even when precision guided munitions are used. In some cases, decidedly "low-tech" weapons such as contact naval mines remain militarily useful and plentiful. n149 They also have the advantage of being affordable by poor nations and nations without the capability to employ sophisticated weapons systems. Other powerful "poor man's" weapons of mass destruction include gas-enhanced explosives, biological and chemical weapons. n150 As the level of a weapon's sophistication decreases and as the reach of its effects increases, collateral damage to the environment also increases. In order to protect the environment, legal restraints on the use of all weapons are needed. Moral restraints have been ineffective. Tolerance of environmental damage during war is deep-rooted. n151 Many ethical traditions including Judeo-Christian, Muslim, Greek, and Taoist value nature. But none of these ancient cultural norms have operated in any significant way to limit environmental destruction in wartime. n152 Indeed, tolerance for environmental damage may be growing despite advancing military technologies that promise a lessening of adverse environmental impact. n153

#### Adaptation solves

Ian **Thompson et al. 9**, Canadian Forest Service, Brendan Mackey, The Australian National University, The Fenner School of Environment and Society, College of Medicine, Biology and Environment, Steven McNulty, USDA Forest Service, Alex Mosseler, Canadian Forest Service, 2009, Secretariat of the Convention on Biological Diversity “Forest Resilience, Biodiversity, and Climate Change” Convention on Biological Diversity

 While resilience can be attributed to many levels of organization of biodiversity, the genetic composition of species is the most fundamental. Molecular genet- ic diversity within a species, species diversity within a forested community, and community or ecosystem diversity across a landscape and bioregion represent expressions of biological diversity at different scales.

The basis of all expressions of biological diversity is the genotypic variation found in populations. The individuals that comprise populations at each level of ecological organization are subject to natural se- lection and contribute to the adaptive capacity or re- silience of tree species and forest ecosystems (Mull- er-Starck et al. 2005). Diversity at each of these levels has fostered natural (and artificial) regeneration of forest ecosystems and facilitated their adaptation to dramatic climate changes that occurred during the quaternary period (review by: DeHayes et al. 2000); this diversity must be maintained in the face of antici- pated changes from anthropogenic climate warming. Genetic diversity (e.g., additive genetic variance) within a species is important because it is the basis for the natural selection of genotypes within popu- lations and species as they respond or adapt to en- vironmental changes (Fisher 1930, Pitelka 1988, Pease et al. 1989, Burger and Lynch 1995, Burdon and Thrall, 2001, Etterson 2004, Reusch et al. 2005, Schaberg et al. 2008). The potential for evolutionary change has been demonstrated in numerous long- term programmes based on artificial selection (Fal- coner 1989), and genetic strategies for reforestation in the presence of rapid climate change must focus on maintaining species diversity and genetic diversi- ty within species (Ledig and Kitzmiller 1992). In the face of rapid environmental change, it is important to understand that the genetic diversity and adap- tive capacity of forested ecosystems depends largely on in situ genetic variation within each population of a species (Bradshaw 1991). Populations exposed to a rate of environmental change exceeding the rate at which populations can adapt, or disperse, may be doomed to extinction (Lynch and Lande 1993, Burger and Lynch 1995). Genetic diversity deter- mines the range of fundamental eco-physiological tolerances of a species. It governs inter-specific competitive interactions, which, together with dispersal mechanisms, constitute the fundamental de- terminants of potential species responses to change (Pease et al. 1989, Halpin 1997). In the past, plants have responded to dramatic changes in climate both through adaptation and migration (Davis and Shaw 2001). The capacity for long-distance migration of plants by seed dispersal is particularly important in the event of rapid environmental change. Most, and probably all, species are capable of long-distance seed disper- sal, despite morphological dispersal syndromes that would indicate morphological adaptations primarily for short-distance dispersal (Cwyner and MacDon- ald 1986, Higgins et al. 2003). Assessments of mean migration rates found no significant differences be- tween wind and animal dispersed plants (Wilkinson 1997, Higgins et al. 2003). Long-distance migration can also be strongly influenced by habitat suitabil- ity (Higgins and Richardson 1999) suggesting that rapid migration may become more frequent and vis- ible with rapid changes in habitat suitability under scenarios of rapid climate change. The discrepancy between estimated and observed migration rates during re-colonization of northern temperate forests following the retreat of glaciers can be accounted for by the underestimation of long-distance disper- sal rates and events (Brunet and von Oheimb 1998, Clark 1998, Cain et al. 1998, 2000). Nevertheless, concerns persist that potential migration and ad- aptation rates of many tree species may not be able to keep pace with projected global warming (Davis 1989, Huntley 1991, Dyer 1995, Collingham et al. 1996, Malcolm et al. 2002). However, these models refer to fundamental niches and generally ignore the ecological interactions that also govern species dis- tributions.

#### No air pollution impact

**Schwartz 6** Joel Schwartz is a visiting fellow at AEI and a Professor of Environmental Epidemiology at Harvard. "Getting Real on Air Pollution and Health," June 14, AEI, http://www.aei.org/article/energy-and-the-environment/contaminants/air/getting-real-on-air-pollution-and-health/

The EPA attributes well over 90 percent of the benefits of its clean air programs to improvements in human health. Thus, a key policy question is whether EPA's health-benefit claims are credible. Even as public health authorities and environmental activists become more strident in raising health alarms, evidence continues to mount that air pollution at contemporary low levels is causing little or no harm, even in the most polluted areas of the country.**¶**More sober estimates in the EPA's own technical analyses belie the scary claims it puts out for public consumption. Writing in the journal Environmental Health Perspectives, EPA scientists estimated that going from 2002 ozone levels, which were by far the highest of the past several years, to nationwide compliance with the stringent new federal eight-hour ozone standard would reduce respiratory-related hospital admissions and emergency room visits by no more than a few tenths of a percent.¶Claims of an air pollution-asthma link by health experts have also been undermined by recent research. While the prevalence of asthma has nearly doubled in America during the past 25 years, air pollution of all kinds has sharply declinedaround the nation at the same time, making air pollution an implausible culprit.**¶** Government-funded research by scientists from the University of Southern California supports this finding. The authors of the Children's Health Study reported that children who grew up in areas with higher air pollution, including areas with the worst air pollution in the nation by far, had a lower risk of developing asthma. The researchers also found that ozone had no effect on lung development, even though the study included areas that exceeded the federal ozone standard more than 100 days per year. And even in a community with uniquely high soot levels--more than twice the current federal health standard--soot was associated with only a 1 percent to 2 percent decline in lung capacity.¶The most serious claim about air pollution is that it prematurely kills tens of thousands of Americans each year. This claim is based on small statistical correlations between pollution levels and risk of death. But correlation doesn't necessarily mean causation**,** as demonstrated recently by a number of embarrassing reversals of conventional medical wisdom.¶The air pollution-mortality claim deserves even greater skepticism. First, it is based on the same unreliable correlation methods that have led medical authorities astray in other areas. Second, even though pollution is weakly correlated with higher premature mortality on average, it seems to protect against death in about one-third of cities.How could pollution kill people in some cities and save them in others? More likely, both results are chance correlations rather than real effects. Third, in laboratory experiments, researchers have been unable to kill animals by exposing them to air pollution at levels many times greater than ever occur in the United States.

#### Status quo DoD programs cut enviro footprint

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 bioweapon scenario – their ochs card sucks and is from 2002, no idea who gets bioweapons or how and if its as easy as the card says it is, it should’ve happened by now.

#### No risk of a bioweapon impact

John **Mueller**, Professor, Political Science, Ohio State University, OVERBLOWN: HOW POLITICIANS AND THE TERRORISM INDUSTRY INFLATE NATIONAL SECURITY THREATS, AND WHY WE BELIEVE THEM, 20**09**, p. 21-22.

For the most destructive results, biological weapons need to be dispersed in very low-altitude aerosol clouds. Because aerosols do not appreciably settle, pathogens like anthrax (which is not easy to spread or catch and is not contagious) would probably have to be sprayed near nose level. Moreover, 90 percent of the microorganisms are likely to die during the process of aerosolization, and their effectiveness could be reduced still further by sunlight, smog, humidity, and temperature changes. Explosive methods of dispersion may destroy the organisms, and, except for anthrax spores, long-term storage of lethal organisms in bombs or warheads is difficult: even if refrigerated, most of the organisms have a limited lifetime. The effects of such weapons can take days or weeks to have full effect, during which time they can be countered with medical and civil defense measures. And their impact is very difficult to predict; in combat situations they may spread back onto the attacker. In the judgment of two careful analysts, delivering microbes and toxins over a wide area in the form most suitable for inflicting mass casualties—as an aerosol that can be inhaled—requires a delivery system whose development "would outstrip the technical capabilities of all but the most sophisticated terrorist" Even then effective dispersal could easily be disrupted by unfavorable environmental and meteorological conditions." After assessing, and stressing, the difficulties a nonstate entity would find in obtaining, handling, growing, storing, processing, and dispersing lethal pathogens effectively, biological weapons expert Milton Leitenberg compares his conclusions with glib pronouncements in the press about how biological attacks can be pulled off by anyone with "a little training and a few glass jars," or how it would be "about as difficult as producing beer." He sardonically concludes, "The less the commentator seems to know about biological warfare the easier [they] he seems to think the task is.""

### Exchanges

#### China won’t model—even if they do, fails

Yvonne Chan 9 in Hong Kong, BusinessGreen, 9/17/09, China's rapid growth imperils global climate change goal, says study, http://www.businessgreen.com/business-green/news/2249644/china-rapid-growth-imperils

China's booming economic growth imperils a global target to limit global warming to two degrees, according to a major new report from an influential government think-tank.

Released yesterday by the Energy Research Institute, China's Low Carbon Development Pathways by 2050 says that even if the nation were to embark on an aggressive strategy to cut greenhouse gas emissions, halting CO2 growth would be difficult given the country's current stage of rapid economic development.

"There is a huge number of cities to be built," study co-author He Jiankun told reporters. "They will consume a large amount of steel and cement. This means that **emissions will not be reduced for some time."**

The problem with the global target, according to the report, was that the two-degree limit – which was formally adopted by G8 nations in July – does not make adequate concessions for the industrialisation of developing countries.

The report said that in order to even get close to the target, it was up to wealthy nations to make carbon emission cuts of at least 90 per cent on 1990 levels by 2050. Otherwise, global temperatures will rise between 2.8 and 3.2 degrees above the pre-industrial average, estimated the report, which was conducted over a two-year period and had involved 10 independent institutes, including WWF and the US-based Energy Foundation.

#### Plan is insufficient

Long 8 – Professor of Law @ Florida Coastal School of Law Andrew Long, “International Consensus and U.S. Climate Change Litigation,” 33 Wm. and Mary Envtl. L. and Pol'y Rev. 177, Volume 33 | Issue 1 Article 4 (2008)

The remainder of this Article poses straightforward, narrow, nor-mtive questions: Should domestic courts explicitly use norms derived from international treaties and customary law in deciding climate change cases? If so, in what ways? The answers to these questions turn partially on the legitimacy-derived from U.S. legal tradition and constitutional principles-of using international sources in domestic decisions, and partially on a more functionalist assessment of the value or effect of such use.¶ A. Legitimacy of Invoking International Environmental Law in Domestic Climate Change Cases¶ The legitimacy of U.S. court decisions depends, first and foremost, upon fidelity to the constitution. As noted above, the constitutional text is [\*209] not clearly dualist and, indeed, early Supreme Court opinions viewed international and domestic law as "deeply intertwined." [n182](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n182) Although the extent of dualism in the United States is hotly contested, [n183](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n183) even a strictly dualistic conception of the constitution is not a complete bar from judicial cognizance of certain elements of international law. [n184](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n184) In any event, movement toward "a more monistic approach [to consideration of international sources in domestic cases] can be reconciled with the constitutional text" [n185](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n185) and has deeper historical support than willed judicial ignorance of international law. [n186](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n186)¶ To the extent certain traditions weigh against incorporation, we must consider that legitimacy depends as much on our narrative of what the constitution requires as it does on fidelity to doctrine. [n187](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n187) "[A] constitutional culture that is open to law made elsewhere will find the doctrine to render transnational norms acceptable." [n188](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true#n188)¶ Even in the current doctrinal landscape, use of climate change norms to buttress, rather than trump, domestic law decisions is constitutionally acceptable. In climate change cases as elsewhere, courts should proceed cautiously, "taking care to anchor their use of international sources in a firm commitment to view their roles as, first and foremost, domestic actors." [n189](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n189) For climate change cases, the over fifteen year existence of the UNFCCC without contrary legislation supports construing domestic law as consistent with the international norm requiring state action. [n190](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n190) [\*210] ¶ Legitimacy of using international norms is enhanced by clear U.S. accession to them. [n191](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n191) U.S. accession to basic climate change norms is evi-dent in the UNFCCC and, to a lesser extent, domestic climate-related le- gislation. [n192](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n192) In addition, continuing participation in, and proclaimed support for, international negotiations toward a post-2012 climate regime support a conclusion that the U.S. accepts the consensus on climate change. [n193](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n193)¶ A preliminary requirement for incorporating international norms is definitional. [n194](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n194) Just as human rights treaties provide clear evidence of international human rights norms, so evidence must exist to support definition of climate change norms before they can be legitimately incorporated into U.S. decisions. Once identified, however, a major function of international environmental norms is "providing a framework for interpretation and application of domestic environmental laws and policies." [n195](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n195) In the case of climate change, the norms necessary for domestic administrative law litigation are rather easy to identify and define.¶ Kyoto was effectively rejected by both the legislature and the executive and, therefore, has limited value for U.S. courts. [n196](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n196) However, the UNFCCC states a key norm for understanding the U.S. commitment to ad-dress climate change. [n197](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n197) The norm against transboundary environmental harm may also be relevant. To a lesser extent, more recent U.S. actions in working toward a post-2012 regime may be helpful in understanding the U.S. commitment and translating it to proper interpretation of domestic law.¶ From these sources, we can roughly state the following general consensus norms and principles. First, the problem: anthropocentric climate change is occurring as a result of greenhouse gas emissions. This [\*211] factual statement reflecting a global consensus was accepted by the Supreme Court in Massachusetts in a manner approaching recognition of international consensus. The normative element of problem definition was also employed by the Court: this change presents a grave threat that should be addressed. The second element of the consensus on climate change is the more pressing and le-gally significant norm: states have an obligation to take mitigation measures. [n198](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n198) The Vermont District Court essentially recognized this norm in Green Mountain, but the Court skirted discussing it in Massachusetts.[n199](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n199)¶ In some contexts, invoking international consensus may give rise to an "international countermajoritarian difficulty." [n200](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n200) However, several considerations undermine this concern in the context of the climate change cases. First, even at its most substantive, international law would be primarily for the interpretation of domestic statutes. [n201](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n201) Thus, potential countermajoritarian concerns are undermined by the direct consideration of legislative intent, which should not be overridden by consideration of international sources. Second, to the extent that Congress disagrees with a court's construction of a statute, the statute may be amended.¶ In short, there is no compelling reason that courts cannot look to in- ternational sources in climate change cases. The question, then, is whether making international norms explicitly relevant to domestic law adds value.¶ B. Advantages of Bringing International Norms into Domestic Climate Change Cases¶ Although domestic U.S. climate change cases to date have an important role in the international dialogue concerning climate change action, a more explicit and direct discussion of the relationship would be beneficial in several ways. In particular, such discussion would enhance the United States' leadership position in the international community, promote the effectiveness of the international climate regime, encourage [\*212] consistency in domestic climate change law, and enable additional checks on agency actions at the domestic-global interface. [n202](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n202)¶ 1. Enhancing U.S. International Leadership¶ In a time of unfavorable global opinion toward the United States, explicit judicial involvement with international norms will move the United States closer to the international community by acknowledging the relevance of international environmental norms for our legal system. As in other contexts, explicit judicial internalization of climate change norms would "build[] U.S. 'soft power,' [enhance] its moral authority, and strengthen[] U.S. capacity for global leadership" [n203](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n203) on climate change, and other global issues. More specifically, domestic judicial consideration of the global climate regime would reaffirm that although the United States has rejected Kyoto, we take the obligation to respect the global commons seri-ously by recognizing that obligation as a facet of the domestic legal system.¶ U.S. courts' overall failure to interact with the international climate regime, as in other issue areas, has "serious consequences for their roles in international norm creation." [n204](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n204) As judicial understandings of climate change law converge, the early and consistent contributors to the transnational judicial dialogue will likely play the strongest role in shaping the emerging international normative consensus. [n205](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n205) As Justice L'Heureux-Dube of the Canadian Supreme Court noted in an article describing the decline of the U.S. Supreme Court's global influence, "[d]ecisions which look only inward . . . have less relevance to those outside that jurisdiction." [n206](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n206) [\*213] Thus, if U.S. courts hope to participate in shaping the normative position on climate change adopted by judiciaries throughout the world, explicit recognition of the relationship between domestic and international law is vital.¶ With climate change in particular, norm development through domestic application should be an important aspect of global learning. The problem requires a global solution beyond the scope of any prior multi-lateral environmental agreements. This provides a situation in which U.S. judicial reasoning in applying aspects of climate regime thinking to concrete problems will fall into fertile international policy soil.¶ Accordingly, the recognition of international norms in domestic climate change litigation may play a strengthening role in the perception of U.S. leadership, encourage U.S. development and exportation of effective domestic climate strategies, and promote international agreements that will enhance consistency with such approaches. In short, explicit judicial discussion of international climate change norms as harmonious with U.S. law can enhance U.S. ability to regain a global leadership position on the issue and, thereby, more significantly shape the future of the international climate regime.¶ 2. . Promoting the Effectiveness of the International Response¶ Along with promoting U.S. interests and standing in the international community, climate change litigation has a direct role to play in developing the international regime if courts directly engage that regime. [n207](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n207)Just as the United States as an actor may benefit from acknowledging and applying international norms, the regime in which the actions occur will benefit through application and acceptance. Indeed, a case such as Massachusetts v. EPA that directly engages only domestic law can nonetheless be understood to impact international lawmaking by considering its actors. [n208](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n208) More important, however, will be cases in which the domestic judiciary gives life to international agreements through direct engagement-a "role [that] is particularly important as a check on the delegitimization of international legal rules that are not enforced."[n209](http://www.lexisnexis.com.go.libproxy.wfubmc.edu/lnacui2api/frame.do?tokenKey=rsh-20.327990.730538573&target=results_DocumentContent&returnToKey=20_T18204002057&parent=docview&rand=1379822287768&reloadEntirePage=true" \l "n209) [\*214] ¶ Assuming, as we must in the arena of climate change, that international law can only effect significant changes in behavior through penetration of the domestic sphere, domestic litigation that employs international law not only provides an instance in which the international appears ef-fective but, more importantly, molds it into a shape that will enable further use in domestic cases or suggest necessary changes internationally.¶ By engaging the international, domestic cases can also provide articulation for the norms that have emerged. The precise meaning of the UNFCCC obligation that nations take measures must be hammered out on the ground. In the United States, if Congress has not acted, it is appropriate for the courts to begin this process by measuring particular actions against the standard.

#### No predictive ev that actually says china would model – and even if they win that the judiciary agrees with the US, there is no ev that the government would enforce the ruling

#### CCP is resilient

Kurlantzick 11—Fellow at the USC School of Public Diplomacy and the Pacific Council on International Policy.Frmr visiting scholar in the China program at Carnegie. (Joshua, Beijing has bought itself a respite from middle class revolt, 7 March 2011, http://www.thenational.ae/thenationalconversation/comment/beijing-has-bought-itself-a-respite-from-middle-class-revolt?pageCount=0)

As governments across North Africa have been overthrown or are seemingly near the verge of collapse, some Chinese writers and activists are hopefulthat this democratic wave might sweep over the world'slargest and most powerful authoritarian state. Unknown Chinese activists have anonymously posted an online manifesto calling for their own "Jasmine Revolution". Groups of protesters - even joined by the American ambassador to China - havegathered in Beijing to heed the call for revolt. The Chinese authorities, taking no chances, quickly shut down protests and apparently jailed some of the demonstrators. They have also been blocking any internet discussion of activists' "Jasmine Manifesto". But despite Beijing's quick response, in reality China's leadership has far less to fear than Hosni Mubarak or Muammar Qaddafi. For one thing, unlike in many parts of the Middle East, China's urbanised centres haven't turned against the regime. Instead, most city residents essentially support, or at least tolerate, the regime. And why not? The government has been very, very good to them, as Minxin Pei, a professorat Claremont McKenna College, documented in his book China's Trapped Transition. After the 1989 Tiananmen protests, the Chinese Communist Party, recognising the power of educated urban protesters, delivered a raft of new incentives to co-opt the urban middle class. The government directed growth to urban areas, and launched other pro-middle class programmes. These included higher salaries for academics and other professionals; restrictions on rural people's housing and schools so that peasants cannot attend many of the best urban institutions; and opening the Party to membership for entrepreneurs, many of whom eagerly joined as a business networking opportunity. The Party reinforces the middle class content with the status quo by usingspeeches and state media to suggest that, in a democracy, totalfreedom of movement would allow rural peasants to swamp the cities, ruining the standard of living in wealthier urban areas. All these incentives are reasons why Chinese city residents in polls show high appreciation of the current state of affairs. In one recent survey, nearly 90 per cent of Chinese expressed satisfaction with the current station of their nation; since these polls, conducted by telephone, are focused on urbanareas, they represent more closely the views of the urban middle class. China's leaders also are not as out of touch, isolated or brittle as some of those in the Middle East. The Communist Party may be an authoritarian regime and there is certainly plenty of corruption - one Chinese scholar estimates that corruption costs China more than $80 billion (Dh294 billion) in growth each year. Still, the leadership now is a collective one, and no single official amasses the type of enormous wealth of leaders like Tunisia's Zine El Abidine Ben Ali. China's collective leadership, unlike in Mao's time, also has some ability to listen to and respond to public opinion. In 2008, for example, protests in Tibet initially were met by a relatively moderate response from the central government. But angry online sentiment - the Chinese blogosphere is highly nationalist and often conservative - partly prompted a tougher crackdown, according to Chinese officials and scholars. Perhaps most importantly, unlike much of the Middle East, China's economy is booming, and not simply because of resource extraction. In Tunisia, and then in Egypt, protests erupted after immolations by young men and women who, although they had undergraduate degrees, were unable to find work in economies that could not keep pace with growing populations. Although Chinese university graduates certainly have a tougher time finding jobsthan they did several years ago, the Chinese economy continues to boom:China grew by more than 9 percent last year, during a global economic crisis, and will likely grow at least as much this year, a rate it has kept up for roughly three decades (the Chinese premier, Wen Jiabao, downgraded that to 7 per cent this week). Educated young men and women still can find high-paying jobs, particularly if they are willing to move to interior cities that have been prioritised by the central government. And, unlike in places like Egypt, foreign powers such as the United States - which has sold roughly $2 trillion in government debt to China - do not have much leverage over the People's Republic. In the early 1990s, when China remained a global pariah because of the 1989 Tiananmen crackdown, America had more leverage to push Beijing on human rights and democracy, and President Bill Clinton, during a visit to the country, publicly and harshly criticised China's record on rights. Today, the story is much different. Dependent on China not only to keep the American economy propped up but also for cooperation on global issues like trade and climate change, the Obama administration has taken a much softer approach to Beijing. When Barack Obama headed to China for the first time as president in the fall of 2009, he agreed to a "press conference" with the Chinese president Hu Jintao at which the two actually took no questions, and when the American president held a town forum with Chinese students, he delivered none of the broadsides against China's rights record that his predecessor had. Any change that happens in China in the future is going to come from domestic events, not from external pressure. But don't expect that change to happen anytime soon.

#### no lashout

Gilley 5 (Bruce, Professor of International Affairs @ New School University and Former Contributing Editor @ the Far Eastern Economic Review, “China’s Democratic Future,”)

More ominous as a piece of "last ditchism" would be an attack on Taiwan. U.S. officials and many overseas democrats believe that there is a significant chance of an attack on Taiwan if the CCP is embattled at home. Indeed, China's strategic journals make frequent reference to this contingency: "The need for military preparations against Taiwan is all the more pressing in light of China's growing social tensions and unstable factors which some people, including the U.S. might take advantage of under the flag of 'humanism' to paralyze the Chinese government," one wrote. Such a move would allow the government to impose martial law on the country as part of war preparations, making the crushing of protest easier. It would also offer the possibility, if successful, of CCP survival through enhanced nationalist legitimacy. Yet the risks, even to a dying regime, may be too high. An unprovoked attack on Taiwan would almost certainly bring the U.S. and its allies to the island's rescue. Those forces would not stop at Taiwan but might march on Beijing and oust the CCP, or attempt to do so through stiff sanctions, calling it a threat to regional and world peace. Such an attack might also face the opposition of the peoples of Fujian, who would be expected to provide logistical support and possibly bear the worst burdens of war. They, like much of coastal China, look to Taiwan for investment and culture and have a close affinity with the island. As a result, there are doubts about whether such a plan could be put into action. A failed war would prompt a Taiwan declarationof independence and a further backlash against the CCP at home, just as the May Fourth students of 1919 berated the Republican government for weakness in the face of foreign powers. Failed wars brought down authoritarian regimes in Greece and Portugal in 1974 and in Argentina in 1983. Even if CCP leaders wanted war, it is unlikely that the PLA would oblige. Topofficers would see the disastrous implications of attacking Taiwan. Military caution would also guard against the even wilder scenario of the use ofnuclear weapons against Japan or the U. S.At the height of the Tiananmen protests it appears there was consideration given to the use of nuclear weapons in case the battle to suppress the protestors drew in outside Countries .41 But even then, the threats did not appear to gain even minimal support. In an atmosphere in which the military is thinking about its future, the resort to nuclear confrontation would not make sense.

#### No impact to South China Sea conflict

**Goldstein, 2011,** Lyle, associate professor in the China Maritime Studies Institute at the U.S. Naval War College in Newport, R.I. He is co-editor of the recent volumes China, the United States and 21st-Century Sea Power: Defining a Maritime Security Partnership and Chinese Aerospace Power: Evolving Maritime Roles. “The South China Sea's Georgia Scenario,” <http://www.foreignpolicy.com/articles/2011/07/11/the_south_china_seas_georgia_scenario?page=0,2>

The brutal truth, however, is that Southeast Asia matters not a whit in the global balance of power. Most of the region comprises small, poor countries of no consequence whatsoever, but the medium powers in the region, such as Vietnam, Indonesia, and Australia will all naturally and of their own accord stand up against a potentially more aggressive China. If China and Vietnam go to war over some rocks in the ocean, they will inevitably both suffer a wide range of deleterious consequences, but it will have only a marginal impact on U.S. national security. True, these sea lanes are critical to the Japanese and South Korean economies, but both of these states are endowed with large and capable fleets -- yet another check on Beijing's ambitions.China, moreover, is all too aware of what happened to Georgia in 2008. In that unfortunate case, the United States showered a new ally with high-level attention and military advisors. But when Russian tanks rolled in, effectively annexing a large section of the country and utterly destroying Tbilisi's armed forces, Washington's response amounted to a whimper: There was, in the end, no appetite for risking a wider conflict with Moscow over a country of marginal strategic interest. The lessons for Southeast Asia should be clear. Washington must avoid the temptation -- despite local states cheering it on at every opportunity -- to overplay its hand. The main principle guiding U.S. policy regarding the South China Sea has been and should remain nonintervention. Resource disputes are inherently messy and will not likely be decided by grand proclamations or multilateral summitry. Rather, progress will be a combination of backroom diplomacy backed by the occasional show of force by one or more of the claimants. In fact, Beijing's record of conflict resolution over the last 30 years is rather encouraging: China has not resorted to a major use of force since 1979.

# 2NC

## T

### o/v

#### Our interpretation is that the War Powers Resolution only allows affirmatives that restrict Obama’s ability to conduct offensive war when prevented with armed conflicts. This provides a limit on what otherwise would be a massive topic. Our Forester evidence is fantastic and concludes

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

#### It is boots on the ground

Crook 2012

[John R., arbitrator in NAFTA and other investment disputes and served on the Eritrea-Ethiopia Claims Commission. He is Vice-President of the American Society of International Law and former General Counsel of the Multinational Force and Observers, the peacekeeping force in the Sinai. He teaches international arbitration at George Washington University Law School. “Presidential Powers and Foreign Affairs: The War Powers Resolution at 40: Still Controversial: The War Powers Resolution--A Dim and Fading Legacy” Case Western Reserve Journal of International Law, 45 Case W. Res. J. Int'l L. 157, Nexis]

Remotely piloted weaponry: U.S. armed forces today make extensive and increasing use of weapons systems that do not expose U.S. personnel to danger from enemy action, most notably remotely piloted aircraft and cruise missiles that can strike distant targets after being launched at sea or from distant aircraft. Targets in Afghanistan are regularly tracked and attacked by remotely piloted aircraft flown by Air Force controllers sitting at air bases in the continental United States. Indeed, remote piloting has become an

 [\*171]

established career in the U.S. Air Force, with regular training and a designated career field. n68

Increasing use and reliance on such weapons, remotely piloted by U.S. military personnel physically located at safe locations in the United States--and not involving "boots on the ground"--do not mesh comfortably with the statutory notions of "introducing United States Armed Forces into hostilities." In this regard, the fact that U.S. personnel involved in the NATO operation against Libya were physically well removed from the battles on the ground was a significant thread in the Obama Administration's argument that those forces were not involved in hostilities for purposes of the Resolution.

### Lim

#### Contextual definitions bad – intent to define outweighs

Eric Kupferbreg 87, University of Kentucky, Senior Assistant Dean, Academic & Faculty Affairs at Northeastern University, College of Professional Studies Associate Director, Trust Initiative at Harvard School of Public Health 1987 “Limits - The Essence of Topicality” http://groups.wfu.edu/debate/MiscSites/DRGArticles/Kupferberg1987LatAmer.htm

Often, field contextual definitions are too broad or too narrow for debate purposes. Definitions derived from the agricultural sector necessarily incorporated financial and bureaucratic factors which are less relevant in considering a 'should' proposition. Often subject experts' definitions reflected administrative or political motives to expand or limit the relevant jurisdiction of certain actors. Moreover, field context is an insufficient criteria for choosing between competing definitions. A particularly broad field might have several subsets that invite restrictive and even exclusive definitions. (e.g., What is considered 'long-term' for the swine farmer might be significantly different than for the grain farmer.) Why would debaters accept definitions that are inappropriate for debate? If we admit that debate is a unique context, then additional considerations enter into our definitional analysis.

### T: Restrict: A2 “CI—Restrict”

#### Restriction narrower than regulation

Judge Thomas E. Johnson 9, District Court Judge, US District Court for the Southern District of West Virginia, "Stover v. Fingerhut Direct Marketing, Inc. - Document 33," 8/26/2009 http://law.justia.com/cases/federal/district-courts/west-virginia/wvsdce/5:2009cv00152/61171/33

9 The fourth prong of the Central Hudson test refers to "regulation" of speech. 447 U.S. at 567. "Regulation" could be construed broadly as applying [\*\*29] a system of laws, including penalties, affecting a particular manner of commercial speech. However, in subsequent cases, the Supreme Court has employed the narrower word, "restriction," in place of "regulation." See, e.g., Bd. of Trs. v. Fox, 492 U.S. 469, 476, 109 S. Ct. 3028, 106 L. Ed. 2d 388 (1989) ("[G]overnment restrictions upon commercial speech may be no more broad or no more expansive than 'necessary' to serve its substantial interests").

#### Their ev only defines "restrictions," not "restrictions on authority" - that kills predictability

J.A.D. Haneman 59, justice of the Superior Court of New Jersey, Appellate Division. “Russell S. Bertrand et al. v. Donald T. Jones et al.,” 58 NJ Super. 273; 156 A.2d 161; 1959 N.J. Super, Lexis

 HN4 In ascertaining the meaning of the word "restrictions" as here employed, it must be considered in context with the entire clause in which it appears. It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.¶ HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that a word is known from its associates. Words of general and specific import take color from each other when associated together, and thus the word of general significance is modified by its associates of restricted sense. 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."

### T: A2 “Reasonability” 2NC

#### Reasonability bad:

#### it’s arbitrary, subjective and can’t be universalized

Evan **Resnick**, “Defining Engagement,” JOURNAL OF INTERNATIONAL AFFAIRS v. 54 n. 2, Spring 20**01**, ASP.

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

## Exchanges

### China--CCP--No Collapse 2NC

#### Protestors work within the system --- won’t overthrow the CCP

Fisher ’12 – associate editor at The Atlantic, where he edits the International channel (Max, “How China Stays Stable Despite 500 Protests Every Day,” January 5, The Atlantic, http://www.theatlantic.com/international/archive/2012/01/how-china-stays-stable-despite-500-protests-every-day/250940/)

But what is perhaps most remarkable, and remarkably typical, of the Wukan movement was the protesters' insistence on declaring fealty to the Chinese Communist Party. Though China's 2011 could have possibly seen more mass demonstrations than the entire Arab world, this is one reason that China probably remains far away from an Arab Spring-style revolutionary movement. Popularmovements here seem to express relatively narrow complaints, want to work within the system rather than topple it, and treat the Communist Party as legitimate.Protests appear to be part of the system, not a challenge to it -- a sort of release valve for popular anger that, if anything, could have actually strengthened the Party by giving them a way to address that anger while maintaining autocratic rule. In the absence of real democracy, this give-and-take between state and society could actually help maintain political stability in China -- for now.

That tradition goes back at least a decade, to a climax of labor movement protests in spring 2002. In the steel city of Liaoyang that May, thousands of workers massed in protest. Corrupt local officials had siphoned small fortunes out of the town's factories, forcing many of them to shut down and send their workers home without their pensions, which the officials had also plundered. Liaoyang's problems then, like Wukan's today, were not atypical: the national movement toward privatization had given party officials special access, allowing them to get rich overnight as part of a new and burgeoning crony capitalist class while powerless workers went hungry.

As in Wukan last month, Liaoyang's 2002 protest was exceptional for its size -- tens of thousands marched over several days, shutting down the city and forcing senior Communist Party officials to respond -- but its leaders deliberately stopped short, even after being attacked by security forces, of publicly questioning the Communist Party's total rule. They wrote letters to senior officials, whom they addressed as "respected elder" or "beloved," emphasizing that the protesters were loyal to the Communist Party and asking only for those officials to enforce preexisting laws against corruption.

Philip Pan, a former Washington Post Beijing bureau chief, reported in his 2008 book Out of Mao's Shadow that the protest leaders privately agreed that single-party rule was the underlying cause of Liaoyang's problems, but were afraid to publicly criticize it or call for democracy and ultimately decided to appeal to senior Party leaders rather than challenge them.

As long as the political system remained unchanged, they agreed, those with positions of power could always abuse it, and workers could hope only for marginal improvements in their lives. For real progress, they thought democratic reform was necessary, and they believed that most workers supported such a goal. But they also knew that persuading workers to participate in a protest advocating democratic change would be all but impossible. The workers had internalized the lessons of the Tiananmen massacre. Everybody knew that the party would quickly crush a direct challenge to its authority, and nobody wanted to go to prison. People were too afraid.

The memory of Tiananmen has faded in the decade since 2002. But the dynamic of China's hundreds of daily demonstrationshas remained the same. So has the Party's uncanny ability to keep dissent both "within-system" and small-scale, almost never revolutionary in nature or even publicly critical of the autocracy inherent in Communist Party rule.

Officials are too smart to believe their own rhetoric about the benevolence or necessary permanence of single-party rule -- the CPP is not Bashar al-Assad, and they know better than to meet every dissenter with a bullet. But so are Chinese, whether activists or workers, aware of the Party's sensitivity to popular anger. So, over time, an informal but well-honed process has developed. And though it allows protesters to often come away unscathed and sometimes with real concessions, just like in Las Vegas, the house always wins. Again, from Out of Mao's Shadow:

#### No Chinese Instability

-Growth defuses opposition

-Public fear of Chaos

-No alternative to CCP

-Elite cohesion

-Dissidents challenge the local, not central government

Kim ’07 (Heungkyu,- prof @ Institute of Foreign Affairs and National Security, Ministry of Foreign Affairs and Trade (Korea) 2nd Berlin Conference on Asian Security October “On China’s Internal Stability” )

In the beginning of 21st century.the term "China Risk" as well as "China threat" became popular among China watchers. The famous report "Fault lines in China's Economic Terrain" published by RAND in 2003 already identified eight fault lines, which might seriously affect China's ability to sustain rapid economic growth and predicted how much they affect China's growth. The eight lines (weaknesses) are as follows: unemployment. poverty. and social unrest, corruption. HIV-AIDS and epidemic disease.water resources and pollution, energy consumption and prices, fragile finance system and state-owned enterprises, possible shrinkage of foreign direct investment, and Taiwan and other international conflicts. Following the warning of Western scholars. Chinese government think tanks and scholars are also busy alarming the bell of "China in danger," and have produced numerous articles as well. Table 2 shows the summary of RAND report roughly estimating the potential impacts on China's annual real economic growth. [Text Removed – added for Context] Despite such problemsand alarming, Beijing government's confidence in maintaining political stability comes from following several factors. Foremost, Chinese people and intellectuals support theChinese Communist Party's rule as long as Chinese economy improves. Second. Chinese deep-rooted fear of chaos also contributes the one party rule. Even before the Tiananmen incident occurred in 1989. Deng Xiaoping precisely summarized the Chinese fear by emphasizing the absolute necessity for 'political' stability: "the absolutely crucial task is to maintain (political) stability. Without stability, nothing can be achieved... Third.no political alternative exists. The Communist Party is the only national level political party in effect. Fourth, current governing structure helps Beijing government maintain its legitimacy, and political stability. Rioters and protestersgenerally do not challengethe decisions of central Chinese authorities. Rather, they challenge local authoritiesand cadres that are predatory and in violation of national policies. They often seek a resolution by prompting the intervention of central authorities. In contrast to ordinary state-society relationship in the developing countries, Chinese state-society relations do not make the relations between the central government and society confrontational because of the intermediary role of local governments. These peculiar relations are illustrated in Chart 1-1. The relations in Chart 1 are characterized by direct contacts between the state and " society. However, as seen in Chart 1-1, local governments in China function like a buffer zone between Beijing government and the society. Thissituation considerably reduces direct political pressureagainst Beijing government. Fifth, so far consensus-building mechanism among top political leaders has worked. The Chinese current decision-making structure doesn't allow a charismatic leader to wield power without being checked and it requires consensus-building and collective decision making procedures if the issue is comprehensive and salient. Although the decision-making process has not been efficient, it has prevented outbreaks of political struggle among top leaders and aborted its political system in danger. Anyof the fault lines will notlikely causeany serious internal instabilityin the near future. Higher danger may be bred in Chinese own power sharing system itself. Capacity for building consensus among top political leaders has been the keyfor maintaining political stability despiteof many serious social economic and political problems. How to maintain the consensus-building mechanism and smooth power transition will be crucial to predict the future political stability.

#### CCP will crush dissent

Pei ’08(Minxin,- fellow @ Carnegie April “How is China Ruled” http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=20066&prog=zch)

At the same time, the CCP has adopted a more refined and subtle approach to the use of the state’s repressive apparatus in defending its political monopoly. TheChinese government now permits an unprecedented degree of personal freedom for the majority, but it targets opponents more efficiently and effectively. Whenever possible, well-known dissidents are “encouraged” to go into exile abroad instead of languishing in jail and becoming annoying symbols of human rights abuse. (Less wellknown dissidents are not so lucky.) Enormous resources have been invested in the manpower and technology required to maintain effective surveillance of groupsand individuals suspected of anti-government inclinations. The Chinese Internet police unit, allegedly 30,000-strong, is an illuminating example of this strategy. Selective press censorship ensures control of political information without suffocating coverage of pop culture and business. In addition, new riot-police forces are now equipped to suppress the tens of thousands of riots that erupt throughout China each year. Believing that the Tiananmen crisis could have been averted had the government acted immediately and decisively, the Partynow emphasizes rapid responseto incipient signs of crisis: Authorities at all levelsare to suppressall sudden, potentially destabilizing incidents. Local officials who fail to perform satisfactorily in handling such events risk dismissal. Of course, the Party would not hesitate to use overwhelming force to crush any organized challenge to its authority, as it did in rounding up the members of the tiny China Democracy Party in 1998 and in banning the Falun Gong in 1999.

### China--CCP--No Lashout 2NC

#### No lashout---CCP would fear retaliation AND even if the order was issues the PLA would not obey—that’s Gilley

CCP turns inward

**Feng 2010** [5/10, Zhu, PhD, Professor of School of International Studies and Director of the Center for International & Strategic Studies @ Peking University, has served as research fellow @ Washington based CSIS & Fairbank Center for East Asian Studies @ Harvard University, visiting scholar @ Durham University in UK, “An Emerging Trend in East Asia: Military Budget Increases and Their Impact”, May 10, 2010, http://www.fpif.org/articles/an\_emerging\_trend\_in\_east\_asia]

Many China watchers in the West contend that the weak legitimacy of the Chinese Communist Party (CCP) has spurred its military buildup. But this is mostly an attribution error. Despite a great number of challenges from home and abroad, the CCP’s ruling legitimacy has not suffered from any shock. The Chinese people do not believe that a change of ruling partyor the party’s relinquishing of power will resolve their complaints. Even if domestic unrest flares up, China would likely turn inward rather than outward, even at the cost of effectively muting an assertive foreign policy.

## Law

### Envt

#### The environment is invincible

#### Easterbrook 95, Distinguished Fellow, Fullbright Foundation (Gregg, A Moment on Earth pg 25)

IN THE AFTERMATH OF EVENTS SUCH AS LOVE CANAL OR THE Exxon Valdez oil spill, every reference to the environment is prefaced with the adjective "fragile." "Fragile environment" has become a welded phrase of the modern lexicon, like "aging hippie" or "fugitive financier." But the notion of a fragile environment is profoundly wrong. Individual animals, plants, and people are distressingly fragile. The environmentthat contains themis close to indestructible.The living environment of Earth has survived ice ages; bombardments of cosmic radiation more deadly than atomic fallout; solar radiation more powerful than the worst-case projection for ozone depletion; thousand-year periods of intense volcanism releasing global air pollution far worse than that made by any factory; reversals of the planet's magnetic poles; the rearrangement of continents; transformation of plains into mountain ranges and of seas into plains; fluctuations of ocean currents and the jet stream; 300-foot vacillations in sea levels; shortening and lengthening of the seasons caused by shifts in the planetary axis; collisions of asteroids and comets bearing far more force than man's nuclear arsenals; and the years without summer that followed these impacts.Yet hearts beat on, and petals unfold still.Were the environment fragile it would have expired many eons before the advent of the industrial affronts of the dreaming ape. Human assaults on the environment, though mischievous, are pinpricks compared to forces of the magnitude nature is accustomed to resisting.

#### Biodiversity is not critical survival of ecosystems.

**Grime ‘97** J.P. Grime, biologist at the University of Sheffield. Science Vol. 277. August 29, 1997. “Biodiversity and ecosystem function: the debate deepens” Academix OneFile

This view that "biodiversity begets superior ecosystem function" is not shared by all ecologists[5, 6]. There are obvious conflicts with published evidence from work on natural rather than synthesized ecosystems. As early as 1982, Leps et al.[7] had suggested that ecosystem processes were determined primarily by the functional characteristics of component organisms rather than their number. The same conclusion was drawn by MacGillivray et al.[8] who showed that differences between five adjacent ecosystems in northern England in their responses to frost, drought, and burning were predictable from the functional traits of the dominant plants but were independent of plant diversity. This edition of Science (pages 1296, 1300, and 1302) includes three contributions[9-11] to this important debate. One is a report of results from the Cedar Creek synthesized plant assemblages, whereas the two others describe biodiversity-ecosystem studies conducted on natural systems (mediterranean grassland in California and northern forest in Sweden). In all three, variation in ecosystem properties is found to be related to differences in the functional characteristics, especially resource capture and utilization, of the dominant plants, and there is no convincing evidence that ecosystem processes are crucially dependent on higher levels of biodiversity.

The evidence presented by Wardle et al.[10] is particularly compelling because it involves an extensive study of ecosystem properties on 50 relatively pristine forested islands of varied size and plant biodiversity. It is clearly shown that a suite of ecosystem properties -- including higher microbial biomass, high litter quality, and more rapid rates of litter decomposition and nitrogen mineralization -- coincide with the lower botanical diversity and the earlier successional state of the vegetation on larger islands (both consequences of the higher incidence of lightning strikes and more frequent fire history of larger islands). On small islands, succession proceeds uninterrupted to more species-rich vegetation, but here the dominant plants, Picea abies and Empetrum hermaphroditum, are extremely stress tolerant and produce litter of poor quality, thereby slowing the rates of ecosystem processes. This strongly supports the contention of MacGillivray et al.[8] that it is the biological characteristics of the dominant plants rather than their number that control ecosystem productivity and biogeochemistry. This same conclusion is prompted by the new data presented by Tilman et al.[9] and Hooper et al.[11]. Both of these groups have adopted a more experimental approach and created ecosystems in field plots where they can control both the functional composition and species richness of the vegetation. Here again, there is strong evidence that productivity and nutrient cycling are controlled to an overwhelming extent by the functional characteristics of the dominant plants, and evidence of immediate benefits of species-richness within functional groups remains weak.

### Bio

#### No bioterror—

#### No dispersal—technial capacity is beyond the means of terrorists—at best it takes weeks to spread and things like smog, humidity and temp changes make it impossible to deliver

#### Empirically denied—bioweapons have never killed more than 20 people and medical and civl defense steps in

#### That’s mueller

#### The worst case scenario happened – no extinction

**Dove 12** [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms areprobablynear-useless as weapons, and history proves it.¶There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs.

Remember that.¶Terrorist groups have also deployedbiological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of acult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶Thesecond genuine bioterrorist attack took place in 1993. Members of the AumShinrikyocult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed,and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario.¶Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

# 1nr

### Navy Training: Overview 2NC

#### 1. Magnitude-preventing great power is key to avoid extinction-it is not obsolete

**Dyer, University of London Military and Middle Eastern History PhD, 2006**

(Gwynne, War: the Lethal Custom, pg 1, ldg)

The only kind of international violence that worries most people in the developed countries is terrorism: from imminent heart attack to a bad case of hangnail in fifteen years flat. We are very lucky people- but we need to use the time we have been granted wisely, because total war is only sleeping. All the major states are still organized for war, and all that is needed for the world to slide back into a nuclear confrontation is a twist of the kaleidoscope that shifts international relations into a new pattern of rival alliances. That time may not come for another decade or so, but unless we can build institutions that move us decisively away from the old great-power game, sooner or later it surely will. And then at some later point, great-power war will also return: the megatons will fall, the dust will rise, the sun’s light will fail, and the race may perish. We may inhabit the Indian summer of human history, with nothing to look forward to but the “nuclear winter” that closes the account.

#### 2. Probability-naval power is key to reassure allies and maintain power projection-the alternative is hotspot escalation

**Kagan, Carnegie senior associate, 2007**

(Robert, “End of Dreams, Return of History” Policy Review, 2007, http://www.hoover.org/publications/policyreview/8552512.html#n10, ldg)

This is a good thing, and it should continue to be a primary goal of American foreign policy to perpetuate this relatively benign international configuration of power. The unipolar order with the United States as the predominant power is unavoidably riddled with flaws and contradictions. It inspires fears and jealousies. The United States is not immune to error, like all other nations, and because of its size and importance in the international system those errors are magnified and take on greater significance than the errors of less powerful nations. Compared to the ideal Kantian international order, in which all the world's powers would be peace-loving equals, conducting themselves wisely, prudently, and in strict obeisance to international law, the unipolar system is both dangerous and unjust. Compared to any plausible alternative in the real world, however, it is relatively stable and less likely to produce a major war between great powers. It is also comparatively benevolent, from a liberal perspective, for it is more conducive to the principles of economic and political liberalism that Americans and many others value. American predominance does not stand in the way of progress toward a better world, therefore. It stands in the way of regression toward a more dangerous world. The choice is not between an American-dominated order and a world that looks like the European Union. The future international order will be shaped by those who have the power to shape it. The leaders of a post-American world will not meet in Brussels but in Beijing, Moscow, and Washington. The return of great powers and great games If the world is marked by the persistence of unipolarity, it is nevertheless also being shaped by the reemergence of competitive national ambitions of the kind that have shaped human affairs from time immemorial. During the Cold War, this historical tendency of great powers to jostle with one another for status and influence as well as for wealth and power was largely suppressed by the two superpowers and their rigid bipolar order. Since the end of the Cold War, the United States has not been powerful enough, and probably could never be powerful enough, to suppress by itself the normal ambitions of nations. This does not mean the world has returned to multipolarity, since none of the large powers is in range of competing with the superpower for global influence. Nevertheless, several large powers are now competing for regional predominance, both with the United States and with each other. National ambition drives China's foreign policy today, and although it is tempered by prudence and the desire to appear as unthreatening as possible to the rest of the world, the Chinese are powerfully motivated to return their nation to what they regard as its traditional position as the preeminent power in East Asia. They do not share a European, postmodern view that power is passé; hence their now two-decades-long military buildup and modernization. Like the Americans, they believe power, including military power, is a good thing to have and that it is better to have more of it than less. Perhaps more significant is the Chinese perception, also shared by Americans, that status and honor, and not just wealth and security, are important for a nation. Japan, meanwhile, which in the past could have been counted as an aspiring postmodern power -- with its pacifist constitution and low defense spending -- now appears embarked on a more traditional national course. Partly this is in reaction to the rising power of China and concerns about North Korea's nuclear weapons. But it is also driven by Japan's own national ambition to be a leader in East Asia or at least not to play second fiddle or "little brother" to China. China and Japan are now in a competitive quest with each trying to augment its own status and power and to prevent the other 's rise to predominance, and this competition has a military and strategic as well as an economic and political component. Their competition is such that a nation like South Korea, with a long unhappy history as a pawn between the two powers, is once again worrying both about a "greater China" and about the return of Japanese nationalism. As Aaron Friedberg commented, the East Asian future looks more like Europe's past than its present. But it also looks like Asia's past. Russian foreign policy, too, looks more like something from the nineteenth century. It is being driven by a typical, and typically Russian, blend of national resentment and ambition. A postmodern Russia simply seeking integration into the new European order, the Russia of Andrei Kozyrev, would not be troubled by the eastward enlargement of the EU and NATO, would not insist on predominant influence over its "near abroad," and would not use its natural resources as means of gaining geopolitical leverage and enhancing Russia 's international status in an attempt to regain the lost glories of the Soviet empire and Peter the Great. But Russia, like China and Japan, is moved by more traditional great-power considerations, including the pursuit of those valuable if intangible national interests: honor and respect. Although Russian leaders complain about threats to their security from NATO and the United States, the Russian sense of insecurity has more to do with resentment and national identity than with plausible external military threats. 16 Russia's complaint today is not with this or that weapons system. It is the entire post-Cold War settlement of the 1990s that Russia resents and wants to revise. But that does not make insecurity less a factor in Russia 's relations with the world; indeed, it makes finding compromise with the Russians all the more difficult. One could add others to this list of great powers with traditional rather than postmodern aspirations. India's regional ambitions are more muted, or are focused most intently on Pakistan, but it is clearly engaged in competition with China for dominance in the Indian Ocean and sees itself, correctly, as an emerging great power on the world scene. In the Middle East there is Iran, which mingles religious fervor with a historical sense of superiority and leadership in its region. 17 Its nuclear program is as much about the desire for regional hegemony as about defending Iranian territory from attack by the United States. Even the European Union, in its way, expresses a pan-European national ambition to play a significant role in the world, and it has become the vehicle for channeling German, French, and British ambitions in what Europeans regard as a safe supranational direction. Europeans seek honor and respect, too, but of a postmodern variety. The honor they seek is to occupy the moral high ground in the world, to exercise moral authority, to wield political and economic influence as an antidote to militarism, to be the keeper of the global conscience, and to be recognized and admired by others for playing this role. Islam is not a nation, but many Muslims express a kind of religious nationalism, and the leaders of radical Islam, including al Qaeda, do seek to establish a theocratic nation or confederation of nations that would encompass a wide swath of the Middle East and beyond. Like national movements elsewhere, Islamists have a yearning for respect, including self-respect, and a desire for honor. Their national identity has been molded in defiance against stronger and often oppressive outside powers, and also by memories of ancient superiority over those same powers. China had its "century of humiliation." Islamists have more than a century of humiliation to look back on, a humiliation of which Israel has become the living symbol, which is partly why even Muslims who are neither radical nor fundamentalist proffer their sympathy and even their support to violent extremists who can turn the tables on the dominant liberal West, and particularly on a dominant America which implanted and still feeds the Israeli cancer in their midst. Finally, there is the United States itself. As a matter of national policy stretching back across numerous administrations, Democratic and Republican, liberal and conservative, Americans have insisted on preserving regional predominance in East Asia; the Middle East; the Western Hemisphere; until recently, Europe; and now, increasingly, Central Asia. This was its goal after the Second World War, and since the end of the Cold War, beginning with the first Bush administration and continuing through the Clinton years, the United States did not retract but expanded its influence eastward across Europe and into the Middle East, Central Asia, and the Caucasus. Even as it maintains its position as the predominant global power, it is also engaged in hegemonic competitions in these regions with China in East and Central Asia, with Iran in the Middle East and Central Asia, and with Russia in Eastern Europe, Central Asia, and the Caucasus. The United States, too, is more of a traditional than a postmodern power, and though Americans are loath to acknowledge it, they generally prefer their global place as "No. 1" and are equally loath to relinquish it. Once having entered a region, whether for practical or idealistic reasons, they are remarkably slow to withdraw from it until they believe they have substantially transformed it in their own image. They profess indifference to the world and claim they just want to be left alone even as they seek daily to shape the behavior of billions of people around the globe. The jostling for status and influence among these ambitious nations and would-be nations is a second defining feature of the new post-Cold War international system. Nationalism in all its forms is back, if it ever went away, and so is international competition for power, influence, honor, and status. American predominance prevents these rivalries from intensifying -- its regional as well as its global predominance. Were the United States to diminish its influence in the regions where it is currently the strongest power, the other nations would settle disputes as great and lesser powers have done in the past: sometimes through diplomacy and accommodation but often through confrontation and wars of varying scope, intensity, and destructiveness. One novel aspect of such a multipolar world is that most of these powers would possess nuclear weapons. That could make wars between them less likely, or it could simply make them more catastrophic. It is easy but also dangerous to underestimate the role the United States plays in providing a measure of stability in the world even as it also disrupts stability. For instance, the United States is the dominant naval power everywhere, such that other nations cannot compete with it even in their home waters. They either happily or grudgingly allow the United States Navy to be the guarantor of international waterways and trade routes, of international access to markets and raw materials such as oil. Even when the United States engages in a war, it is able to play its role as guardian of the waterways. In a more genuinely multipolar world, however, it would not. Nations would compete for naval dominance at least in their own regions and possibly beyond. Conflict between nations would involve struggles on the oceans as well as on land. Armed embargos, of the kind used in World War I and other major conflicts, would disrupt trade flows in a way that is now impossible. Such order as exists in the world rests not merely on the goodwill of peoples but on a foundation provided by American power. Even the European Union, that great geopolitical miracle, owes its founding to American power, for without it the European nations after World War ii would never have felt secure enough to reintegrate Germany. Most Europeans recoil at the thought, but even today Europe's stability depends on the guarantee, however distant and one hopes unnecessary, that the United States could step in to check any dangerous development on the continent. In a genuinely multipolar world, that would not be possible without renewing the danger ofworld war. People who believe greater equality among nations would be preferable to the present American predominance often succumb to a basic logical fallacy. They believe the order the world enjoys today exists independently of American power. They imagine that in a world where American power was diminished, the aspects of international order that they like would remain in place. But that 's not the way it works. International order does not rest on ideas and institutions. It is shaped by configurations of power. The international order we know today reflects the distribution of power in the world since World War ii, and especially since the end of the Cold War. A different configuration of power, a multipolar world in which the poles were Russia, China, the United States, India, and Europe, would produce its own kind of order, with different rules and norms reflecting the interests of the powerful states that would have a hand in shaping it. Would that international order be an improvement? Perhaps for Beijing and Moscow it would. But it is doubtful that it would suit the tastes of enlightenment liberals in the United States and Europe. The current order, of course, is not only far from perfect but also offers no guarantee against major conflict among the world's great powers. Even under the umbrella of unipolarity, regional conflicts involving the large powers may erupt. War could erupt between China and Taiwan and draw in both the United States and Japan. War could erupt between Russia and Georgia, forcing the United States and its European allies to decide whether to intervene or suffer the consequences of a Russian victory. Conflict between India and Pakistan remains possible, as does conflict between Iran and Israel or other Middle Eastern states. These, too, could draw in other great powers, including the United States. Such conflicts may be unavoidable no matter what policies the United States pursues. But they are more likely to erupt if the United States weakens or withdraws from its positions of regional dominance. This is especially true in East Asia, where most nations agree that a reliable American power has a stabilizing and pacific effect on the region. That is certainly the view of most of China 's neighbors. But even China, which seeks gradually to supplant the United States as the dominant power in the region, faces the dilemma that an American withdrawal could unleash an ambitious, independent, nationalist Japan. In Europe, too, the departure of the United States from the scene -- even if it remained the world's most powerful nation -- could be destabilizing. It could tempt Russia to an even more overbearing and potentially forceful approach to unruly nations on its periphery. Although some realist theorists seem to imagine that the disappearance of the Soviet Union put an end to the possibility of confrontation between Russia and the West, and therefore to the need for a permanent American role in Europe, history suggests that conflicts in Europe involving Russia are possible even without Soviet communism. If the United States withdrew from Europe -- if it adopted what some call a strategy of "offshore balancing" -- this could in time increase the likelihood of conflict involving Russia and its near neighbors, which could in turn draw the United States back in under unfavorable circumstances. It is also optimistic to imagine that a retrenchment of the American position in the Middle East and the assumption of a more passive, "offshore" role would lead to greater stability there. The vital interest the United States has in access to oil and the role it plays in keeping access open to other nations in Europe and Asia make it unlikely that American leaders could or would stand back and hope for the best while the powers in the region battle it out. Nor would a more "even-handed" policy toward Israel, which some see as the magic key to unlocking peace, stability, and comity in the Middle East, obviate the need to come to Israel 's aid if its security became threatened. That commitment, paired with the American commitment to protect strategic oil supplies for most of the world, practically ensures a heavy American military presence in the region, both on the seas and on the ground. The subtraction of American power from any region would not end conflict but would simply change the equation. **In the Mid**dle **East**, competition for influence among powers both inside and outside the region has raged for at least two centuries. The rise of Islamic fundamentalism doesn't change this. It only adds a new and more threatening dimension to the competition, which neither a sudden end to the conflict between Israel and the Palestinians nor an immediate American withdrawal from Iraq would change. **The alternative to** **American predominance** in the region **is not balance and peace. It is further competition.** The region and the states within it remain relatively weak. A diminution of American influence would not be followed by a diminution of other external influences. One could expect deeper involvement by both China and Russia, if only to secure their interests. 18 And one could also expect the more powerful states of the region, particularly Iran, to expand and fill the vacuum. It is doubtful that any American administration would voluntarily take actions that could shift the balance of power in the Middle East further toward Russia, China, or Iran. The world hasn 't changed that much. An American withdrawal from Iraq will not return things to "normal" or to a new kind of stability in the region. It will produce a new instability, one likely to draw the United States back in again. The alternative to American regional predominance in the Middle East and elsewhere is not a new regional stability. In an era of burgeoning nationalism, the future is likely to be one of intensified competition among nations and nationalist movements. Difficult as it may be to extend American predominance into the future, no one should imagine that a reduction of American power or a retraction of American influence and global involvement will provide an easier path.

#### 3, Navy is key to cooperation and containment of piracy. Piracy collapses global trade and finances terror networks

**Middleton, Chatham House Royal Institute of Economic Affairs consultant researcher, 2008**

(Roger, “Piracy in Somalia”, October, <http://www.chathamhouse.org/sites/default/files/public/Research/Africa/1008piracysomalia.pdf>, ldg)

Clearly a company whose cargo is prevented from reaching its destination on time will lose money. Add to this the cost of paying ransoms and already the damaging economic effect of Somali piracy can be seen. The consequences are not limited only to companies whose vessels are hijacked; of wider concern is the growth of insurance premiums for ships that need to pass through the Gulf of Aden. The danger means that war risk insurance premiums must now be paid: premiums are reported to have risen tenfold in a year.32 If the cost of extra insurance becomes prohibitive, or the danger simply too great, shipping companies may avoid the Gulf of Aden and take the long route to Europe and North America around the Cape of Good Hope. Indeed this option is mentioned by shipping industry insiders as a very real possibility. The extra weeks of travel and fuel consumption would add considerably to the cost of transporting goods. At a time when the price of oil is a major concern, anything that could contribute to a further rise in prices must be considered very serious indeed. Large oil tankers pass through the Gulf of Aden and the danger exists that a pirate attack could cause a major oil spill in what is a very sensitive and important ecosystem. During the attack on the Takayama the ship’s fuel tanks were penetrated and oil spilled into the sea. The consequences of amore sustained attack could be much worse. As pirates become bolder and use ever more powerful weaponry a tanker could be set on fire, sunk or forced ashore, any of which could result in an environmental catastrophe that would devastate marine and bird life for years to come. The pirates’ aim is to extort ransom payments and to date that has been their main focus; however, the possibility that they could destroy shipping is very real. The other worst-case scenario is that pirates become agents of international terrorism. It should be emphasized that to date there is no firm evidence of this happening. However, in a region that saw the attacks on the USS Cole, seaborne terrorism needs to be taken very seriously. For example, a large ship sunk in the approach to the Suez Canal would have a devastating impact on international trade. Terrorism at sea could take many forms: direct attacks on naval or commercial shipping, such as the 6 October 2002 attack on the MV Limburg,33hostages from pleasure boats being used as bargaining chips for terrorists or high-profile victims of an atrocity, and hijacked ships being used as floating weapons. Terrorist networks could also use the financial returns of piracy to fund their activities around the world. The potentially massive consequences of this scenario must be taken into account along with the more likely scenario that piracy money is being routed to Al-Shabaab.34 As has been seen over the last year, pirates in Somalia have become ever more dangerous, but it is impossible to tell what will happen next. It is best to act to prevent the worst-case scenarios rather than try to solve the problem once it has escalated.

#### Trade decline causes war-the impact is linear

**Hillebrand, Kentucky diplomacy professor, 2010**

(Evan, “Deglobalization Scenarios: Who Wins? Who Loses?”, Global Economy Journal, Volume 10, Issue 2, ebsco, ldg)

A long line of writers from Cruce (1623) to Kant (1797) to Angell (1907) to Gartzke (2003) have theorized that economic interdependence can lower the likelihood of war. Cruce thought that free trade enriched a society in general and so made people more peaceable; Kant thought that trade shifted political power away from the more warlike aristocracy, and Angell thought that economic interdependence shifted cost/benefit calculations in a peace-promoting direction. Gartzke contends that trade relations enhance transparency among nations and thus help avoid bargaining miscalculations. There has also been a tremendous amount of empirical research that mostly supports the idea of an inverse relationship between trade and war. Jack Levy said that, “While there are extensive debates over the proper research designs for investigating this question, and while some empirical studies find that trade is associated with international conflict, most studies conclude that trade is associated with peace, both at the dyadic and systemic levels” (Levy, 2003, p. 127). There is another important line of theoretical and empirical work called Power Transition Theory that focuses on the relative power of states and warns that when rising powers approach the power level of their regional or global leader the chances of war increase (Tammen, Lemke, et al, 2000). Jacek Kugler (2006) warns that the rising power of China relative to the United States greatly increases the chances of great power war some time in the next few decades. The IFs model combines the theoretical and empirical work of the peac ethrough trade tradition with the work of the power transition scholars in an attempt to forecast the probability of interstate war. Hughes (2004) explains how he, after consulting with scholars in both camps, particularly Edward Mansfield and Douglas Lemke, estimated the starting probabilities for each dyad based on the historical record, and then forecast future probabilities for dyadic militarized interstate disputes (MIDs) and wars based on the calibrated relationships he derived from the empirical literature. The probability of a MID, much less a war, between any random dyad in any given year is very low, if not zero. Paraguay and Tanzania, for example, have never fought and are very unlikely to do so. But there have been thousands of MIDs in the past and hundreds of wars and many of the 16,653 dyads have nonzero probabilities. In 2005 the mean probability of a country being involved in at least one war was estimated to be 0.8%, with 104 countries having a probability of at least 1 war approaching zero. A dozen countries12, however, have initial probabilities over 3%. The globalization scenario projects that the probability for war will gradually decrease through 2035 for every country—but not every dyad--that had a significant (greater than 0.5% chance of war) in 2005 (Table 6). The decline in prospects for war stems from the scenario’s projections of rising levels of democracy, rising incomes, and rising trade interdependence—all of these factors figure in the algorithm that calculates the probabilities. Not all dyadic war probabilities decrease, however, because of the power transition mechanism that is also included in the IFs model. The probability for war between China and the US, for example rises as China’s power13 rises gradually toward the US level but in these calculations the probability of a China/US war never gets very high.14 Deglobalization raises the risks of war substantially. In a world with much lower average incomes, less democracy, and less trade interdependence, the average probability of a country having at least one war in 2035 rises from 0.6% in the globalization scenario to 3.7% in the deglobalization scenario. Among the top-20 war-prone countries, the average probability rises from 3.9% in the globalization scenario to 7.1% in the deglobalization scenario. The model estimates that in the deglobalization scenario there will be about 10 wars in 2035, vs. only 2 in the globalization scenario15. Over the whole period, 2005-2035, the model predicts four great power wars in the deglobalization scenario vs. 2 in the globalization scenario.16 Deglobalization in the form of reduced trade interdependence, reduced capital flows, and reduced migration has few positive effects, based on this analysis with the International Futures Model. Economic growth is cut in all but a handful of countries, and is cut more in the non-OECD countries than in the OECD countries. Deglobalization has a mixed impact on equality. In many non-OECD countries, the cut in imports from the rest of the world increases the share of manufacturing and in 61 countries raises the share of income going to the poor. But since average productivity goes down in almost all countries, this gain in equality comes at the expense of reduced incomes and increased poverty in almost all countries. The only winners are a small number of countries that were small and poor and not well integrated in the global economy to begin with—and the gains from deglobalization even for them are very small. Politically, deglobalization makes for less stable domestic politics and a greater likelihood of war. The likelihood of state failure through internal war, projected to diminish through 2035 with increasing globalization, rises in the deglobalization scenario particularly among the non-OECD democracies. Similarly, deglobalization makes for more fractious relations among states and the probability for interstate war rises.

#### Terrorism causes nuclear war

**Speice, William and Mary JD, 2006**

(Patrick, “Negligence And Nuclear Nonproliferation: Eliminating The Current Liability Barrier To Bilateral U.S.-Russian Nonproliferation Assistance Programs”, lexis, ldg)

The potential consequences of the unchecked spread of nuclear knowledge and material to terrorist groups that seek to cause mass destruction in the United States are truly horrifying. A terrorist attack with a nuclear weapon would be devastating in terms of immediate human and economic losses. n49 Moreover, there would be immense political pressure in the United States to discover the perpetrators and retaliate with nuclear weapons, massively increasing the number of casualties and potentially triggering a full-scale nuclear conflict. n50

**Readiness buys economic resiliency and prevents decline- checks their internal links**

**Norrlof, 10** -- political science professor at Toronto

(Carla, America’s Global Advantage: US Hegemony and International Cooperation, pg 185-6)

The United States owes at least some of its ability to process debt to allies' dependence on American security provision. As a counterpart to foreigners' economic claims, the United States is sitting on a pile of security claims. The United States' self-proclaimed role as global policeman is a wildcard in a hand full of economic IOUs. Armed interventions have been routine throughout the twentieth and twenty-first centuries, and have had both a private and public good dimension. The security lever lurks in the background of economic relations and explains why allies are prepared to intervene to adjust economic imbalances, as they did at Plaza and at Louvre in the 1980s (see chapter 5). Under a shield of firepower, the United States can buy time and take economic risks that no other county can afford. Europe is indebted to the United States for putting an end to two world wars. But we need not go all the way back to the First and Second World Wars. There have been plenty of reminders in our own time of Europe's military subordination. The turmoil on the continent in the 1990s over-determined Europe's continued reliance on American military assistance. As a result, Europe's feeble attempt to create a credible and autonomous military force in the late 1990s and early millenia was quickly cannibalized by NATO (see chapter 7). The formal defense commitments that go out to Japan and South Korea also give two of the five largest reserve holders a powerful incentive to prevent American decline. Even China can be counted among those who have an interest in preserving American military might. As long as the relationship between China and Japan is marred by distrust, China prefers an American security guarantee to a militarized Japan. While allies' dependence on the US military for defensive purposes and global interventions will hardly make global imbalances disappear, it can buy financial assistance if external liabilities become a problem. Since the world's leading economies are inextricably bound up with the American economy, coordinating a soft landing of the US economy has always had a clear economic rational. But central bankers also know that political stability is at the source of economic growth. The United States gets good mileage out of its willingness to protect allies and stabilize hotspots. Both economically and militarily, the United States is "too big to fail." A weakening of the economy, the fountain of the United States' military might, would be dangerous for western Europe and East Asia.

#### Readiness is a pre-req to investment

**Norrlof, 10** -- political science professor at Toronto

(Carla, America’s Global Advantage: US Hegemony and International Cooperation, pg 172-3)

One of the reasons investors are attracted to the American market is that they consider investing in it is safe. The United States has collected a huge security premium by capitalizing on the ability to secure its home base both militarily and legally through property rights protection. The United States' investment pull is not only explained by the need for dollars in the international system. The government's commitment to secure investments has also been important. The combined effect of an advanced capital market and a strong military machine to defend that market, and other safety measures such as a strong tradition of property rights protection and a reputation for honoring dues, has made it possible to attract capital with great ease. In chapter 5, we saw that three other countries - Britain, Switzerland, and Canada - have enjoyed substantial gains from the discrepancy between the value of the net foreign asset position and the cumulative current account. In common, they all have a liberal orientation grounded in property rights protection and are able to extract a substantial security premium as a result - Canada by free-riding on the United States, Switzerland by adhering to secrecy laws and unbending neutrality, and the United Kingdom (like the United States) by boasting a commitment to honoring dues and its own imperial legacy. Out of these, only the United States and Switzerland saw their currency strengthen in the wake of the financial crisis. Battered by the United States, France, and Germany, it is not clear how bruised Switzerland will emerge from suggested changes in secrecy rules and taxation agreements. Given the size of American trade deficits and external liabilities, one would expect a lot more headwind against American-based assets and therefore the dollar. As we saw in chapter 5, however, central banks only sold more American assets than they bought in three of the thirty-six years between 1971 and 2006.13 And only on one occasion, in 1971, did sales by private investors exceed private purchases of American assets.14 The steady capital inflow, through good times and bad, is due to the widely held belief that the American market is safe and will rebound after a downturn. In what follows, I substantiate my claim that the United States has received a security premium by linking increased financial flows to the United States with military successes and reduced financial flows with military defeats.

#### Investment is key to the economy- including manufacturing

**Payne, 11** -- Department of Commerce economists

[David, and Fenwick Yu, “Foreign Direct Investment in the United States,” June 2011, www.esa.doc.gov/sites/default/files/reports/documents/fdiesaissuebriefno2061411final.pdf, accessed 2-1-13]

Employment by majority-owned U.S. affiliates of foreign companies has generally held steady over the last decade (see Figure 2), with these companies employing more than 5 million workers in the United States since 2000. Given the relative size of foreign investment in the manufacturing sector, a large portion of FDI-supported jobs – close to 2 million – are in manufacturing. FDI supported manufacturing jobs tend to be more stable than domestic manufacturing jobs. From 1998 to 2008, total manufacturing employment fell 24 percent, while FDIsupported manufacturing jobs declined only 11 percent. In fact, manufacturing employment of 1.8 million in 2008 accounted for 32.5 percent of total employment at majority-owned U.S. affiliates of foreign companies. In contrast, retail trade – the largest industry outside of manufacturing for employment by U.S. affiliates of foreign companies – employed 489,000 workers in 2008, followed by the administration, support, and waste management industry at 453,000. (See Figure 3.) Compensation per employee at U.S. affiliates of foreign firms has consistently been higher than at other U.S. firms, as illustrated in Figure 1 on the front page. 1,2 The compensation differential between FDI jobs and jobs as a whole has also been widening over time; growing from 28.4% in 1998 to 37.0% in 2007 before falling slightly to 33.3% in 2008. Foreign Direct Investment is Important to the U.S. Economy Foreign Direct Investment into the United States has been an important factor in the U.S. economy for a number of years, with FDI totaling $1.7 trillion over the last ten years. 3 Figure 4 shows FDI has fluctuated with the U.S. business cycle. Investment surged to an historical peak of $328 billion in 2008 and reached a similarly high level in 2000, though it hit a low of $64 billion in 2003. FDI rebounded to $194 billion in 2010. A significant portion of FDI goes to the U.S. manufacturing sector. (See Figure 5.) In 2010, $78 billion of FDI, or 41 percent of total FDI, was spent on the manufacturing sector. 4 Over the past 14 years, manufacturing’s share of FDI has varied from a low of 15 percent in 2004 to a high of 81 percent in 1998, averaging 39 percent. Other sectors that have received significant FDI over time include the wholesale and retail sector (21 percent in 2010) and financialrelated industries (14 percent in 2010). 5 Since 1997, about two-thirds of the remaining investment has been in information, mining, utilities, and non-bank holding companies. 6 Very little FDI goes to construction, transportation services and other service industries.

#### The second Link is the NAVY – their lawsuits compromise it

**Cohen, National Center for Public Policy Research senior fellow, 2003**

(Bonner, “Environmental Regulations Impede Pentagon Readiness”, <http://news.heartland.org/newspaper-article/2003/03/01/environmental-regulations-impede-pentagon-readiness>)

Lawsuits brought by such groups as the Center for Biological Diversity and the Natural Resources Defense Council have sought to impose the Endangered Species Act, Migratory Bird Treaty Act, Marine Mammals Protection Act, and other environmental statutes on military bases. The lawsuits, and the restrictions on training that result from them, have come in direct conflict with military readiness: Wide areas of the ocean beach at the Navy’s amphibious base at Coronado, California have been designated as “critical habitat” for two species of shore birds, the Western plover and the least tern. When Navy Seals practice landing their rubber boats during breeding season, they must disrupt their tactical formations to move in narrow lanes, marked by green tape, to avoid disturbing potential nests. The result is what the Navy calls “negative training”--the development of bad habits that, if repeated in combat, will cause casualties. At Fort Hood, Texas, unit commanders are forced to “work around” 66,000 acres, or one-third of the training area, to protect the habitat of the golden-cheeked warbler and the black-capped vireo. The restrictions placed on soldiers’ training reduce the realism of combat exercises and makes them less prepared to cope with real battlefield situations. At Camp Pendleton near San Diego, California, the U.S. Fish & Wildlife Service proposed designating more than 57 percent of the base’s 125,000 acres as critical habitat for the endangered California gnat-catcher. That designation, coupled with existing environmental restrictions at Camp Pendleton, would have rendered the base virtually unusable for realistic combat training. Ultimately, the Clinton administration decided not to designate new critical habitat at Camp Pendleton--a decision currently being challenged by environmental groups in court. ESA Particularly Problematic These examples, to which dozens more could be added, underscore the problems the armed services are facing. The Endangered Species Act is particularly crippling. The courts have held that, under the ESA, critical habitat is intended for species recovery. Rather than military lands being used for military purposes, once critical habitat is designated, such lands must be used first for species recovery. With each lawsuit filed by an environmental group under the ESA, more military land threatens to come under the jurisdiction of the statute. The Department of Defense manages more than 450 installations on some 25 million acres in the U.S., providing sanctuary to roughly 300 species listed as threatened or endangered. Ironically, it is the Defense Department’s good stewardship of its lands that has attracted the species ... and the lawsuits. This, of course, is the fate private landowners have suffered for decades. Instead of being subjected to the ESA, the Pentagon would like to continue its practice of protecting species on military installations through Integrated Natural Resources Management Plans (INRMPs), which are required under the Sikes Act and developed in close cooperation with the Department of Interior and state wildlife agencies. This approach has been endorsed by both the Clinton and the Bush administrations. The widespread presence of threatened and endangered species on military bases attests to the effectiveness of INRMPs. Environmental groups opposed to the Pentagon’s approach point out the President already has the authority under certain environmental statutes to waive environmental requirements in case of war or national emergency. However, many environmental statutes do not provide for wartime waivers, and in most that do the President may apply national security exceptions only if doing so is deemed to be in the “paramount interest” of the United States--the highest standard in the nation’s laws. Moreover, notes the Pentagon, military readiness requires training and testing at all times-- not just during national emergencies. Rather than expecting the President to micro-manage training decisions at scores of military bases around the country, the Pentagon argues, those decisions are best left in the hands of local commanders.

#### Strong navy de-escalates all conflict and deters great power war

**Roughead, 7** -- Admiral, US Navy, Chief of Naval Operations

[Gary, James Conway, General, US Marine Corps, and Thad Allen, Admiral, US Coast Guard, "A Cooperative Strategy for 21st Century Seapower," Oct 2007, www.navy.mil/maritime/Maritimestrategy.pdf]

This strategy reaffirms the use of seapower to influence actions and activities at sea and ashore. The expeditionary character and versatility of maritime forces provide the U.S. the asymmetric advantage of enlarging or contracting its military footprint in areas where access is denied or limited. Permanent or prolonged basing of our military forces overseas often has unintended economic, social or political repercussions. The sea is a vast maneuver space, where the presence of maritime forces can be adjusted as conditions dictate to enable flexible approaches to escalation, de-escalation and deterrence of conflicts. The speed, flexibility, agility and scalability of maritime forces provide joint or combined force commanders a range of options for responding to crises. Additionally, integrated maritime operations, either within formal alliance structures (such as the North Atlantic Treaty Organization) or more informal arrangements (such as the Global Maritime Partnership initiative), send powerful messages to would-be aggressors that we will act with others to ensure collective security and prosperity. United States seapower will be globally postured to secure our homeland and citizens from direct attack and to advance our interests around the world. As our security and prosperity are inextricably linked with those of others, U.S. maritime forces will be deployed to protect and sustain the peaceful global system comprised of interdependent networks of trade, finance, information, law, people and governance. We will employ the global reach, persistent presence, and operational flexibility inherent in U.S. seapower to accomplish six key tasks, or strategic imperatives. Where tensions are high or where we wish to demonstrate to our friends and allies our commitment to security and stability, U.S. maritime forces will be characterized by regionally concentrated, forward-deployed task forces with the combat power to limit regional conflict, deter major power war, and should deterrence fail, win our Nation’s wars as part of a joint or combined campaign. In addition, persistent, mission-tailored maritime forces will be globally distributed in order to contribute to homeland defense-in-depth, foster and sustain cooperative relationships with an expanding set of international partners, and prevent or mitigate disruptions and crises. Credible combat power will be continuously postured in the Western Pacific and the Arabian Gulf/Indian Ocean to protect our vital interests, assure our friends and allies of our continuing commitment to regional security, and deter and dissuade potential adversaries and peer competitors. This combat power can be selectively and rapidly repositioned to meet contingencies that may arise elsewhere. These forces will be sized and postured to fulfill the following strategic imperatives: Limit regional conflict with forward deployed, decisive maritime power. Today regional conflict has ramifications far beyond the area of conflict. Humanitarian crises, violence spreading across borders, pandemics, and the interruption of vital resources are all possible when regional crises erupt. While this strategy advocates a wide dispersal of networked maritime forces, we cannot be everywhere, and we cannot act to mitigate all regional conflict. Where conflict threatens the global system and our national interests, maritime forces will be ready to respond alongside other elements of national and multi-national power, to give political leaders a range of options for deterrence, escalation and de-escalation. Maritime forces that are persistently present and combat-ready provide the Nation’s primary forcible entry option in an era of declining access, even as they provide the means for this Nation to respond quickly to other crises. Whether over the horizon or powerfully arrayed in plain sight, maritime forces can deter the ambitions of regional aggressors, assure friends and allies, gain and maintain access, and protect our citizens while working to sustain the global order. Critical to this notion is the maintenance of a powerful fleet—ships, aircraft, Marine forces, and shore-based fleet activities—capable of selectively controlling the seas, projecting power ashore, and protecting friendly forces and civilian populations from attack. Deter major power war. No other disruption is as potentially disastrous to global stability as war among major powers. Maintenance and extension of this Nation’s comparative seapower advantage is a key component of deterring **major power war**. While war with another great power strikes many as improbable, the near-certainty of its ruinous effects demands that it be actively deterred using all elements of national power. The expeditionary character of maritime forces—our lethality, global reach, speed, endurance, ability to overcome barriers to access, and operational agility—provide the joint commander with a range of deterrent options. We will pursue an approach to deterrence that includes a credible and scalable ability to retaliate against aggressors conventionally, unconventionally, and with nuclear forces.

#### Strong navy key to allied response- creates a super-deterrent

**Lyons, 13** -- retired Navy admiral

[James, commander in chief of the U.S. Pacific Fleet and senior U.S. military representative to the United Nations, "Where are the carriers?" Washington Times, 1-15-13, l/]

To keep pressure on and raise the level of deterrence, movement of naval forces, particularly carrier strike groups, must remain unpredictable. In a deteriorating crisis situation, our Navy gains maximum impact by moving the carrier strike group into the crisis area. That sends a special signal of our intent to respond to our potential enemies and to our allies as well. Such a signal has a telling effect on our regional allies and encourages them to employ their air force and naval assets in a coordinated manner, which certainly should raise the deterrent equation.

#### Nuclear war

**England et al., former deputy secretary of defense, 2011**

(Gordon, “The Necessity of U.S. Naval Power”, 7-11, <http://gcaptain.com/necessity-u-s-naval-power?27784>)

The future security environment underscores two broad security trends. First, international political realities and the internationally agreed-to sovereign rights of nations will increasingly limit the sustained involvement of American permanent land-based, heavy forces to the more extreme crises. This will make offshore options for deterrence and power projection ever more paramount in support of our national interests. Second, the naval dimensions of American power will re-emerge as the primary means for assuring our allies and partners, ensuring prosperity in times of peace, and countering anti-access, area-denial efforts in times of crisis. We do not believe these trends will require the dismantling of land-based forces, as these forces will remain essential reservoirs of power. As the United States has learned time and again, once a crisis becomes a conflict, it is impossible to predict with certainty its depth, duration and cost. That said, the U.S. has been shrinking its overseas land-based installations, so the ability to project power globally will make the forward presence of naval forces an even more essential dimension of American influence. What we do believe is that uniquely responsive Navy-Marine Corps capabilities provide the basis on which our most vital overseas interests are safeguarded. Forward presence and engagement is what allows the U.S. to maintain awareness, to deter aggression, and to quickly respond to threats as they arise. Though we clearly must be prepared for the high-end threats, such preparation should be made in balance with the means necessary to avoid escalation to the high end in the first place. The versatility of maritime forces provides a truly unmatched advantage. The sea remains a vast space that provides nearly unlimited freedom of maneuver. Command of the sea allows for the presence of our naval forces, supported from a network of shore facilities, to be adjusted and scaled with little external restraint. It permits reliance on proven capabilities such as prepositioned ships. Maritime capabilities encourage and enable cooperation with other nations to solve common sea-based problems such as piracy, illegal trafficking, proliferation of W.M.D., and a host of other ills, which if unchecked can harm our friends and interests abroad, and our own citizenry at home. The flexibility and responsiveness of naval forces provide our country with a general strategic deterrent in a potentially violent and unstable world. Most importantly, our naval forces project and sustain power at sea and ashore at the time, place, duration, and intensity of our choosing. Given these enduring qualities, tough choices must clearly be made, especially in light of expected tight defense budgets. The administration and the Congress need to balance the resources allocated to missions such as strategic deterrence, ballistic missile defense, and cyber warfare with the more traditional ones of sea control and power projection. The maritime capability and capacity vital to the flexible projection of U.S. power and influence around the globe must surely be preserved, especially in light of available technology. Capabilities such as the Joint Strike Fighter will provide strategic deterrence, in addition to tactical long-range strike, especially when operating from forward-deployed naval vessels. Postured to respond quickly, the Navy-Marine Corps team integrates sea, air, and land power into adaptive force packages spanning the entire spectrum of operations, from everyday cooperative security activities to unwelcome — but not impossible — wars between major powers. This is exactly what we will need to meet the challenges of the future.