## 1NC

### 1NC-T restriction

#### Restrictions are prohibitions on action --- the aff is a regulation

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.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### Vote neg---

#### Only prohibitions on authority guarantee neg ground---their interpretation lets affs no link the best neg offense like deference

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

### 1NC- OLC CP

#### The Counsel to the President of the United States should request to the Office of Legal Counsel for legal counsel and coordination on the President’s war powers authority. The Office of Legal Counsel should advise the president to substantially increase National Environmental Policy Act restrictions on the introduction of Armed Forces into hostilities.

**Constraints through executive coordination solves signaling**

**POSNER & VERMEULE 2006** --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

IV. Executive Signaling: Law and Mechanisms

We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.

This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government.

Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types.

We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility.

A. A Preliminary Note on Law and Self-Binding

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future**.** A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.

More schematically, we may speak of formal and informal means of self-binding:

(1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.

(2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

B. Mechanisms

What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal.

Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs. The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor. Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82

We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it.

Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one.

The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior.

Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86

Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress.

A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences.

The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other.

More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public.

Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit.

Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky.

Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.

Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong.96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward presidents who give them access by portraying their decisionmaking in a favorable light.97

We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well-motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.

### 1NC-Flex DA

#### Courts limit presidential authority

POSNER 2011 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, <http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf>)

Second, the problem might lie in the nature of foreign relations and national security. These areas of action have been notoriously difficult to bring under legal control. Courts have frequently have been asked to adjudicate national security disputes between Congress and the President. Generally speaking, courts have resisted these requests, treating these issues as political questions or nonjusticiable for other reasons.71 The usual explanation for this resistance is that courts are not experts on these issues; that the highly fluid, frequently changing nature of foreign relations and national security makes them unsuitable for slow, rule‐bound, public, and decentralized resolution; and that, accordingly, courts fear that if they intervene, the executive branch will ignore their rulings, provoking a constitutional crisis.72

#### The aff constrains us war powers would uniquely decimate Obama and the military’s ability to deter enemies ---- makes terrorism and global nuclear war more likely

WAXMAN 2013 - law professor at Columbia Law School, co-chairs the Roger Hertog Program on Law and National Security (Matthew Waxman, “The Constitutional Power to Threaten War,” August 27, 2013, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777)

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they may constrain U.S. actions but because they may send signals and shape other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision 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.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case reflects the broad constitutional discretion presidents now have to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war are not just expansive but largely beyond Congress’s authority to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the diplomatic weapon is the possibility of dissidence at home which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms. Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … are matters of presidential competence. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military action – endowed with what Alexander Hamilton called “[d]ecision, activity, secrecy, and dispatch”116 – best protects American interests. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region.

Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more immediate and informed impact on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – provides more information to adversaries regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175 As applied to strategies of threatened force, generally under these proposals the President would lack authority to make good on them unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued: In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the *most* important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

### 1NC- Security K

#### The 1AC’s threats are not real or objective but are filtered through a lens of threat-action discourse – that causes violence

**Grondin 4** (David, Masters in Political Science & Ph.D. Candidate – University of Ottawa, “(Re)Writing the ‘National Security State,’ Center for United States Studies)

Approaches that deconstruct theoretical practices in order to disclose what is hidden in the use of concepts such as “national security” have something valuable to say. Their more reflexive and critically-inclined view illustrates how terms used in realist discourses, such as state, anarchy, world order, revolution in military affairs, and security dilemmas, are produced by a specific historical, geographical and socio-political context as well as historical forces and social relations of power (Klein, 1994: 22). Since realist analysts do not question their ontology and yet purport to provide a neutral and objective analysis of a given world order based on military power and interactions between the most important political units, namely states, realist discourses constitute a political act in defense of the state. Indeed, “[…] it is important to recognize that to employ a textualizing approach to social policy involving conflict and war is not to attempt to reduce social phenomena to various concrete manifestations of language. Rather, it is an attempt to analyze the interpretations governing policy thinking. And it is important to recognize that policy thinking is not unsituated” (Shapiro, 1989a: 71). Policy thinking is practical thinking since it imposes an analytic order on the “real world”, a world that only exists in the analysts’ own narratives. In this light, Barry Posen’s political role in legitimizing American hegemonic power and national security conduct seems obvious: U.S. command of the commons provides an impressive foundation for selective engagement. It is not adequate for a policy of primacy. […] Command of the commons gives the United States a tremendous capability to harm others. Marrying that capability to a conservative policy of selective engagement helps make U.S. military power appear less threatening and more tolerable. Command of the commons creates additional collective goods for U.S. allies. These collective goods help connect U.S. military power to seemingly prosaic welfare concerns. U.S. military power underwrites world trade, travel, global telecommunications, and commercial remote sensing, which all depend on peace and order in the commons” (Posen, 2003: 44 and 46). Adopting a more critical stance, David Campbell points out that “[d]anger is not an objective condition. It (sic) is not a thing which exists independently of those to whom it may become a threat. […] Nothing is a risk in itself; [...] it all depends on how one analyses the danger, considers the event” (Campbell, 1998: 1-2). In the same vein, national security discourse does not evaluate objective threats; rather, it is itself a product of historical processes and structures in the state and society that produces it. Whoever has the power to define security is then the one who has the authority to write legitimate security discourses and conduct the policies that legitimize them. The realist analysts and state leaders who invoke national security and act in its name are the same individuals who hold the power to securitize threats by inserting them in a discourse that frames national identity and freezes it.9 Like many concepts, realism is essentially contested. In a critical reinterpretation of realism, James Der Derian offers a genealogy of realism that deconstructs the uniform realism represented in IR: he reveals many other versions of realism that are never mentioned in International Relations texts (Der Derian, 1995: 367). I am aware that there are many realist discourses in International Relations, but they all share a set of assumptions, such as “the state is a rational unitary actor”, “the state is the main actor in international relations”, “states pursue power defined as a national interest”, and so on. I want to show that realism is one way of representing reality, not the reflection of reality. While my aim here is not to rehearse Der Derian’s genealogy of realism, I do want to spell out the problems with a positivist theory of realism and a correspondence philosophy of language. Such a philosophy accepts nominalism, wherein language as neutral description corresponds to reality. This is precisely the problem of epistemic realism and of the realism characteristic of American realist theoretical discourses. And since for poststructuralists language constitutes reality, a reinterpretation of realism as constructed in these discourses is called for.10 These scholars cannot refer to the “essentially contested nature of realism” and then use “realism as the best language to reflect a self-same phenomenon” (Der Derian, 1995: 374). Let me be clear: I am not suggesting that the many neorealist and neoclassical realist discourses in International Relations are not useful. Rather, I want to argue that these technicist and scientist forms of realism serve political purposes, used as they are in many think tanks and foreign policy bureaucracies to inform American political leaders. This is the relevance of deconstructing the uniform realism (as used in International Relations): it brings to light its locatedness in a hermeneutic circle in which it is unwittingly trapped (Der Derian, 1995: 371). And as Friedrich Kratochwil argues, “[…] the rejection of a correspondence theory of truth does not condemn us, as it is often maintained, to mere ‘relativism’ and/or to endless “deconstruction” in which anything goes but it leaves us with criteria that allows us to distinguish and evaluate competing theoretical creations” (Kratochwil, 2000 : 52). Given that political language is not a neutral medium that gives expression to ideas formed independently of structures of signification that sustain political action and thought, American realist discourses belonging to the neorealist or neoclassical realist traditions cannot be taken as mere descriptions of reality. We are trapped in the production of discourses in which national leaders and security speech acts emanating from realist discourses develop and reinforce a notion of national identity as synonymous with national security. U.S. national security conduct should thus be understood through the prism of the theoretical discourses of American political leaders and realist scholars that co-constitute it. Realist discourses depict American political leaders acting in defense of national security, and political leaders act in the name of national security. In the end, what distinguishes realist discourses is that they depict the United States as having behaved like a national security state since World War II, while legitimating the idea that the United States should continue to do so. Political scientists and historians “are engaged in making (poesis), not merely recording or reporting” (Medhurst, 2000: 17). Precisely in this sense, rhetoric is not the description of national security conduct; it constitutes it. It is difficult to trace the exact origins of the concept of “national security”. It seems however that its currency in policymaking circles corresponds to the American experience of the Second World War and of the early years of what came to be known as the “Cold War”. In this light, it is fair to say that the meaning of the American national security state is bound up with the Cold War context. If one is engaged in deciphering the meaning of the Cold War prism for American leaders, what matters is not uncovering the “reality” of the Cold War as such, but how, it conferred meaning and led people to act upon it as “reality”. The Cold War can thus be seen as a rhetorical construction, in which its rhetorical dimensions gave meaning to its material manifestations, such as the national security state apparatus. This is not to say that the Cold War never existed per se, nor does it “make [it] any less real or less significant for being rhetorical” (Medhurst, 2000: 6). As Lynn Boyd Hinds and Theodore Otto Windt, Jr. stress, “political rhetoric creates political reality, structures belief systems, and provides the fundamental bases for decisions” (Hinds and Windt, cited in Medhurst, 2000: 6). In this sense, the Cold War ceases to be a historical period which meaning can be written permanently and becomes instead a struggle that is not context-specific and not geared towards one specific enemy. It is “an orientation towards difference in which those acting on behalf of an assumed but never fixed identity are tempted by the lure of otherness to interpret all dangers as fundamental threats which require the mobilization of a population” (Campbell, 2000: 227). Indeed, if the meaning of the Cold War is not context-specific, the concept of national security cannot be disconnected from what is known as the Cold War, since its very meaning(s) emerged within it (Rosenberg, 1993 : 277).11 If the American national security state is a given for realist analysts,12 it is important to ask whether we can conceive the United States during the Cold War as anything other than a national security state.13 To be clear, I am not suggesting that there is any such essentialized entity as a “national security state”.14 When I refer to the American national security state, I mean the representation of the American state in the early years of the Cold War, the spirit of which is embodied in the National Security Act of 1947 (Der Derian, 1992: 76). The term “national security state” designates both an institutionalization of a new governmental architecture designed to prepare the United States politically and militarily to face any foreign threat and the ideology – the discourse – that gave rise to as well as symbolized it. In other words, to understand the idea of a national security state, one needs to grasp the discursive power of national security in shaping the reality of the Cold War in both language and institutions (Rosenberg, 1993 : 281). A national security state feeds on threats as it channels all its efforts into meeting current and future military or security threats. The creation of the CIA, the Department of Defense, the Joint Chiefs of Staff, and the National Security Council at the onset of the Cold War gave impetus to a state mentality geared to permanent preparedness for war. The construction of threats is thus essential to its well-being, making intelligence agencies privileged tools in accomplishing this task. As American historian of U.S. foreign relations Michael Hogan observes in his study on the rise of the national security state during the Truman administration, “the national security ideology framed the Cold War discourse in a system of symbolic representation that defined America’s national identity by reference to the un-American ‘other,’ usually the Soviet Union, Nazi Germany, or some other totalitarian power” (Hogan, 1998: 17). Such a binary system made it difficult for any domestic dissent from U.S. policy to emerge – it would have “amounted to an act of disloyalty” (Hogan, 1998: 18).15 While Hogan distinguishes advocates from critics of the American national security state, his view takes for granted that there is a given and fixed American political culture that differs from the “new” national security ideology. It posits an “American way”, produced by its cultural, political, and historical experience. Although he stresses that differences between the two sides of the discourse are superficial, pertaining solely to the means, rather than the ends of the national security state, Hogan sees the national security state as a finished and legitimate state: an American state suited to the Cold War context of permanent war, while stopping short of a garrison state: Although government would grow larger, taxes would go up, and budget deficits would become a matter of routine, none of these and other transformations would add up to the crushing regime symbolized in the metaphor of the garrison state. The outcome instead would be an American national security state that was shaped as much by the country’s democratic political culture as it was by the perceived military imperatives of the Cold War (Hogan, 1998: 22). I disagree with this essentialist view of the state identity of the United States. The United States does not need to be a national security state. If it was and is still constructed as such by many realist discourses, it is because these discourses serve some political purpose. Moreover, in keeping with my poststructuralist inclinations, I maintain that identity need not be, and indeed never is, fixed. In a scheme in which “to say is to do”, that is, from a perspective that accepts the performativity of language, culture becomes a relational site where identity politics happens rather than being a substantive phenomenon. In this sense, culture is not simply a social context framing foreign policy decision-making. Culture is “a signifying part of the conditions of possibility for social being, […] the way in which culturalist arguments themselves secure the identity of subjects in whose name they speak” (Campbell, 1998: 221). The Cold War national security culture represented in realist discourses was constitutive of the American national security state. There was certainly a conflation of theory and policy in the Cold War military-intellectual complex, which “were observers of, and active participants in, defining the meaning of the Cold War. They contributed to portray the enemy that both reflected and fueled predominant ideological strains within the American body politic. As scholarly partners in the national security state, they were instrumental in defining and disseminating a Cold War culture” (Rubin, 2001: 15). This national security culture was “a complex space where various representations and representatives of the national security state compete to draw the boundaries and dominate the murkier margins of international relations” (Der Derian, 1992: 41). The same Cold War security culture has been maintained by political practice (on the part of realist analysts and political leaders) through realist discourses in the post-9/11 era and once again reproduces the idea of a national security state. This (implicit) state identification is neither accidental nor inconsequential. From a poststructuralist vantage point, the identification process of the state and the nation is always a negative process for it is achieved by exclusion, violence, and marginalization. Thus, a deconstruction of practices that constitute and consolidate state identity is necessary: the writing of the state must be revealed through the analysis of the discourses that constitute it. The state and the discourses that (re)constitute it thus frame its very identity and impose a fictitious “national unity” on society; it is from this fictive and arbitrary creation of the modernist dichotomous discourses of inside/outside that the discourses (re)constructing the state emerge. It is in the creation of a Self and an Other in which the state uses it monopolistic power of legitimate violence – a power socially constructed, following Max Weber’s work on the ethic of responsibility – to construct a threatening Other differentiated from the “unified” Self, the national society (the nation).16 It is through this very practice of normative statecraft,17 which produces threatening Others, that the international sphere comes into being. David Campbell adds that it is by constantly articulating danger through foreign policy that the state’s very conditions of existence are generated18.

#### Security logic causes devaluation and extinction

Burke 7 (Anthony, lecturer of IR at U New South Wales, “Ontologies of War: Violence, Existence and Reason,” December 7, <http://www.hopkins-debate.com/pdf/Burke.pdf>)

Bacon thought of the new scientific method not merely as way of achieving a purer access to truth and epistemological certainty, but as liberating a new power that would enable the creation of a new kind of Man. He opened the Novum Organum with the statement that 'knowledge and human power are synonymous', and later wrote of his 'determination...to lay a firmer foundation, and extend to a greater distance the boundaries of human power and dignity'.67 In a revealing and highly negative comparison between 'men's lives in the most polished countries of Europe and in any wild and barbarous region of the new Indies' -- one that echoes in advance Kissinger's distinction between post-and pre-Newtonian cultures -- Bacon set out what was at stake in the advancement of empirical science: anyone making this comparison, he remarked, 'will think it so great, that man may be said to be a god unto man'.68 # We may be forgiven for blinking, but in Bacon's thought 'man' was indeed in the process of stealing a new fire from the heavens and seizing God's power over the world for itself. Not only would the new empirical science lead to 'an improvement of mankind's estate, and an increase in their power over nature', but would reverse the primordial humiliation of the Fall of Adam: For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, 'in the sweat of thy brow thou shalt eat bread'; she is now compelled by our labours (not assuredly by our disputes or magical ceremonies) at length to afford mankind in some degree his bread...69 # There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70 # And what would be mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. Doubts and Fears: Technology as Ontology # If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed: ...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71 # By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72 # Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. Man's empire over creation -- his discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment now threatened its total and absolute destruction. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. # Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 # Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good. # Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth. # Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 # This process Heidegger calls 'Enframing' and through it the scientific mind demands that 'nature reports itself in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes trapped within its logic. Man, he writes, 'comes to the very brink of a precipitous fall...where he himself will have to be taken as standing-reserve. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter.

#### The alt is to vote negative to critique the aff’s security discourse as a prior question – framing comes first

**Cheeseman and Bruce 96** (Graeme, Senior Lecturer @ New South Wales, and Robert, editor, widespread author on security, Discourses of Danger & Dread Frontiers, p. 5-9)

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of professional security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defence and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluation of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s identity are both required and essential if Australia’s thinking on defence and security is to be invigorated. This is not a conventional policy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is in itself a considerable part of the problem to be analysed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defence and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom or remain outside the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the policy debate the critics need to reframe the basic terms of reference. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’.15 The demand, tacit or otherwise, that the policy-maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies which, during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because there were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it meant that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defence and security. This book also questions the distinctions between policy practice and academic theory that inform conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defence and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognise, no matter how uncomfortable it feels, that what is involved in theory and practice is not the ability to identify a replacement for failed models, but a realisation that terms and concepts – state sovereignty, balance of power, security, and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policy-makers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much of interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find no single, fully formed panacea for the world’s ills in general, or Australia’s security in particular. There are none. Every chapter, however, in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defence and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defence practice. Others (chapters 3, 4, 5, 6 and 8) seek to alert policy-makers, academics and students to alternative theoretical possibilities which might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought processes of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt (in place of confident certainty) is a necessary prelude to a genuine search for alternative policies. First comes an awareness of the need for new perspectives, then specific policies may follow. As Jim George argues in the following chapter, we need to look not so much at contending policies as they are made for us but at challenging ‘the discursive process which gives [favoured interpretations of “reality”] their meaning and which direct [Australia’s] policy/analytical/military responses’. This process is not restricted to the small, official defence and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defence and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as is revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defence and security studies. The chapters graphically illustrate how Australia’s public policies on defence and security are informed, underpinned and legitimised by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisors are unaware of broader intellectual debates, or resistant to them, or choose not to understand them, and why?

### Warming Adv.

#### The aff can’t solve climate change- China, Indonesia, and India

Gordon and Davenport 2/16 (Michael and Coral, staff writers for the New York Times, “Kerry Urges Indonesia to Help Stem Climate Change”, http://www.nytimes.com/2014/02/17/world/asia/kerry-urges-indonesia-to-help-stem-climate-change.html///TS)

Mr. Kerry has pointed out, however, that unilateral action by the United States will not slow the rate of global warming significantly unless other large economies commit to carbon cuts, as well. China recently surpassed the United States as the world’s largest emitter of greenhouse gases into the atmosphere, and emissions across Asia are projected to surge in the coming decades, as millions more people in the developing economies there begin to drive automobiles and gain access to electric power. Indonesia is in third place, after China and the United States. The chief source of the country’s emissions is deforestation, but as its growing population depends increasingly on electricity from cheap coal-fired power plants, the country’s emissions are expected to grow rapidly in coming decades.

#### Warming isnt rapid

McGrath ’13 (Matt McGrath, Environment correspondent, BBC News, “Climate slowdown means extreme rates of warming 'not as likely'”, http://www.bbc.co.uk/news/science-environment-22567023, May 19, 2013)

Scientists say the recent downturn in the rate of global warming will lead to lower temperature rises in the short-term. Since 1998, there has been an unexplained "standstill" in the heating of the Earth's atmosphere. Writing in Nature Geoscience, the researchers say this will reduce predicted warming in the coming decades. But long-term, the expected temperature rises will not alter significantly. “Start Quote The most extreme projections are looking less likely than before” Dr Alexander Otto University of Oxford The slowdown in the expected rate of global warming has been studied for several years now. Earlier this year, the UK Met Office lowered their five-year temperature forecast. But this new paper gives the clearest picture yet of how any slowdown is likely to affect temperatures in both the short-term and long-term. An international team of researchers looked at how the last decade would impact long-term, equilibrium climate sensitivity and the shorter term climate response. Transient nature Climate sensitivity looks to see what would happen if we doubled concentrations of CO2 in the atmosphere and let the Earth's oceans and ice sheets respond to it over several thousand years. Transient climate response is much shorter term calculation again based on a doubling of CO2. The Intergovernmental Panel on Climate Change reported in 2007 that the short-term temperature rise would most likely be 1-3C (1.8-5.4F). But in this new analysis, by only including the temperatures from the last decade, the projected range would be 0.9-2.0C. Ice The report suggests that warming in the near term will be less than forecast "The hottest of the models in the medium-term, they are actually looking less likely or inconsistent with the data from the last decade alone," said Dr Alexander Otto from the University of Oxford. "The most extreme projections are looking less likely than before."

#### We adapt

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

These statements arelargely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences**.** The science and economicsof climate change is quite clear that emissions over the next few decades will lead to onlymild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these **“**potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### Archeology disproves environmental extinction

AFP ’13 (Agence France-Presse, “Climate change boosted human development: study”, May 21, 2013)

PARIS — Early humans living in South Africa made cultural and industrial leaps in periods of wetter weather, said a study Tuesday that compared the archaeological record of Man's evolution with that of climate change. Anatomically modern humans, Homo sapiens, first made their appearance in Africa during the Middle Stone Age which lasted from about 280,000 to 30,000 years ago. Some of the earliest examples of human culture and technology are found in South Africa -- with fossil evidence of innovative spurts whose cause has left scientists puzzled. The record reveals that a notable period of human advancement occurred about 71,500 years ago, and another between 64,000 and 59,000 years ago. Examples of such innovation include the use of symbols, linked to the development of complex language, in engravings, the manufacture and use of stone tools and personal adornment with shell jewellery. "We show for the first time that the timing of... these periods of innovation coincided with abrupt climate change," study co-author Martin Ziegler of the Cardiff University School of Earth and Ocean Sciences told AFP of the study in the journal Nature Communications. "We found that South Africa experienced wetter conditions during these periods of cultural advance. "At the same time, large parts of sub-Saharan Africa experienced drier conditions, so that South Africa potentially acted as a refugium for early humans." Ziegler and a team reconstructed the South African climate over the past 100,000 years using a sediment core drilled out from the country's east coast. The core shows changes in river discharge and rainfall. "It offers for the first time the possibility to compare the archaeological record with a record of climate change over the same period and thus helps us to understand the origins of modern humans," Ziegler said by email. Co-author Chris Stringer of London's Natural History Museum said the findings supported the view that population growth fuelled cultural advancement through increased human interactions. "Such climate-driven pulses in southern Africa and more widely were probably fundamental to the origin of key elements of modern human behaviour in Africa and to the subsequent dispersal of Homo sapiens from its ancestral homeland," concluded the study.

#### Stability will survive without US hegemony

Fettweis ‘10 (Chris Fettweis, Professor of national security affairs @ U.S. Naval War College, Georgetown University Press, “Dangerous times?: the international politics of great power peace” Google Books)

Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that a generally in the interests of all countries to follow. Without a benevolent hegemony, some strategists fear, instability may break out around the globe. Unchecked conflicts could cause humanitarian disaster and, in today’s interconnected world economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would “become a more dangerous place” and, sooner or later, that would “rebound to America’s detriment.” If the massive spending that the United States engages in actually produces stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, the belief that U.S. hegemony is not the primary cause of the current era of stability. First of all, the hegemonic stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can be stability in the community of great powers is if self-policing occurs, ifs states have decided that their interest are served by peace. If no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world’s population that live in the United States simple could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States may be patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to be the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to be especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influence those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s the United States cut back on its defense spending fairly substantially, By 1998 the United States was spending $100 billion less on defense in real terms than it had in 1990. To internationalists, defense hawks, and other believers in hegemonic stability this irresponsible "peace dividend" endangered both national and global security "No serious analyst of American military capabilities," argued Kristol and Kagan, "doubts that the defense budget has been cut much too far to meet Americas responsibilities to itself and to world peace."" If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable Pentagon, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove mistrust and arms races; no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat ofinternational war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

#### Chinese can effectively use soft power now, which is uniquely effective- US model fails

**Hölkemeyer 12-6**-13 [Patricia Rodríguez Hölkemeyer, research professor and deputy director of the School of Political Science at the University of Costa Rica, Honorary Member of the Academy Research Center of Central Private, “China's forthcoming soft power as a natural result of international events,” <http://www.china.org.cn/china/Chinese_dream_dialogue/2013-12/06/content_30822607.htm>]

On the other side, Deng'saphorism that China should never strive to attain global hegemony has been widely respected by its leaders and reformers. Nevertheless, today circumstances have changed. China's ancient thinkers rejected the idea of searching for hegemony through stratagems, and favored instead the accomplishment of what Mencius and Xuzi called humane authority. Nevertheless, at the present moment China does not need to strive for the attainment of a leading role because the present world circumstances are catapulting her to become a world superpower. What are the present world circumstances that have put China in the position to have a say in international affairs without having to strive for hegemony? Why is the Western 'presumptive paradigm' (Rodrik)for development failing contrastingly to the pragmatic and experimental learning paradigm of the Chinese reformers that Joshua Cooper Ramo dubbed the Beijing Consensus? The ex-ante presumption of knowledge, a characteristic of the Western countries and global institutions, very probably will be ceding its place to a Deweyian pragmatic change of paradigm, according to which, even the mere conception of what is the best form of democracy is fallible and contextual. ¶ Very probably, the paradigm of 'arrogance' will be giving place to a paradigm based on what the political scientist, Karl Deutsch, once called 'humility'. Deutsch defined its opposite "arrogance" as the posture of permitting oneself the luxury of not to learn (because it is supposed that one has already learned everything), while he defines 'humility' as the attitude of the political leader who is always open to learning from others. The West has forgotten that the concept of feedback (learning form the other) is the biggest bite to the tree of knowledge that humanity has undertaken in the last two thousand years (Bateson). A new concept of democracy has to take into consideration this advancement as the Chinese reform process has done. Western countries' presumptive frame of mind has been slowly losing momentum. The present circumstances provide a clear indication that one of the most cared institutions, the Western multiparty democracy system, has been losing its ability to learn, and thus, its capacity to offer creative solutions to its own and the world's problems. As a former US Ambassador to China said two years ago, the willingness of Chinese leaders to learn from their errors and adapt to new circumstances "differs sharply from what one encounters in Washington, where there's such concern over our inability to correct the problems that are making our political system — in the eyes of many Americans — increasingly dysfunctional."¶ The US has to enhance its learning capacity if it wants to lead in world affairs in cooperation with the newly emerging superpower. The West has to acknowledge that the so called American values are not universal, that harmony implies unity in diversity, that the concept of democracy is fallible and mutable, and that hegemony has to cede to a well gained humane authority, not only abroad but domestically.¶ Since W. W. II, the US attained the soft power that China lacked. Nevertheless, the US insistence in the maintenance of an hegemonic international order applying the smart power (a new concept of Joseph Nye) stratagems, has culminated in the observed failure of the misnamed Arab Spring, even if the application of smart power (instigation through political activism, and the posterior use of military power if necessary) was partially successful in the so called Color Revolutions (Rodríguez-Hölkemeyer, 2013).¶ Given the present circumstances (as the effects of 9/11, the global financial crisis, the formation of the G20, the global rejection of US espionage stratagems, the failure of the Pivot to the East policy due to the attention the US had to devote to the failed Arab Spring, to an ailing Europe, and to its own domestic financial and political problems) China's possibilities to acquire soft power and to exert its positive influence way the international governing institutions and in international relations, are now real. The world needs a new international relations paradigm, other than the Western style democracy promotion policy through political activism (see the book of the present US Ambassador to Russia, Michael McFaul, Advancing Democracy Abroad)orchestrated by organized minorities (NGOs) who want to impose the so called 'American values' in countries with different historical paths, culture and aspirations. The new paradigm will have to be founded in ethics, wisdom, cooperation, confidence-building, and on the recognition that knowledge is fallible and hypothetical, and that with globalization world circumstances and interactions are prone to change. This new paradigm has already been successfully tested in the 35 years of China's own economic and institutional reform process and diplomatic practice. This adaptive and learning-prone attitude of the Chinese leaders, even to the point of adapting (not adopting) western suggestions and institutions when necessary, is the underlying cause of the success of the admirable and unique Chinese development path. As Mencius and Xuzi's observations suggest that a country cannot exert international influence if its own house is not in order.¶ In sum, the present article states that now China possesses a substantive experiential wisdom to start a very productive dialogue with the World. Especially in a moment when it is beginning to be clear to many in the World, that to strive for maintaining a hegemonic world order (Mearsheimer) by means of dubious stratagemsis --according to Lao Tzu thought—the kind of response when intentions are going against the natural course of events.

#### US influence trades off with China’s- competing narratives

**Dynon ’13** [Nicholas, PhD candidate at Macquarie University and is coordinator of the Line 21 project, an online resource on Chinese public diplomacy, has served diplomatic postings in Shanghai, Beijing and the Fiji Islands, worked in Australia’s Parliament House as a departmental liaison officer to the Immigration Minister, holds postgraduate degrees from the ANU and the University of Sydney, “Soft Power: A U.S.-China Battleground?” June 19, <http://thediplomat.com/2013/06/soft-power-a-u-s-china-battleground/>]

Strip away the ostensibly benign surface of public diplomacy, cultural exchanges and language instruction, and it becomes clear that the U.S. and China are engaged in a soft power conflagration – a protracted cultural cold war. On one side bristles incumbent Western values hegemon, the U.S. On the other is China, one of the non-Western civilizations that Samuel Huntington noted back in 1993 “increasingly have the desire, the will and the resources to shape the world in non-Western ways.”¶ But to shape the world in non-Western ways means engaging in a soft power battlespace against an incumbent who already holds the high ground. Liu comments that in regions deeply influenced by Western cultures, political systems and values, the “latecomer” China is considered a “dissident force." Under such circumstances, “it is rather difficult for China to attract Western countries with its own political and cultural charisma, let alone to replace their positions.”¶ According to this and similar viewpoints, China’s difficulty in projecting soft power across the world is in part due to the way the U.S. leverages its own soft power. Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that U.S. soft power is driven by the imperative of “maintaining US hegemony in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as the “China threat theory,” which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken myriad internal measures to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### Chinese soft power restrains aggression- solves regional stability

**Huang ’13** [Chin-Hao Huang, Ph.D. Candidate and a Russell Endowed Fellow in the Political Science and International Relations (POIR) Program at the University of Southern California (USC). Until 2009, he was a researcher at the Stockholm International Peace Research Institute (SIPRI) in Sweden. He specializes in international security and comparative politics, especially with regard to China and Asia, and he has testified before the Congressional U.S.-China Economic and Security Review Commission on Chinese foreign and security policy, “China’s Soft Power in East Asia,” <http://dornsife.usc.edu/assets/sites/451/docs/Huang_FINAL_China_Soft_Power_and_Status.pdf>]

China’s authoritarian regime is thus the biggest obstacle to its efforts to construct and project soft ¶ power. At the same time, if the government decides to take a different tack—a more constructive ¶ approach that embraces multilateralism—**Chinese soft power could be a positive force multiplier that contributes to peace and stability in the region**. A widely read and cited article published in ¶ Liaowang, a leading CCP publication on foreign affairs, reveals that there are prospects for China being socialized into a less disruptive power that complies with regional and global norms: ¶ Compared with past practices, China’s diplomacy has indeed displayed a new face. If China’s diplomacy before the 1980s stressed safeguarding of national ¶ security, and its emphasis from the 1980s to early this century is on the creation ¶ of an excellent environment for economic development, then the focus at ¶ present is to take a more active part in international affairs and play the role that a responsible power should on the basis of satisfying the security and ¶ development interests.47 The newly minted leadership in Beijing provides China with an opportunity to reset its soft-power approach and the direction of its foreign policy more generally. If the new leadership pursues a ¶ different course, Washington should seize on this opportunity to craft an effective response to ¶ better manage U.S.-China relations and provide for greater stability in the Asia-Pacific region. For example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • The U.S. pivot to the region could be further complemented with an increase in soft-power promotion, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific. Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

#### Causes nuclear war- draws in the US

**Eland 12-10**-13 [Ivan Eland,PhD in Public Policy from George Washington University, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including Principal Defense Analyst at the Congressional Budget Office, has served as Evaluator-in-Charge for the U.S. General Accounting Office, “Stay Out of Petty Island Disputes in East Asia,” <http://www.huffingtonpost.com/ivan-eland/stay-out-of-petty-island-_b_4414811.html>]

One of the most dangerous international disputes that the United States could get dragged into has little importance to U.S. security -- the disputes nations have over small islands (some really rocks rising out of the sea) in East Asia. Although any war over these islands would rank right up there with the absurd Falkland Islands war of 1982 between Britain and Argentina over remote, windswept sheep pastures near Antarctica, any conflict in East Asia always has the potential to escalate to nuclear war. And unlike the Falklands war, the United States might be right in the atomic crosshairs.¶ Of the two antagonists in the Falklands War, only Britain had nuclear weapons, thus limiting the possibility of nuclear escalation. And although it is true that of the more numerous East Asian contenders, only China has such weapons, the United States has formal alliance commitments to defend three of the countries in competition with China over the islands -- the Philippines, Japan, and South Korea -- and an informal alliance with Taiwan. Unbeknownst to most Americans, those outdated alliances left over from the Cold War implicitly still commit the United States to sacrifice Seattle or Los Angeles to save Manila, Tokyo, Seoul, or Taipei, should one of these countries get into a shooting war with China. Though a questionable tradeoff even during the Cold War, it is even less so today. The "security" for America in this implicit pledge has always rested on avoiding a faraway war in the first place using a tenuous nuclear deterrent against China or any other potentially aggressive power. The deterrent is tenuous, because friends and foes alike might wonder what rational set of U.S. leaders would make this ridiculously bad tradeoff if all else failed. ¶ Of course these East Asian nations are not quarreling because the islands or stone outcroppings are intrinsically valuable, but because primarily they, depending on the particular dispute involved, are in waters that have natural riches -- fisheries or oil or gas resources. ¶ In one dispute, the Senkaku or Diaoyu dispute -- depending on whether the Japanese or Chinese are describing it, respectively -- the United States just interjected itself, in response to the Chinese expansion of its air defense zone over the islands, by flying B-52 bombers through this air space to support its ally Japan. The United States is now taking the nonsensical position that it is neutral in the island kerfuffle, even though it took this bold action and pledged to defend Japan if a war ensues. Predictably and understandably, China believes that the United States has chosen sides in the quarrel.¶ Then to match China, South Korea extended its own air defense zone -- so that it now overlaps that of both China and Japan. But that said, as a legacy of World War II, South Korea seems to get along better with China, its largest trading partner, than it does with Japan. Also, South Korea and Japan have a dispute over the Dokdo or Takeshima Islands, depending on who is describing them, in the Sea of Japan. Because the United States has a formal defense alliance with each of those nations and stations forces in both, which would it support if Japan and South Korea went to war over the dispute? It's anyone's guess.

#### Obama cant handle international strategies- he’s running out the clock

**Carafano 1-21**-14 [James Jay Carafano is vice president of defense and foreign policy issues at The Heritage Foundation, “Obama's Foreign Policy to Nowhere,” http://nationalinterest.org/commentary/obamas-foreign-policy-nowhere-9741?page=show]

Sir Hew Strachan, an advisor to the Chief of the British Defense Staff, made some ripples across the pond with his judgment on the U.S. president’s foreign policy. “Obama has no sense of what he wants to do in the world,” Strachan said.¶ Coming from a world-class military historian, it was a stunning rebuke.¶ Strachan gives Mr. Obama’s Middle East policy, specifically his muddled approach to Syria, two thumbs down. Obama's initiative there, he says, has taken the situation on the ground "backwards instead of forwards." That’s just one conclusion he delivers in his forthcoming book, The Direction of War, which evaluates how modern political leaders utilize strategy.¶ Portraying Obama as the Inspector Clouseau of foreign policy may pump Strachan's book sales. (After all, it worked for Gates.) But his assessment seems a bit off the mark.¶ Since the start of his second term, Mr. Obama has exhibited a pretty clear idea of what he wants to do in the world—and that is to have as little as possible to do with it until he gets out of office. The President's primary objective appears to be "no more Benghazis"—just ride out the second term, go build a library, and then mimic the line of his first former defense secretary: “Hey, everything was fine when I left!”¶ A penchant for risk-aversion seems to be the chief hallmark of U.S. foreign policy today. The "red line" over Syria’s use of chemical weapons, a particular target of Strachan's academic scorn, is a case in point. It was a way of doing nothing about that nation’s spiraling civil war. No one appeared more unprepared than the president when it turned out that the red line would actually require the U.S. to get engaged. Likewise, leaping at the chemical weapons deal was all too predictable. It offered the White House a quick exit from getting drawn more deeply into the conflict.¶ But Obama faces an enduring dilemma. As Syria showed, while he might want to leave the world alone, the world doesn't seem to feel the same way about the United States. There is just too much time left in office to coast till the end, pack up the Nobel Prize, and move back to Hawaii. The Oval Office has found it has to do something to fill the vacuum, opening space for other influences to drive foreign affairs—as long as they don’t push the president too far from his chosen path.¶ So a second vector has sprouted up to drive the direction of U.S. foreign policy, one not too far from the president's heart: an infatuation with multilateral process. This scratches Mr. Obama's progressive itch. It is an item of progressive faith that, as long as we’re “engaged in a process" and mean well, we must be making progress. Thus, multilateral process became the fallback solution for Syria, once the red line gave way. The U.S. is currently engaged in multiparty talks about Syria in Geneva. Likewise, the administration is upbeat about “progress” between the Israelis and the Palestinians, because Secretary of State John Kerry has worked hard to get peace "talks" going again. And then, there is the ultimate bright, shiny object: nuclear talks with Iran.¶ A third vector is emerging as well: a kind of magical thinking among administration officials which holds that vectors one and two are actually working so well that, by the end of the president’s term, the entire Middle East will have been transformed. So, for example, there is happy talk that engagement with Iran will lead to working with Tehran on helping the US disengage from Afghanistan, settle things down in Iraq, and end the war in Syria.¶ For now the president seems happy to bundle these three vectors to guide what he sees as his coherent vision of a low-risk, run-out-the-clock strategy.¶ Contrary to what Strachan asserts, the president does have a sense of what he is doing. The president's only problem is there are no signs that the three vectors are converging on anything that makes the region look like the land of milk and honey.¶ The odds of the Geneva talks playing a decisive role in resolving the Syrian civil war grow longer by the day. Vicious infighting among the insurgent groups and ramped-up support for the Assad regime by Moscow and Tehran are far more likely to drive the outcome. The "best case” scenario thus is a Balkanized Syria, with an Al Qaeda safe haven, huge displaced populations, and an occasional stream of car bombings from Damascus to Beirut.¶ As for Iran, while the administration thinks it has bought six months of "wait and see," the reality is that, when the clock stops ticking, the West will be no more confident it can shut down an Iranian nuclear program than it is now. Meanwhile, the once-effective sanctions regime will have fallen apart, and the long sought U.S.-Iranian rapprochement will remain but the stuff of dreams.¶ Meanwhile, the president's policy of disengagement from Iraq is shaping up like a disaster. It is reaffirming Henry Kissinger's truism, "Unilateral withdrawal is not victory." And the Israeli-Palestinian peace process remains moribund. There are no talks, just U.S. officials talking about talks. If Egypt successfully implements its new constitution, elects a government, and puts the Arab Spring back on course, it will be no thanks to a White House that has vacillated between displaying complete indifference and casting annoying catcalls from the sidelines. Strachan's explanation may be off, but the result is the same. It’s hard to see the vectors of Obama's foreign policy leading anywhere but nowhere.

#### US cred strategies fail and heg doesn’t solve war anymore- doesn’t solve China war

**Mazarr ’12** [Michael J. Mazarr is professor of national security strategy at the U.S. National War College, “The Risks of Ignoring Strategic Insolvency,” <http://csis.org/files/publication/twq12FallMazarr.pdf>]

A third trend is declining U.S. military predominance and a fast-approaching moment when **the U**nited **S**tates **will be unable to project power into key regions** of the world. The reasons are partly technologicalrising actors have burgeoning capabilities in anti-ship missiles, drones, or other ‘‘area denial’’ structures.13 Moreover, actors have also found other ways to counter American power: major states like China or Russia now possess the ability, through financial, space, or energy means, to threaten massive global consequences in response to unwanted U.S. force. This includes cyber mayhem: as one recent survey concluded, cyber weapons ‘‘allow, for the first time in history, small states with minimal¶ defense budgets to inflict serious harm on a vastly stronger foe at extreme ranges,’’¶ a new form of vulnerability that would ‘‘greatly constrain America’s use of force abroad.’’14 An important new RAND report by Paul Davis and Peter Wilson¶ warns of an ‘‘impending crisis in defense planning’’ arising ‘‘from technology¶ diffusion that is leveling aspects of the playing field militarily, geostrategic¶ changes, and the range of potential adversaries.’’15 These challenges are¶ exacerbated by a crisis of defense procurement; **America’s leading**-edge military **systems are becoming less affordable and reliable**. Aircraft carriers, for example, have become prohibitively expensive, with costs set to break through¶ congressionally-imposed limits next year.16 The systems that undergird U.S. military primacy are being whittled down to a small handful that no president will readily risk in anything but the most essential of crises. A fourth threat to U.S. global strategy is that America’s non-military tools of influence have proven incapable of achieving key U.S. goals in the areas nominated as the leading security challenges of the future, transnational, substate threats, and the risks emanating from fragile states. While states have¶ well-established theories for pursuing traditional political-military ends with¶ diplomacy and force, the United States possesses no proven models for achieving progress in the social, psychological, and environmental costs of an integrating globe, areas such as regional instability, terrorism, the complexities of development, radicalism, aggressive nationalism, organized crime, resource shortages, and ecological degradation.17 For half a century, the United States¶ was a dominant global power which identified challenging core goals and tasks, deterring military adventurism, building political-military alliances, erecting¶ mutually-beneficial institutions of tradebut to which Washington could apply¶ established models and techniques. U.S. leadership and power becomes much¶ more problematic in a world of complex problems which generate no broad¶ agreement and which subject themselves to no clear solutions

### Bioterror Adv.

#### No impact to disease

Posner ‘5 (Richard A, judge on the U.S. Court of Appeals, Seventh Circuit, and senior lecturer at the University of Chicago Law School, Winter. “Catastrophe: the dozen most significant catastrophic risks and what we can do about them.” http://findarticles.com/p/articles/mi\_kmske/is\_3\_11/ai\_n29167514/pg\_2?tag=content;col1, March 11, 2005)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extiinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.

#### No risk of a bioterror attack, and there won’t be retaliation - your evidence is hype

Matishak ‘10 (Martin, Global Security Newswire, “U.S. Unlikely to Respond to Biological Threat With Nuclear Strike, Experts Say,”, <http://www.globalsecuritynewswire.org/gsn/nw_20100429_7133.php>, April 29, 2010)

WASHINGTON -- The United States is not likely to use nuclear force to respond to a biological weapons threat, even though the Obama administration left open that option in its recent update to the nation's nuclear weapons policy, experts say (See GSN, April 22). "The notion that we are in imminent danger of confronting a scenario in which hundreds of thousands of people are dying in the streets of New York as a consequence of a biological weapons attack is fanciful," said Michael Moodie, a consultant who served as assistant director for multilateral affairs in the U.S. Arms Control and Disarmament Agency during the George H.W. Bush administration. Scenarios in which the United States suffers mass casualties as a result of such an event seem "to be taking the discussion out of the realm of reality and into one that is hypothetical and that has no meaning in the real world where this kind of exchange is just not going to happen," Moodie said this week in a telephone interview. "There are a lot of threat mongers who talk about devastating biological attacks that could kill tens of thousands, if not millions of Americans," according to Jonathan Tucker, a senior fellow with the James Martin Center for Nonproliferation Studies. "But in fact, no country out there today has anything close to what the Soviet Union had in terms of mass-casualty biological warfare capability. Advances in biotechnology are unlikely to change that situation, at least for the foreseeable future." No terrorist group would be capable of pulling off a massive biological attack, nor would it be deterred by the threat of nuclear retaliation, he added. The biological threat provision was addressed in the Defense Department-led Nuclear Posture Review, a restructuring of U.S. nuclear strategy, forces and readiness. The Obama administration pledged in the review that the United States would not conduct nuclear strikes on non-nuclear states that are in compliance with global nonproliferation regimes. However, the 72-page document contains a caveat that would allow Washington to set aside that policy, dubbed "negative security assurance," if it appeared that biological weapons had been made dangerous enough to cause major harm to the United States. "Given the catastrophic potential of biological weapons and the rapid pace of biotechnology development, the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat," the posture review report says. The caveat was included in the document because "in theory, biological weapons could kill millions of people," Gary Samore, senior White House coordinator for WMD counterterrorism and arms control, said last week after an event at the Carnegie Endowment for International Peace. Asked if the White House had identified a particular technological threshold that could provoke a nuclear strike, Samore replied: "No, and if we did we obviously would not be willing to put it out because countries would say, 'Oh, we can go right up to this level and it won't change policy.'" "It's deliberately ambiguous," he told Global Security Newswire. The document's key qualifications have become a lightning rod for criticism by Republican lawmakers who argue they eliminate the country's previous policy of "calculated ambiguity," in which U.S. leaders left open the possibility of executing a nuclear strike in response to virtually any hostile action against the United States or its allies (see GSN, April 15). Yet experts say there are a number of reasons why the United States is not likely to use a nuclear weapon to eliminate a non-nuclear threat. It could prove difficult for U.S. leaders to come up with a list of appropriate targets to strike with a nuclear warhead following a biological or chemical event, former Defense Undersecretary for Policy Walter Slocombe said during a recent panel discussion at the Hudson Institute. "I don't think nuclear weapons are necessary to deter these kinds of attacks given U.S. dominance in conventional military force," according to Gregory Koblentz, deputy director of the Biodefense Graduate Program at George Mason University in Northern Virginia. "There's a bigger downside to the nuclear nonproliferation side of the ledger for threatening to use nuclear weapons in those circumstances than there is the benefit of actually deterring a chemical or biological attack," Koblentz said during a recent panel discussion at the James Martin Center. The nonproliferation benefits for restricting the role of strategic weapons to deterring nuclear attacks outweigh the "marginal" reduction in the country's ability to stem the use of biological weapons, he said. In addition, the United States has efforts in place to defend against chemical and biological attacks such as vaccines and other medical countermeasures, he argued. "We have ways to mitigate the consequences of these attacks," Koblentz told the audience"There's no way to mitigate the effects of a nuclear weapon." Regardless of the declaratory policy, the U.S. nuclear arsenal will always provide a "residual deterrent" against mass-casualty biological or chemical attacks, according to Tucker. "If a biological or chemical attack against the United States was of such a magnitude as to potentially warrant a nuclear response, no attacker could be confident that the U.S. -- in the heat of the moment -- would not retaliate with nuclear weapons, even if its declaratory policy is not to do so," he told GSN this week during a telephone interview. Political Benefits Experts are unsure what, if any, political benefit the country or President Barack Obama's sweeping nuclear nonproliferation agenda will gain from the posture review's biological weapons caveat. The report's reservation "was an unnecessary dilution of the strengthened negative security and a counterproductive elevation of biological weapons to the same strategic domain as nuclear weapons," Koblentz told GSN by e-mail this week. "The United States has nothing to gain by promoting the concept of the biological weapons as 'the poor man's atomic bomb,'" he added.

#### Worst case has already happened

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 are probably near-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 deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult 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.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult 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.

## 2NC

#### Goes nuclear and CBMs don’t check

**Wittmeyere ‘13** [Alicia P.Q. Wittmeyere, Assistant Editor at Foreign Policy, degree from London School of Economics and Political Science, “Why Japan and China Could Accidentally End Up at War,” <http://www.chinausfocus.com/peace-security/why-japan-and-china-could-accidentally-end-up-at-war/>]

Great. At a time when Chinese authorities seem to be making efforts to dial down tensions with Japan over disputed islands, could a war between East Asian superpowers be sparked by accident -- by some frigate commander gone rogue? That nuclear war could come about in just such a scenario was, of course, a major concern during the Cold War. But decades of tension, as well as apocalyptic visions of global annihilation as a result of the U.S. and U.S.S.R. locking horns, produced carefully designed systems to minimize the damage any one rogue actor could inflict (only the president can access the nuclear codes), and to minimize misunderstandings from more minor incidents (the Kremlin-White House hotline). But East Asia -- relatively free of military buildup until recently -- doesn't have these same systems in place. A soon-to-be-released report from the International Institute for Strategic Studies highlights the danger that emerges when a region's military systems develop faster than its communication mechanisms, and finds that accidental war in East Asia is a real possibility: "Across East Asia, advanced military systems such as anti-ship missiles, new submarines, advanced combat aircraft are proliferating in a region lacking security mechanisms that could defuse crises. Bilateral military-to-military ties are often only embryonic. There is a tangible risk of accidental conflict and escalation, particularly in the absence of a strong tradition of military confidence-building measures." The Senkaku-Diaoyu Islands dispute has been marked by an increasing number of deliberate provocations on both sides: surveillance vessels entering nearby waters, patrol planes making passes by the islands, scrambled fighter jets. These are planned actions, designed to incrementally heighten tensions. But the more fighter jets that get scrambled without good communications systems in place, the higher the chances that these deliberate moves escalate beyond what either Japan or China is anticipating.

#### Probability- East Asia is a unique escalation risk- academic consensus

**Jimin ’13** [Chen Jimin, Ph.D, is an Assistant Research Fellow for the Institute for International and Strategic Studies at the Party School of Central Committee of C.P.C., “Solving the Northeast Asia Security Dilemma,” May 10, <http://thediplomat.com/2013/05/solving-the-northeast-asia-security-dilemma/>]

**Northeast Asia is one of the most complex, fragile regions in the global security landscape**. The regional security dilemma is concentrated and intensive, and is generated by a complex and tangled mix of historical issues, ideological factors and disputes over real interests. Consider the region’s recent history, which features more than its share of turmoil and strife. The ruptures have left Northeast Asia with lingering issues such as territorial disputes between China and Japan and South Korea and Japan, and division on the Korean Peninsula. Japanese attitudes towards history are among the core variables that influence its relations with China and South Korea. Recently, members of Japan’s Cabinet paid a visit to the Yasukuni Shrine, arousing strong protests from China, South Korea and other Asian countries. Clearly, historical factors have important and obvious impacts on the current political landscape in Northeast Asia. As do ideological factors. The Cold War was in part the struggle of competing ideologies between the United States and the Soviet Union. But this struggle has outlived the Cold War. The current security tensions in Northeast Asia are still exacerbated by a Cold War mentality and its manifestation in the U.S. alliance system in Asia. To some degree, the strong U.S. presence in the region contributes to the increased security dilemma. Take the North Korean nuclear crisis, which Pyongyang claims is driven by the absence of a guarantee of its national security. For North Korea, a reliable nuclear deterrent is an effective means of safeguarding its own national security. Essentially, the key to the North Korean nuclear issue is still the lack of safety and security.¶ Third, there are disputes involving real interests among major Northeast Asia countries. Most entail core interests of territorial sovereignty, which narrows the scope for coordination among the nations involved. Nationalist sentiment in these countries runs high, especially on issues of sovereignty. As modern nations, these states see serving the interests and aspirations of their peoples as an important source of legitimacy. For this reason, decision makers tend to be heavily influenced by public emotions, which may lead to irrational policies. Meanwhile, a number of countries in Northeast Asia have faced economic difficulties in the wake of the global financial crisis. In some cases, political parties have resorted to inciting nationalist sentiment against neighboring countries, to the detriment of relations within the region.¶ Given these factors, a multifacted approach is needed to resolve the security dilemma in Northeast Asia. First, the countries involved should squarely confront their histories, even as they look to the future. All countries should of course calmly rethink the lessons of the past, but this is particularly important for a country that has caused immense suffering among the people of Asia within its modern history.¶ Building on this, the region should then turn its attention to the future, go forward and work together to build a long-term, stable security mechanism. To a larger extent, dealing with the historical issues that exist between Northeast Asian countries, including factual disputes and issues of mentalities, is the first step toward a new security relationship among Northeast Asian countries.¶ Second, we must dispense with a Cold War mentality and seek mutual assured security (MAS). Whether in theory or in practice, the zero-sum approach of the Cold War has been proven to be obsolete. The policies of power against power are not conducive to regional stability and prosperity; rather, common, cooperative, and collective security based on a commitment to MAS are the most useful means for keeping the peace within the region. Any actor wanting to bolster its own security at the expense of another's, pursuing so-called absolute security, is bound to find it counterproductive.¶ Third, we must strengthen multi-level exchanges, reducing the risk of miscalculation. At present, the academic community has formed a basic consensus, namely on the lack of a Northeast Asia security mechanism, which is largely reflected in the absence of any effective, comprehensive, institutional exchange mechanism among Northeast Asian countries. As a result, the risk of strategic misjudgment increases, especially at times of crisis. Therefore, to build a Northeast Asia security mechanism, we first need to create institutionalized channels of communication, at both non-governmental and government levels. Mutual understanding and trust between peoples is the most reliable guarantee of harmonious relations between nations.

#### Chinese influence solves global problems and warfare

**Chengde ’13** [Yen, research Fellow at the China Institute of International Studies on Sino-US relations, “Achievements and Challenges of China’s Diplomacy in 2012,” <http://www.ciis.org.cn/english/2013-06/03/content_6001789.htm>]

China’s diplomacy achieved success after success, and China has begun appearing on the international political center stage, playing a decisive role in regional and world affairs. There are many reasons for this. The main reasons are as follows:¶ ¶ 1. Rising national strength¶ Recently Chinese leader in an important speech Xi Jinping pointed out: “If we are backward, we’ll be bullied. Development is the only road to self-reliance.” In today’s world, power politics remain prevalent. China has always opposed power politics, never engaged in power politics, and never allowing other countries to engage in power politics. In defiance of hegemonic powers, China has maintained its own independence, sovereignty, and security, and has constantly achieved diplomatic breakthroughs. That is mainly because China has resorted to self-reliance, that is, its growing national strength and national power.¶ In the 30-plus years since the reform and opening-up drive started, China experienced a golden age of development, with an economic growth rate of 9.7% on average. During the 10 year period between 2002 and 2011, its average annual economic growth rate was 10.7%, four times that of the United States over the same period. The share of China’s economic output in the world’s total rose from 4.4% to 10%, making China the world’s second largest source of economic output. Moreover, it has continuously narrowed its gap with the United States, the largest economy. In 2000, China’s GDP was only one-tenth that of the United States. But in 2011, China’s GDP reached 47.3 trillion yuan, or about $7.4 trillion, equivalent to 48% of the U.S. GDP. In 2012, China’s economic growth slowed, but still maintained an average growth rate of 7.7% in the first three quarters of the year. Its growth for the whole year was expected to exceed the growth target of 7.5%, 3.5 times U.S. economic growth for the same year. China’s total economic output for 2012 is expected to reach half of the total U.S. economy. Experts predict that by 2030 China’s total economic output is likely to surpass that of the United States, becoming the world’s largest economy. As early as in 2007, China’s economic contribution to the global economic growth had overtaken that of the United States, becoming the main engine of world economic growth. In 2011, China’s total foreign trade amounted to $3.68 trillion, making it the world’s second largest foreign trade country. Its gap with the United States, the world’s largest foreign trade country, in the same year, was only $44.76 billion. In 2012, China’s foreign trade grew much faster than that of the United States, and China is expected to surpass the United States as the world’s largest foreign trade country. By the end of October 2012, China’s foreign exchange reserves had reached $3.29 trillion, accounting for one-third of the total global foreign exchange reserves. China’s science, technology, and national defense capabilities have continued to make significant progress. Meanwhile, China has also rapidly increased its soft power, raising its comprehensive national strength to a new level. With its 30-plus years of rapid development, China has created “a wonder of the world.” Its road to development has been highly praised by the international community. Its growing strength has provided material support to China’s diplomatic victories.¶ ¶ 2. Correct policies Peace and development are China’s top policy priorities. Historically, major powers rose by resorting to war and external expansion. Such countries were certain to pursue hegemony. But China has broken this model and created a new development approach: peaceful rise by relying on its own internal motivation and pursuing mutually beneficial, opening-up strategies; that is, socialism with Chinese characteristics. China will never seek hegemony, engage in power politics, or pursue expansionism. Therefore, China does not seek an alliance with other countries, does not organize military blocs, does not pursue a strategic relationship with a foreign country against a third-party, and does not establish foreign military bases. Except in UN peacekeeping operations, China does not station any soldier abroad, which eliminates the fundamental obstacle to the development of China’s foreign relations and creates growing potential for Chinese diplomatic activities. China’s independent foreign policy of peace is an integral part of its road of peaceful development and a manifestation of its diplomacy. The Five Principles of Peaceful Coexistence is a fundamental principle guiding China’s foreign policy. As one of the countries to initiate the “Five Principles” and apply them with dedication, China has always respected other countries’ sovereignty and territorial integrity, has never violated the sovereignty of other countries, has never interfered in the internal affairs of other countries, and has vigorously conducted mutually beneficial cooperation with other countries, achieving peaceful coexistence. In 2012, in view of the evolving international and regional situations, China implemented the “Five Principles” with three salient features. First, China put greater emphasis on the principle of non-interference in internal affairs, and stressed respect for countries to choose a road to development suitable for their own national conditions. China strongly objected to the superpower’s attempts to interfere in China’s internal affairs, to criticize China’s social system, and to introduce the “Arab Spring” troubles to China. Meanwhile, China was critical of the Western powers for their attempts at the new interventionism in the Middle East and other places. When vetoing three times a Western-led resolution on Syria which aimed to implement a “regime change,” China argued that the Syria issue should be peacefully settled through political dialogue. China’s efforts prevented the U.S.-led Western powers from repeating the “Libyan model” in Syria. China safeguarded the principles of the Charter of the United Nations and international justice, prevented the West from instigating a “domino effect”-style “regime change” in Arab countries, and maintained peace and stability in the Middle East, playing a unique and universally acknowledged role. ¶ Secondly, China valued the principle of peacefully settling international disputes. As international and regional tensions grew, a number of international disputes intensified, and military confrontations developed. China urged the peaceful settlement of disputes through negotiations and dialogues, stressing that that was the only correct approach to safeguarding international and regional peace and development, and to protecting the fundamental interests of all parties. With this rationale, China in 2012 vigorously emphasized the role of the peaceful settlement in international disputes, and accordingly strengthened its efforts to promote talks and facilitate peace. For example, China insisted that the North Korea and Iran nuclear issues can be resolved only by political and peaceful means. It opposed vigorous sanctions against North Korea and Iran, strongly resisting attempts to resort to force or threats of force against the two countries. By its active participation in the six-party talks mechanism over the nuclear issue, and its vigorous mediation between North Korea and the parties concerned, China facilitated talks and negotiations, easing the strained relations between North Korea and other sides, and preventing a confrontation on the Korean Peninsula. With regard to its own island territorial disputes with the countries concerned, China firmly safeguarded its territorial integrity and sovereignty, while remaining calm, exercising restraint, and resorting to moderation instead of pre-emptive action. In addition, China held negotiations with Japan and the Philippines, and held a high-level dialogue with Vietnam, easing tensions and avoiding conflict and confrontation. In fact, China has maintained steady bilateral relations with most of the neighbors with which China has territorial disputes. Meanwhile, China was also actively involved in United Nations peacekeeping operations around the world. It made efforts to ease tensions in African countries (such as those between Sudan and South Sudan) and in the border areas between Lebanon and Israel, preventing the outbreak of conflict and war. These outstanding efforts have earned China praise from the United Nations and the relevant countries. ¶ Thirdly, China paid more attention to, and actively implemented, the principles of cooperation with other countries on the basis of equality and mutual benefit. Because of the recessions in the European Union and Japan, as well as the economic downturn in the U.S., in 2012 the world economic recovery was weak, undergoing a marked decline in growth. Therefore, there was an urgent need for countries to strengthen and expand their economic exchanges and cooperation in order to promote global economic recovery. Adhering to principles of equality, mutual benefit, and win-win cooperation, China made efforts to strengthen its economic cooperation with other countries, helping mitigate the global economic difficulties. For example, Chinese leaders actively participated in various multilateral summits and promoted global economic cooperation and regional integration. They also continued to vigorously urge countries to ride out the storm by helping each other to eliminate the aftermath of the financial crisis and to achieve a strong, sustainable, and balanced growth of the global economy. China helped the EU to ease its debt crisis by taking strong measures, including expanding the imports from the EU countries, purchasing EU bonds, and offering large-scale capital to the IMF to help enhance its ability to resolve the debt crisis. Moreover, China strengthened its mutually beneficial cooperation with the developing countries of Africa, Asia, and Latin America. In particular, it increased aid efforts to the least developed countries and China-Africa economic and trade relations made particularly significant progress. In 2011, the trade volume reached a record $166.3 billion. But in 2012 it was expected to undergo another round of rapid growth and exceed the mark of $200 billion. In July 2012, President Hu announced at the Fifth Ministerial Conference of the Forum on China-Africa Cooperation that China would adopt five measures to support Africa’s development, including expanding aid and offering $20 billion in loans to African countries.¶ Chinese sages have a saying: “If a small country has a big policy, it will be a big power; if a big country has a small policy, it will be a small power.” In other words, if the policy of a small country is “big” (in accordance with the times), it can act as a big power; if the policy of a big country is “small” (lacking perspective), it can only play a small role. This shows that a country’s foreign policy has profound implications for its international status and role. China’s foreign policy is in line with the trend of the times, reflects the common interests of China and the world, and is an important guarantee for China to achieve high prestige and diplomatic success.

#### Only Chinese influence solves Korean nuclear war- US approach fails

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Nuclear escalation on the Korean Peninsula demands creative solutions. With a 2,200-year history of non-aggression, China is in the best position to take the lead — and relieve the United States of a burden it has shouldered for too long.¶ In fact, no other nation has had as stable a pattern of world citizenship. Over two millennia, China has not attempted to conquer its neighbors or spread its system of government on any scale remotely comparable to the Romans, Mongols, British, Germans, French, Spanish, Russians, Japanese or even Americans. China does brutally resist the secession of Tibet, which it considers part of its ancient patrimony. But it has not grasped for lands beyond its historical borders.¶ There is no reason to think the Middle Kingdom has merely been biding its time. Indeed, if any nation can be said to have a long-term strategy, it is China. Premier Zhou Enlai, when asked what he thought of the French Revolution of 1789, allegedly replied, “It’s too soon to tell.”¶ China also has a 2,200-year record of authoritarian rule. Even so, it has become steadily more open — at its own glacial pace. China’s government is more responsive to its people now than it was under the Han, Ming or Qing dynasties, ending in 1911. After a long period of civil war in the first half of the 20th century, worsened by a brutal Japanese occupation, the dictator Mao Zedong restored order.¶ Since 1979, the repressive government has slowly provided more freedoms to its 1.3 billion citizens — beginning with what President Franklin D. Roosevelt called “freedom from want.” Today, the Chinese people are freer to save, accumulate, conduct business and travel abroad than perhaps at any other time in China’s 2,200-year history as a coherent state.¶ Pundits and professional worriers tend to paint China as a burgeoning military threat. This is a serious misinterpretation of a very long track record that includes the peaceful re-annexation of British Hong Kong and continuing restraint toward Taiwan (lost first to the Japanese, and then as a result of civil war). Unjustified suspicions blind policymakers to important security options at a volatile time in Northeast Asia.¶ Like pioneers of yore, we need to read the trail to understand where China is headed and how we might ease its path. For centuries, China was the economic powerhouse of the globe. As Adam Smith, author of The Wealth of Nations, commented in 1776, “China is a much richer country than any part of Europe.” Today, more than anything else, the ancient nation wants to be rich again — though in ways that do not leave commoners mired in squalor, as before. Its commercial policies are aggressive, but it is not territorially expansive. China understands that physical conquest — as Japan’s World War II experience proved — can undermine economic success in the modern world.¶ Instead, to achieve its goals, China needs regional peace and stability. It has a far greater stake in capitalist South Korea’s health and happiness than even the United States, which has guaranteed Seoul’s safety for the past 60 years as part of its campaign to stop the worldwide spread of communism — a task now completed.¶ South Korean companies such as Samsung are among the world’s largest producers of semiconductors, the electronic chips that nourish everything in the electronic food chain from toys to automobiles. Semiconductors are key to economic growth around the globe.¶ Though China’s manufacturing base has gone viral, it does not make these precious chips in any significant amount — partly because foreign investors won’t set up shop, given the lax enforcement of intellectual-property rights. China depends heavily on imported semiconductors, for which its best and closest suppliers are South Korea and Taiwan.¶ Semiconductor plants require enormous investment; a single factory costs $6 billion or more. They are geese, laying golden eggs. The last thing China wants is a nuclear or conventional war between its immediate neighbors that might destroy this industrial infrastructure. Li Baodong, China’s envoy to the United Nations, said as much in early March, after the last round of sanctions against North Korea to discourage Kim Jong-Un’s nuclear ambitions. “We are formally committed,” Li insisted, “to safeguarding peace and stability on the Korean Peninsula.”¶ This statement is of critical importance to Washington, which should do everything possible to encourage China to take on the role of peacemaker and enforcer. The United States has played bad cop in relation to North Korea for six decades. We still have 28,500 troops on the ground in a war without end.¶ An armistice brought the three-year civil war between North and South to a temporary halt in 1953. The peace treaty, however, never followed.¶ Modern world history shows that Band-Aids need to come off for healing to happen — despite the sting. Japan’s recovery after World War II was delayed for six years, until the allied countries finally agreed to sign a peace treaty in 1951. Thirty years after the surrender of Nazi Germany, the Helsinki Accords of 1975 formally established peace in Europe. The accords reduced tensions across the continent and eventually led to the end of the Cold War.¶ The 60-year delay in formally ending the Korean War has had costly repercussions. No blue-helmeted U.N. troops patrol the demilitarized zone, as in other post-conflict areas, to keep peace once it’s been established. Instead, the United States has borne the expensive military burden of enforcing another country’s day-to-day defense for six decades — enabling South Korea to democratize and flourish.¶ In addition to straining our national budget, this commitment has bought us animosity on both sides of the 38th parallel. A survey of South Korean military cadets in 2004 found that more ranked the United States as the “country’s main enemy” than ranked North Korea as the primary threat. Young Americans who teach English in Seoul find signs at some restaurants saying, “No Foreigners Allowed.”¶ If not an example of the axiom “No good deed goes unpunished,” these reactions may belong in the category of nationalist responses to the long-term presence of foreigners — regardless of how helpful they may be.¶ A former graduate student at San Diego State University, where I teach, recalls liking the cookies that friendly U.S. soldiers brought to the South Korean orphanage where he was raised in the 1980s. But he also remembers being mystified as to why the “white men” were there. It’s a question the majority of Americans might have a hard time answering, given that the U.S. commitment predates their birth.¶ The United States has given South Korea more in the way of shelter than any competitive nation-state has given another in perhaps all world history. But this effort has hit a point of diminishing returns for everyone involved.¶ More of the same promises little in the way of progress. **It’s time for China to become umpire and peacemaker of the region**, consistent with its historical record and modern aspirations.

#### Goes nuclear and containment fails- assumes their impact d

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Despite those assurances, however, the risk of nuclear war with North Korea is far from remote. Although Pyongyang’s tired threats are probably bluster, the current crisis has substantially increased the risk of a conventional conflict -- and any conventional war with North Korea is likely to go nuclear. Washington should continue its efforts to prevent war on the Korean Peninsula. But equally important, it must rapidly take steps -- including re-evaluating U.S. war plans -- to dampen the risks of nuclear escalation if conventional war erupts. ¶ Ironically, the risk of North Korean nuclear war stems not from weakness on the part of the United States and South Korea but from their strength. If war erupted, the North Korean army, short on training and armed with decrepit equipment, would prove no match for the U.S.–South Korean Combined Forces Command. Make no mistake, Seoul would suffer some damage, but a conventional war would be a rout, and CFC forces would quickly cross the border and head north.¶ At that point, North Korea’s inner circle would face a grave decision: how to avoid the terrible fates of such defeated leaders as Saddam Hussein and Muammar al-Qaddafi. Kim, his family, and his cronies could try to escape to China and plead for a comfortable, lifelong sanctuary there -- an increasingly dim prospect given Beijing’s growing frustration with Kim’s regime. Pyongyang’s only other option would be to try to force a cease-fire by playing its only trump card: nuclear escalation.¶ It’s impossible to know how exactly Kim might employ his nuclear arsenal to stop the CFC from marching to Pyongyang. But the effectiveness of his strategy would not depend on what North Korea initially destroyed, such as a South Korean port or a U.S. airbase in Japan. The key to coercion is the hostage that is still alive: half a dozen South Korean or Japanese cities, which Kim could threaten to attack unless the CFC accepted a cease-fire.¶ This strategy, planning to use nuclear escalation to stalemate a militarily superior foe, is not far-fetched. In fact, it was NATO’s strategy for most of the Cold War. Back then, when the alliance felt outgunned by the massive conventional forces of the Warsaw Pact, NATO planned to use nuclear weapons coercively to thwart a major conventional attack. Today, both Pakistan and Russia rely on that same strategy to deal with the overwhelming conventional threats that they face. Experts too easily dismiss the notion that North Korea’s rulers might deliberately escalate a conventional conflict, but if their choice is between escalation and a noose, it is unclear why they would be less ruthless than those who once devised plans to defend NATO.¶ Even if the United States and South Korea anticipated the danger of marching to Pyongyang and adopted limited objectives in a war, nuclear escalation would still be likely. That’s because the style of conventional war that the United States has mastered over the past two decades is highly escalatory.¶ The core of U.S. conventional military strategy, refined during recent wars, is to incapacitate the enemy by disabling its central nervous system -- its ability to understand what is happening on the battlefield, make decisions, and control its forces. Against Serbia, Libya, and Iraq (twice), the key targets in the first days of conflict were not enemy tanks, ships, or planes but leadership bunkers, military command sites, and means of communication. This new American way of war has been enormously effective. But if directed against a nuclear-armed opponent, it would pressure the enemy to escalate a conflict. Preventing escalation in the midst of a war would require convincing North Korea’s leaders that they would survive, and so attacks designed to isolate and blind the regime would be counterproductive. Once airstrikes began pummeling leadership bunkers and severing communication links, the Kim regime would have no way of discerning how minimalist or maximalist the CFC’s objectives were. It would face powerful incentives to make the CFC attacks stop immediately -- a job for which nuclear weapons are well suited.

#### Chinese soft power is booming- beating the US despite controversies

**Leitch 2-2**-14 [Simon, PhD, did his thesis on Chinese soft power, expert on International Relations, “China’s Growing Influence: The Role of its Soft Power,” http://alochonaa.com/2014/02/03/chinas-growing-influence-the-role-of-its-soft-power/]

The rise of China has become one of the most discussed features of international politics in the 21st century, and policymakers and media pundits around the world are involved in an unending debate about the near-term and long-term significance of China’s return to great power status. Analysts are captivated by China’s growing military potential, its cyber-weapons, its space program, its assertive nationalism and its growing economic leverage over its neighbors and trading partners. These are all interesting issues to be sure, but an underrated element of China’s rise has been its rising “soft power” assets.¶ For most academics to have soft power means having the ability to persuade others to want what you want, or to attract them to your cause through the strength of your argument or legitimacy of your actions. Of course, bribes and threats are a form of power often used in international politics (and often used by China) but threats and brides are sometimes clumsy weapons to use. By crafting and advertising policies in such a way as they appear legitimate to outsiders, and by cultivating a positive national image, a state can operate with fewer barriers, less resistance and less resentment.¶ Chinese soft power has grown rapidly in recent years. Thirty years ago China’s only friends in the West were those seeking to use China as a counterweight to Soviet ambitions in Asia, or those members of the radical left who were duped into believing that communism was liberation. Today the story is different. Global public opinion surveys continue to show that China is perceived fairly favorably by large swathes of the world’s populace, from the Asia-Pacific to Africa and Europe. China has garnered cooperation from a diverse group of states in areas such as trade, tourism, education and infrastructure development, and Chinese statesmen are sure to be given a warm welcome in almost any foreign capital. These developments are both causes and effects of Chinese soft power.¶ Beijing has been working on enhancing its soft power for many years and is equipped with increasingly well-oiled soft power machinery. By opening China to tourism, foreign students and journalists whilst at the same time restricting foreign access to “approved” places the PRC has been able to present its best face to the world. With a tightly controlled state media and highly disciplined and knowledgeable spokespersons, the information flow out of China is carefully monitored, filtered and disseminated with the aim of projecting a positive image of China and the ruling regime. Foreign journalists and academics who propagate negative images of China are denied access for the future, and though such Chinese policies may themselves blur the lines between hard and soft power they do, in the end, contribute enormously to soft power assets by altering how it is permissible to discuss China in international society. Whereas Western politicians and journalists seem perfectly happy to label Kim Jong-un or various Iranian leaders as dictators, the government in Beijing has acquired a measure of legitimacy unheard of for a nominally communist state.¶ The coming of the digital age, marked by greater computerization and the mass utilization of the internet, has had important consequences for the exercise of soft power. Although Beijing has been adept at digital censorship it is important to note how Beijing has embraced the internet and new media to promote its message. Through translated press releases and dedicated foreign language broadcasts the PRC has challenged negative interpretations of its policies, advertised the positives of China’s development, reached out to foreign constituents and argued its position in international disputes. Beijing now employs professional lobbyists in foreign capitals and it has been effective in promoting its self-serving version of history (to both foreign and domestic audiences) in a way few other major states can. China paints itself as a victim of foreign aggression, and has helped perpetuate an influential discourse about China’s traditional culture and foreign policy which provide a convenient justification for its lack of democratization and territorial claims alike.¶ As China has grown more powerful and the United States has staggered under the weight of financial and political stagnation, the PRC has begun to offer itself as an alternative model of government for others to emulate, and as an alternative to the United States as a great power partner. China’s veto powers in the UN and its growing importance as both market and supplier make it a valuable ally, and it is unsurprising that many states, particularly authoritarian regimes, see a partnership with China as a way of loosening the grip of liberal-democratic powers over the international system. If China wants the United States and its allies to loosen their grip on the international system, so too do many others. By presenting its foreign policy as a quest for sovereignty, non-interference, anti-hegemonism and economic development, whilst at the same time giving legitimacy to corrupt, authoritarian regimes, Beijing has made others realize that they want what Beijing wants.¶ Most analyses of Chinese soft power believe that China’s regime is a liability to its soft power, and insinuate that democracy is a key element of soft power. Similarly, it is often thought that Chinese soft power is undermined by Beijing’s relations with dictators and human rights abusers. This is wrongheaded for a number of reasons. First, China’s soft power is often directed towards undemocratic regimes or states that have greater concerns than Chinese suffrage, and it has successfully attracted them. Second, **China’s government appears to have built legitimacy** perfectly well to international audiences **irrespective of its lack of democracy or** high levels of **corruption**. Which of the following figures was last able to meet President Obama in the Oval Office; the Dalai Lama or the President of the PRC? If that is not extending legitimacy then the concept is too vague to quibble about it further.

#### Soft power is strong and tensions are low- China is self-confident now

**Paal 12-27**-13 [Douglas Paal is Vice President for Studies at the Carnegie Endowment for International Peace, “Contradictions in China’s Foreign Policy,” <http://www.chinausfocus.com/political-social-development/contradictions-in-chinas-foreign-policy/>]

You may have missed the funeral, but China’s new leadership has quietly buried the admonition of former leader Deng Xiaoping that as China rises in wealth and power it should maintain a low profile (known as taoguang yanghui).¶ In its place, the new leadership is advancing a more proactive diplomacy in surrounding regions. President **Xi** Jinping **is displaying self-confidence** that seems to match the mood of the times in China, one of renewed nationalism and self-assertion. In most neighboring capitals this development will be viewed positively but warily; in Manila and Tokyo, less positively. The issue is that China wants the benefits of a charm offensive with its neighbors, but it also wants to jealously guard its far-flung territorial claims. It cannot do both.¶ Beijing held a major conference on peripheral diplomacy on October 24 and 25. Xi made what was described as an “important speech,” followed by remarks by Premier Li Keqiang and Beijing’s top party and government foreign policy officials. This was shortly before China announced its intention to create a State Security Commission (also variously translated as National Security Council or National Security Commission) at the third plenum of the 18th Party Congress. Taken together, these actions portend a concerted activism that will deploy China’s newly acquired wealth and influence to “maintain a stable peripheral environment.”¶ Xi’s speech catalogued the economic aid, trade, scientific and technological, financial, security, and public relations diplomacy tools for China’s regional strategy. The official press releases did not mention sensitive issues such as territorial disputes or the soon-to-be-imposed air defense identification zone (ADIZ) over the East China Sea. According to people familiar with the details of the meeting, however, these issues were very much on the agenda.¶ As if to foreshadow the peripheral diplomacy conference with examples of what China is undertaking, Xi conducted a four-nation state visit to Central Asia in September. During his stop in Kazakhstan, he called for a “new silk road” with enhanced infrastructure and financing for energy, trade, telecommunications, and regional development throughout the region. The trip was positively reviewed.¶ Also before the conference, Xi and Li participated in the Asia-Pacific Economic Cooperation forum in Indonesia and the East Asia Summit in Brunei in October. While U.S. President Barack Obama stayed home to deal with a government shutdown, they conducted welcome visits to five Southeast Asian nations with promises of aid and trade. One important announcement was the formation of an Association of Southeast Asian Nations (ASEAN) infrastructure bank. According to one official, this concept envisions using China’s substantial foreign exchange holdings to finance ports, railways, highways, and other infrastructure to integrate China with Southeast Asian markets. Beijing intends to achieve regional buy-in with nominal contributions to the bank’s capital from some of the members of ASEAN. The long-term economic and soft-power implications of this scheme, if carried through, appear substantial.¶ DIFFERENTIATED TREATMENT OF GOVERNMENTS AND PUBLICS¶ One result of the conference on peripheral diplomacy was an affirmation of the benefits of trying to win public support among the populations with whose governments China is having difficulties. After months of relentlessly negative press about Japan in Chinese media, in late October China hosted the ninth Beijing-Tokyo Forum, composed of former officials and private sector representatives from both countries. The media coverage of this relatively small event was uncharacteristically positive, and Japanese participants were able to contribute signed articles to Beijing’s outlets.¶ Despite truly negative results for China in Japanese polls since the intensification of the dispute over the Senkaku/Diaoyu Islands and the announcement of the East China Sea ADIZ on November 23, Beijing reportedly is prepared to continue seeking to improve the attitudes of ordinary Japanese while freezing high-level official exchanges. Japanese trade and investment with China has remained surprisingly resilient. Beijing’s goal is to isolate and press the government of Japanese Prime Minister Shinzo Abe to acknowledge the existence of a dispute over the islands.

#### Klarevas says renewable leadership is zero-sum with Chinese influence

**Klarevas 9** –Louis Klarevas, Professor for Center for Global Affairs @ New York University, 12/15, “Securing American Primacy While Tackling Climate Change: Toward a National Strategy of Greengemony,” <http://www.huffingtonpost.com/louis-klarevas/securing-american-primacy_b_393223.html>

The geopolitics of oil has already emboldened Russia in its 'near abroad' and China in far-off places like Africa and Latin America. As oil is a limited natural resource, a nasty zero-sum contest could be looming on the horizon for the U.S. and its major power rivals - a contest which threatens American primacy and global stability. Second, converting fossil fuels like oil to run national economies is producing irreversible harm in the form of carbon dioxide emissions. So long as the global economy remains oil-dependent, greenhouse gases will continue to rise. Experts are predicting as much as a 60% increase in carbon dioxide emissions in the next twenty-five years. That likely means more devastating water shortages, droughts, forest fires, floods, and storms. In other words, if global competition for access to energy resources does not undermine international security, global warming will. And in either case, oil will be a culprit for the instability. Oil arguably has been the most precious energy resource of the last half-century. But "black gold" is so 20th century. The key resource for this century will be green gold - clean, environmentally-friendly energy like wind, solar, and hydrogen power. Climate change leaves no alternative. And the sooner we realize this, the better off we will be. What Washington must do in order to avoid the traps of petropolitics is to convert the U.S. into the world's first-ever green hegemon. For starters, the federal government must drastically increase investment in energy and environmental research and development (E&E R&D). This will require a serious sacrifice, committing upwards of $40 billion annually to E&E R&D - a far cry from the few billion dollars currently being spent. By promoting a new national project, the U.S. could develop new technologies that will assure it does not drown in a pool of oil. Some solutions are already well known, such as raising fuel standards for automobiles; improving public transportation networks; and expanding nuclear and wind power sources. Others, however, have not progressed much beyond the drawing board: batteries that can store massive amounts of solar (and possibly even wind) power; efficient and cost-effective photovoltaic cells, crop-fuels, and hydrogen-based fuels; and even fusion. Such innovations will not only provide alternatives to oil, they will also give the U.S. an edge in the global competition for hegemony. If the U.S. is able to produce technologies that allow modern, globalized societies to escape the oil trap, those nations will eventually have no choice but to adopt such technologies. And this will give the U.S. a tremendous economic boom, while simultaneously providing it with means of leverage that can be employed to keep potential foes in check. The bottom-line is that the U.S. needs to become green energy dominant as opposed to black energy independent.

#### That’s an independent link- causes Chinese aggression

**Roy ’13** [Dr. Denny Roy, Ph.D., Political Science, University of Chicago, Senior Fellow at the East-West Center in Honolulu, “More Security for Rising China, Less for Others?” January, http://www.isn.ethz.ch/Digital-Library/Articles/Special-Feature/Detail/?lng=en&id=159877&contextid774=159877&contextid775=159870&tabid=1453528668]

With greater relative capabilities, China’s aspirations will expand. The country will use its economic and diplomatic influence, with expanding military capabilities in the background, to press neighboring governments to conform to its wishes on political issues. For example, the upgraded PRC navy, originally limited to coastal missions, is implementing a new concept of “far sea defense.” Under this doctrine Chinese warships project naval power into distant oceans, even preparing for the contingency of escorting ships from the Persian Gulf through the Indian Ocean. The deputy commander of China’s East Sea Fleet explicitly linked China’s economic growth with a stronger military: “With the expansion of the country’s economic interests,” he said, “the navy wants to better protect the country’s transportation routes and the safety of our major sea lanes . . . [and therefore] needs to develop along the lines of bigger vessels and with more comprehensive capabilities.” [6]¶ As China’s security demands expand, inevitably they will further impinge on the strategic freedom of other Asia Pacific countries. In the case of the “sensitive” issues that involve CCP legitimacy or are within the presumed Chinese sphere of influence, the usual restraints against heavy-handed Chinese behavior are relatively less powerful. The imperative of self-defense takes precedence over Chinese fears of appearing dishonorable or threatening. Yet Chinese actions in their backyard challenge areas of vital interest to other countries.¶ An example is Taiwan. Beijing insists that the government of China (i.e., the CCP) has sovereignty over the island even if Taiwan’s inhabitants may disagree. The PRC asserts a position (backed by the threat of military force) that represents an existential threat to the people of Taiwan and their chosen political and economic system. In the case of the South China Sea, Beijing refuses to renounce its claim to ownership of nearly the entire body of water. This denies the Southeast Asian claimant countries even the coastal exclusive economic zones that are granted by the Law of the Sea Treaty, of which China is a signatory. When high-ranking Chinese military men and many Chinese media organs stridently objected to 2010 US–South Korean naval exercises in the Yellow Sea that were amply justified by North Korean provocations, the PRC implicitly asserted that China should have veto power over US security cooperation with a formal US ally in waters near the ally’s coast.¶ The rise of China has a particular impact on US-China relations. The United States is the principal sponsor of a historically unique regional security order. This order includes an architecture of US alliances, forward-deployed bases, and international institutions, overlaid with a set of widely accepted norms regulating international affairs. This order reflects US interests and values, but not necessarily those of China. As the rising power, China naturally aspires to take leadership of the regional order from the old master and to revise it to China’s liking. History has seen other cases like this, and past experience suggests the scenario is dangerous. The rising challenger may pick a fight because it is impatient and wants to speed up the transition, while the reigning great power may consider starting a preventive war before its power level is surpassed by the rising challenger. Some scholars argue that the risk of war is low in this case: China and the United States lack a compelling reason to go to war against each other; both have nuclear weapons, which makes them cautious about getting into even a conventional conflict; and both would rather concentrate on domestic issues and gain through peaceful trade.[7]¶ Nevertheless, maintaining equilibrium between US accommodation and Chinese patience will become increasingly difficult, posing a stiff challenge to future US and PRC leaders. Beijing clearly aims to ease out the United States as a strategic player in the western Pacific. In the short term, the PRC expects Washington to extract itself from the Taiwan issue (by phasing out arms sales) and from the South China Sea issue. China’s long-term vision for East Asia has no room for US bases or alliances.¶ Selective Global Citizenship¶ On global security issues outside China’s perceived sphere of influence, cooperation between the country and other major powers is potentially easier because the sense of a proprietary Chinese interest is weaker. China, however, only conditionally supports international norms. In the Chinese view, these norms and most of modern international law reflect a relatively recent and anomalous period of Western global dominance. Thus the Chinese are not intrinsically supportive of Western norms and law. Beijing tends to fall in line when it faces a united international consensus to avoid attracting negative attention as an outlier. The Chinese often appeal to widely accepted international laws and principles that bear on international security, but in a selective way in support of specific Chinese policies. As China’s interests become more global and less parochial, Beijing has a greater interest in maintaining stability in far-flung parts of the world. Chinese leaders may therefore take a more managerial view of global affairs and see wisdom in more closely aligning Chinese policy with an evolving set of internationally negotiated rules of international affairs. On the other hand, with continued relative growth the Chinese will be in a stronger position to assert alternative principles to justify actions that suit narrow PRC interests.¶ For the foreseeable future, **Beijing’s objectives will clash with** important **security**-related **norms upheld by** most of the **other** major **powers**. The PRC’s support for multinational efforts to curtail the proliferation of nuclear weapons and ballistic missiles has improved since the 1980s, but the process has been slow and halting. China’s unannounced destruction in 2007 of one of its satellites in orbit, which created a debris field that will imperil other countries’ space equipment for years, was disturbing. China is the source of a massive and well-organized computer hacking campaign against the United States and other countries that attempts not only to steal their industrial secrets but also to compromise their security. [8] Claims of noninvolvement in this outlaw activity by the PRC government have become difficult to take seriously.¶ The Beijing government is highly fearful of attempts by the Western governments (especially the United States) to overthrow Chinese Communist Party rule. This has led to the PRC’s “non-intervention” doctrine, which continues to conflict with the UN-recognized “responsibility to protect.” Beijing often shelters and supports authoritarian regimes, which impedes the global promotion of good governance, civil liberties, and social justice. Lack of progress in these areas contributes to conditions in which terrorist organizations can flourish. ¶ When the major Western countries try to employ sanctions against misbehaving countries with which China has valuable economic and political partnerships, China tends to resist, putting forward the principle that sanctions are unjust and ineffective. [9] Yet Beijing has on several occasions implemented or threatened sanctions against countries that tread on narrow Chinese interests. China’s overall record demonstrates at best selective defense of global security norms. A stronger China is more capable of undermining international efforts to discipline outlaw regimes in cases where the perceived value of a bilateral relationship outweighs Beijing’s sense of international citizenship.¶ Not-So-Pacific Century?¶ If China’s preferences were fulfilled, countries in the region would defer to China on all major international issues. Based on recent positions taken by Beijing, the PRC’s objectives clearly include gaining rule-setting authority over the Yellow Sea, the East China Sea, and the South China Sea; victory for the PRC in all of its claims to disputed territory; greatly reduced security cooperation between the region and the United States, including the elimination of US bases and the “Cold War era” US alliances with Asia Pacific countries; the end of Western efforts to promote democratization in Asia; absorption of Taiwan into the PRC; a militarily weak Japan that accommodates Beijing; and the continued survival of the North Korean government along with deepening economic integration between North Korea and China’s northeastern provinces. These form China’s maximum objectives. ¶ Short of achieving the entirety of these objectives, China’s people can certainly achieve a reasonable amount of security and prosperity while playing within the current international rules or by peacefully seeking to adjust those rules. None of the Asia Pacific governments actively opposes China becoming wealthy or addressing legitimate Chinese security concerns. In striving to realize all of their preferences, however, the Chinese would reduce the security and prosperity of other countries in the region. The question is whether the Chinese can settle for getting much but not all of what they want. Unfortunately, Chinese impatience with aspects of the status quo they dislike can be expected to increase, driven by nationalistic elite groups (led by the People’s Liberation Army) and vociferous segments of PRC public opinion. The current situation features strong cushioning against conflict: China benefits handsomely from peaceful engagement within the current system, while the promise of coordinated international resistance led by the superpower United States helps deter Chinese behavior that other states would consider threatening.¶ Two major concerns emerge. The first is China’s willfulness within the sphere of influence to which the Chinese believe they are entitled. What the Chinese may see as their backyard is other countries’ front yards. Yet persuading the PRC to climb down from contentious positions it has taken on some strategic issues in the near abroad will be difficult. One reason is the expectation that China’s material strength will continue to grow relative to other states in the region. The Chinese have cause to believe their economic and political importance will eventually become so overwhelming as to force regional governments to submit to Chinese preferences.¶ Another reason for China to resist compromising its maximum objectives is that the leadership in Beijing fears the wrath of nationalistic public opinion at home. Understandably, the legitimacy-hungry CCP has tried to gain credit among the Chinese people for establishing China’s international status as a great power. This mood of national triumphalism, however, has the unintended effect of intensifying domestic pressure on the government to stand up to foreign governments in defense of China’s interests. In contrast to the recent past, much of the Chinese public closely follows developments in international affairs and is immediately aware of acts by the Chinese government that Chinese nationalists would consider overly submissive. [10] Generally, the effect of **these** domestic nationalistic **forces** is to **push the Chinese government toward more confrontational foreign policies**. Mobilized public opinion sometimes forces Beijing’s top leadership to take tough actions opposed by the Ministry of Foreign Affairs, requiring subsequent damage control by Chinese diplomats. China’s diplomatic partners must understand that nationalistic domestic forces constrain decision making by the top level of PRC leadership.

#### Chinese leadership solves warming best- structurally better than the US

**Naam ‘13** [Ramez, professional technologist, holds a seat on the advisory board of the Acceleration Studies Foundation, is a member of the World Future Society, a Senior Associate of the Foresight Institute, and a fellow of the Institute for Ethics and Emerging Technologies, former CEO of Apex Nanotechnologies, “Seven Reasons Why China May Be the World Leader in Fighting Climate Change,” <http://www.slate.com/articles/technology/future_tense/2013/05/china_cap_and_trade_carbon_tax_the_country_may_lead_the_global_climate_change.single.html>]

All of that makes what I’m about to say sound even crazier: China may one day be the world’s leader in combating climate change. In almost every way you cut it, China is already taking a much more aggressive approach toward climate change than the United States is.¶ This is important for two reasons. First, China is seeing the world’s fastest growth in energy consumption and in CO2 emissions. In the United States and Europe, by contrast, energy usage is nearly flat and CO2 emissions are down. So China’s policies exert a huge lever on future CO2 emissions. Second, one of the prime arguments against U.S. action on climate change has been that it doesn’t matter what the United States does if China isn’t on board.¶ Well, China already is on board in a number of ways that the United States isn’t. Consider the following:¶ 1. China is launching a cap-and-trade plan.¶ In the United States, the Waxman-Markey cap-and-trade plan fizzled in the Senate in 2009. In China, meanwhile, authorities have moved forward with pilot cap-and-trade systems covering seven regions, including the manufacturing hub provinces of Guangdong and Hubei, as well as the cities of Beijing, Shanghai, Tianjin, Chongqing, and Shenzhen. The first of those cap-and-trade systems, in Shenzhen, will start operation June 17. By 2020, the Chinese government plans to link those regional systems into a national carbon market. Just last month, the governments of China and Australia announced their intent to link the two countries’ carbon markets into a regional one.¶ 2. China is also launching a carbon tax.¶ In March, the U.S. Senate unceremoniously voted down an amendment that would have opened the way to a carbon tax. Not so, China. Officials there have announced their intent to institute a tax on CO2 emissions, likely starting in 2015 or 2016.¶ 3. China is investing more in renewable energy.¶ Not satisfied with those future plans? Consider the here-and-now. In 2012, the United States spent $35 billion on renewable energy—actually down 37 percent from $56 billion in 2011. China, meanwhile, spent a whopping $65 billion on renewable energy in 2012, or 85 percent more than the United States did in the same year.¶ Yes, China’s population is more than four times the United States’. But China’s economy is only half the size. As a fraction of its overall economy, China invested almost four times as much as the United States in renewable energy in 2012.¶ 4. China dominates in solar production …¶ China has taken a huge lead in the production of solar panels in particular. In 1995, the United States produced nearly 40 percent of the solar panels produced around the world, while China made less than 1 percent. Now Chinese companies produce more than half the solar panels manufactured worldwide, while the United States produces less than 10 percent.¶ Critics have decried this as a case of China’s government using cheap loans and investments to bootstrap an industry. And that’s exactly what it is. Whatever the short-term fluctuations in the solar market may be, whether China is guilty or not of intentionally flooding the market, in the long run the demand for solar power is going to grow by orders of magnitude. Solar power is going to be absolutely essential to meeting growing energy demands while staving off climate change. Chinese banks and Chinese leaders know this, and they plan to be the world leader in that industry.¶ 5. … and is second only to Germany in solar deployment.¶ China doesn’t just manufacture a lot of solar power equipment. In 2012, the only country in the world that installed more solar power for its own needs was Germany. The United States was No. 4, after Italy.¶ 6. China loves wind more than coal, and more than we do.¶ For all this investment in solar power, the energy source most commonly associated with China is coal—dirty, dirty coal, the most CO2-intensive of all the fossil fuels. And yes, China does burn almost as much coal as the rest of the world combined. But in 2012, China actually increased wind power generation more than coal power generation.\* In fact, wind power growth was more than double that of coal power growth in China—26 terawatt-hours of new wind generation in 2012 versus only 12 terawatt-hours of added coal generation in the same year.¶ And when ranked against other countries, China comes in at—you guessed it—No. 1 in terms of the total amount of wind generating capacity installed, about 76 gigawatts compared with the United States’ 60 gigawatts. And that’s after the best-ever year the United States had in deploying new wind power, spurred on by uncertainty as to whether the wind power production tax credit would be extended.¶ 7. China’s leaders are not like America’s. There’s a preponderance of scientists and engineers among China’s rulers. New President Xi Jinping was trained as a chemical engineer. His predecessor, Hu Jintao, earned a degree in hydraulic engineering. His predecessor, Jiang Zemin, held a degree in electrical engineering.¶ You can see this in their public statements. Last year, Xi Jinping said that “global climate change is deeply affecting human beings’ lives and development,” and called for China to develop a “national strategy for [dealing with] climate change.” Among China’s leadership, there simply is no debate about whether climate change is real. The Politburo, too, is stuffed with engineers and scientists. These are men (all men, sadly) who recognize that the world is facing a significant challenge. The conversation in China is not about whether to act against climate change. Rather, it’s about how to tackle climate change, while making room for more than 1 billion Chinese men and women to continue to enjoy the fruits of rapid economic growth.¶ Turning the Ship¶ All that said, what China’s doing still isn’t nearly enough to stop climate change. CO2 emissions in 2012 jumped by record amounts both worldwide and in China. China now has a staggering 363 new coal plants on the drawing boards. And behind China comes rising India, with 455 new coal plants on the drawing boards.¶ But in the end, only one thing matters when it comes to determining what energy technology will be deployed: price. Governments, industry, and consumers choose whatever source of energy comes with the lowest price tag. China, by moving toward cap-and-trade and a carbon tax, is seeking to affect that price tag. And by driving both the manufacturing and deployment of renewable energy, China’s green technology investment is also fueling a tremendous amount of research and development, driving down the intrinsic price of solar panels and wind turbines.¶ When that price gets low enough—through whatever combination of innovation and market-correcting policies get us there—the whole world will shift its behavior.

#### Only Chinese influence solves warming

**Davenport ’11** [Deborah Davenport, PhD, Senior Visiting Research Associate in the Environmental Change Institute, Oxford University, consultant to numerous governments and international agencies on forest and climate change politics, “COP17: Will China Lead the Way?” 12-7-11, <http://thinkafricapress.com/cop17/will-china-lead-way>]

As the COP17 climate change talks in Durban near their conclusion, all eyes are on China. At the beginning of the week, China’s chief negotiator Xie Zhenhua vowed that China would accept a legally-binding agreement on carbon emissions after 2020 if certain conditions were also met by other countries. This move has formed a primary talking point at the COP17 meetings and the burgeoning Asian superpower appears to have emerged as the key participant in proceedings. As the world’s biggest polluter and an increasingly influential global economic actor, China’s pledge could be the shot in the arm needed if an agreement is to be made. If China and the EU are able to make progress, supported by other rich nations, countries might be able to find a new way to carry negotiations forward by the end of COP17. At best, China’s stance to some extent calls the US' bluff, already having rejected commitments for itself due to a lack of commitments from countries such as China. If, however, China’s public statements are not matched by movement behind closed doors from other countries, there is little hope that the current stalemate will be resolved by the end of COP17.¶ Repeating history¶ Two years ago, US President Obama brought the US cavalry to the rescue for COP15, leading a select group of key countries to the informal Copenhagen Accord. While the deal was vilified at the time by some of the countries not included in those negotiations, the Copenhagen Accord and the Cancun Agreements that followed at COP16 produced a framework for further negotiations, including agreement in principle on a global climate fund to mobilise financial resources for assisting developing countries with climate change mitigation.¶ Despite this, COP17 faces many of the same questions as at previous talks: Will the Kyoto Protocol survive? Will developed countries agree to new and deep binding cuts in greenhouse gas emissions? Will middle income countries take on any similar commitments (perhaps now influenced by the promise of funding under the proposed Green Climate Fund)?¶ Global concerns?¶ Reaching a strong global agreement requires two essential factors to coincide: a superpower to influence others, and some benefit and self-interest in an agreement being made in the first place.¶ Strong leadership is necessary to induce agreement through credible promises of reward or threats of punishment. The ‘carrot’ of a promise can raise the value of an agreement, making it more enticing, while the "stick" of possible punishment can lower the value of continuing with business as usual. For promises or threats to be effective and credible, however, they must generally be made by a very powerful country or group of countries; Tuvalu, for example, has not yet been able to twist the US’ arm toward making a strong binding commitment. Indeed, those countries most threatened by climate change and with the least wherewithal to adapt tend to be small island states and poor countries, many of which are in Africa.¶ Power by itself, however, is obviously not enough. The powerful country or group of countries must also see some self-interested benefits in forming an agreement. Altruism will not suffice. Unfortunately, it seems the country most able to lead the world to a global agreement has both internationally and domestically lacks incentives to tackle climate change. The US has little domestic support in addressing climate change and because the US never ratified Kyoto, it has no internationally binding commitments to reduce greenhouse gas emissions by any percentage by any deadline.¶ Who can lead the way? With the US unwilling and those most in danger unable to create global consensus, few are left to take a meaningful stance. The EU has an interest in an agreement at COP17, partly due to the market benefits they could gain by being innovators of green technologies. But given the current economic and political problems in the eurozone, they are unlikely to have the power to lead a global agreement. This leaves China. China is in the ascendancy and is arguably in better economic health than either the US or the EU. Plus, it has diplomatic advantages in that it has influence over many states that are ill-disposed towards the US and Europe, and indeed others such as the majority of the African nations. China’s assertiveness in the climate change negotiations could prove very encouraging to them.

#### Archeology disproves environmental extinction

AFP ’13 (Agence France-Presse, “Climate change boosted human development: study”, May 21, 2013)

PARIS — Early humans living in South Africa made cultural and industrial leaps in periods of wetter weather, said a study Tuesday that compared the archaeological record of Man's evolution with that of climate change. Anatomically modern humans, Homo sapiens, first made their appearance in Africa during the Middle Stone Age which lasted from about 280,000 to 30,000 years ago. Some of the earliest examples of human culture and technology are found in South Africa -- with fossil evidence of innovative spurts whose cause has left scientists puzzled. The record reveals that a notable period of human advancement occurred about 71,500 years ago, and another between 64,000 and 59,000 years ago. Examples of such innovation include the use of symbols, linked to the development of complex language, in engravings, the manufacture and use of stone tools and personal adornment with shell jewellery. "We show for the first time that the timing of... these periods of innovation coincided with abrupt climate change," study co-author Martin Ziegler of the Cardiff University School of Earth and Ocean Sciences told AFP of the study in the journal Nature Communications. "We found that South Africa experienced wetter conditions during these periods of cultural advance. "At the same time, large parts of sub-Saharan Africa experienced drier conditions, so that South Africa potentially acted as a refugium for early humans." Ziegler and a team reconstructed the South African climate over the past 100,000 years using a sediment core drilled out from the country's east coast. The core shows changes in river discharge and rainfall. "It offers for the first time the possibility to compare the archaeological record with a record of climate change over the same period and thus helps us to understand the origins of modern humans," Ziegler said by email. Co-author Chris Stringer of London's Natural History Museum said the findings supported the view that population growth fuelled cultural advancement through increased human interactions. "Such climate-driven pulses in southern Africa and more widely were probably fundamental to the origin of key elements of modern human behaviour in Africa and to the subsequent dispersal of Homo sapiens from its ancestral homeland," concluded the study.

**Warming doesn't cause extinction**

**Lomborg ‘8** (Director of the Copenhagen Consensus Center and adjunct professor at the Copenhagen Business School, Bjorn, “Warming warnings get overheated”, The Guardian, 8/15, <http://www.guardian.co.uk/commentisfree/2008/aug/15/carbonemissions.climatechange>

These alarmist predictions are becoming quite bizarre, and could be dismissed as sociological oddities, if it weren’t for the fact that they get such big play in the media. Oliver Tickell, for instance, writes that a global warming causing a 4C temperature increase by the end of the century would be a “catastrophe” and the beginning of the “extinction” of the human race. This is simply silly. His evidence? That 4C would mean that all the ice on the planet would melt, bringing the long-term sea level rise to 70-80m, flooding everything we hold dear, seeing billions of people die. Clearly, Tickell has maxed out the campaigners’ scare potential (because there is no more ice to melt, this is the scariest he could ever conjure). But he is wrong. Let us just remember that the UN climate panel, the IPCC, expects a temperature rise by the end of the century between 1.8 and 6.0C. Within this range, the IPCC predicts that, by the end of the century, sea levels will rise 18-59 centimetres – Tickell [he] is simply exaggerating by a factor ofup to400. Tickell will undoubtedly claim that he was talking about what could happen many, many millennia from now. But this is disingenuous. First, the 4C temperature rise is predicted on a century scale – this is what we talk about and can plan for. Second, although sea-level rise will continue for many centuries to come, the models unanimously show that Greenland’s ice shelf will be reduced, but Antarctic ice will increase even more (because of increased precipitation in Antarctica) for the next three centuries. What will happen beyond that clearly depends much more on emissions in future centuries. Given that CO2 stays in the atmosphere about a century, what happens with the temperature, say, six centuries from now mainly depends on emissions five centuries from now (where it seems unlikely non-carbon emitting technology such as solar panels will not have become economically competitive). Third, Tickell tells us how the 80m sea-level rise would wipe out all the world’s coastal infrastructure and much of the world’s farmland – “undoubtedly” causing billions to die. But to cause billions to die, it would require the surge to occur within a single human lifespan. This sort of scare tactic is insidiously wrong and misleading, mimicking a firebrand preacher who claims the earth is coming to an end and we need to repent. While it is probably true that the sun will burn up the earth in 4-5bn years’ time, it does give a slightly different perspective on the need for immediate repenting. Tickell’s claim that 4C will be the beginning of our extinction is again many times beyond wrong and misleading, and, of course, made with no data to back it up. Let us just take a look at the realistic impact of such a 4C temperature rise. For the Copenhagen Consensus, one of the lead economists of the IPCC, Professor Gary Yohe, did a survey of all the problems and all the benefits accruing from a temperature rise over this century of about approximately 4C. And yes, there will, of course, also be benefits: as temperatures rise, more people will die from heat, but fewer from cold; agricultural yields will decline in the tropics, but increase in the temperate zones, etc. The model evaluates the impacts on agriculture, forestry, energy, water, unmanaged ecosystems, coastal zones, heat and cold deaths and disease. The bottom line is that benefits from global warming right now outweigh the costs (the benefit is about 0.25% of global GDP). Global warming will continue to be a net benefit until about 2070, when the damages will begin to outweigh the benefits, reaching a total damage cost equivalent to about 3.5% of GDP by 2300. This is simply not the end of humanity. If anything, global warming is a net benefit now; and even in three centuries, it will not be a challenge to our civilisation. Further**, the IPCC expects the average person on earth to be 1,700% richer by the end of this century.**

**Consensus of experts agree that there is no impact to warming**

**Hsu 10**

Jeremy, Live Science Staff, July 19, pg. <http://www.livescience.com/culture/can-humans-survive-extinction-doomsday-100719.html>

His views deviate sharply from those of **most experts**, who don't view climate change as the end for humans. Even the worst-case scenarios discussed by the Intergovernmental Panel on Climate Change don't foresee human extinction. "The scenarios that the **mainstream climate community** are advancing are not end-of-humanity, catastrophic scenarios," said Roger Pielke Jr., a climate policy analyst at the University of Colorado at Boulder. Humans have the technological tools to begin tackling climate change, if not quite enough yet to solve the problem, Pielke said. He added that doom-mongering did little to encourage people to take action. "My view of politics is that the long-term, high-risk scenarios are really difficult to use to motivate short-term, incremental action," Pielke explained. "The rhetoric of fear and alarm that some people tend toward is counterproductive." Searching for solutions One technological solution to climate change already exists through carbon capture and storage, according to Wallace Broecker, a geochemist and **renowned climate scientist** at Columbia University's Lamont-Doherty Earth Observatory in New York City. But Broecker remained skeptical that governments or industry would commit the resources needed to slow the rise of carbon dioxide (CO2) levels, and predicted that more drastic geoengineering might become necessary to stabilize the planet. "**The rise in CO2 isn't going to kill many people, and it's not going to kill humanity**," Broecker said. "But it's going to change the entire wild ecology of the planet, melt a lot of ice, acidify the ocean, change the availability of water and change crop yields, so we're essentially doing an experiment whose result remains uncertain."

No impact to warming – history and scientific study prove

Jaworowski 8 (Professor Zbigniew, Chairman of the Scientific Council of the Central Laboratory for Radiological Protection in Warsaw and former chair of the United Nations Scientific Committee on the Effects of Atomic Radiation, “Fear Propaganda,” http://www.ourcivilisation.com/aginatur/cycles/chap3.htm)

Doomsayers preaching the horrors of warming are not troubled by the fact that in the Middle Ages, when for a few hundred years it was warmer than it is now, neither the Maldive atolls nor the Pacific archipelagos were flooded. Global oceanic levels have been rising for some hundreds or thousands of years (the causes of this phenomenon are not clear). In the last 100 years, this increase amounted to 10 cm to 20 cm, (24) but it does not seem to be accelerated by the 20th Century warming. It turns out that in warmer climates, there is more water that evaporates from the ocean (and subsequently falls as snow on the Greenland and Antarctic ice caps) than there is water that flows to the seas from melting glaciers. (17) Since the 1970s, the glaciers of the Arctic, Greenland, and the Antarctic have ceased to retreat, and have started to grow. On January 18, 2002, the journal Science published the results of satellite-borne radar and ice core studies performed by scientists from CalTech's Jet Propulsion Laboratory and the University of California at Santa Cruz. These results indicate that the Antarctic ice flow has been slowed, and sometimes even stopped, and that this has resulted in the thickening of the continental glacier at a rate of 26.8 billion tons a year. (25) In 1999, a Polish Academy of Sciences paper was prepared as a source material for a report titled "Forecast of the Defense Conditions for the Republic of Poland in 2001-2020." The paper implied that the increase of atmospheric precipitation by 23 percent in Poland, which was presumed to be caused by global warming, would be detrimental. (Imagine stating this in a country where 38 percent of the area suffers from permanent surface water deficit!) The same paper also deemed an extension of the vegetation period by 60 to 120 days as a disaster. Truly, a possibility of doubling the crop rotation, or even prolonging by four months the harvest of radishes, makes for a horrific vision in the minds of the authors of this paper. Newspapers continuously write about the increasing frequency and power of the storms. The facts, however, speak otherwise. I cite here only some few data from Poland, but there are plenty of data from all over the world. In Cracow, in 1896-1995, the number of storms with hail and precipitation exceeding 20 millimeters has decreased continuously, and after 1930, the number of all storms decreased. (26) In 1813 to 1994, the frequency and magnitude of floods of Vistula River in Cracow not only did not increase but, since 1940, have significantly decreased. (27) Also, measurements in the Kolobrzeg Baltic Sea harbor indicate that the number of gales has not increased between 1901 and 1990. (28) Similar observations apply to the 20th Century hurricanes over the Atlantic Ocean (Figure 4,) and worldwide.

#### Status quo solves ALL disease outbreaks- US global partnerships

Ritger 2/14 (Clara, staff correspondent for the National Journal, February 14, 2014, “Obama Team Launches Global Partnership Aimed at Battling Pandemics”, http://www.nationaljournal.com/health-care/obama-team-launches-global-partnership-aimed-at-battling-pandemics-20140213///TS)

The U.S. is launching a worldwide effort to prevent, detect, and respond to the outbreak of infectious diseases. Health and Human Services Secretary Kathleen Sebelius joined Lisa Monaco, assistant to the president for homeland security and counterterrorism, to announce the Global Health Security Agenda, an effort of 26 nations and three international organizations to stop loss of life, avert serious economic consequences associated with mass infection, and block bioterror threats. "We know that outbreaks anywhere in the world are only a plane ride away," said Laura Holgate, senior director at the National Security Council. Thursday's announcement from the White House mirrors the efforts of the the World Health Organization, which set out International Health Regulations in 2005 in an effort to create a global reporting and response system for public health risks. Less than one in five countries adheres to WHO standards, and Holgate said they're "putting political highlights" on it. "The U.S. is putting resources toward this and others should do the same," she said. Roughly $40 million will come out of existing U.S. resources to support the efforts in 2014 of 10 low- and middle-income countries that are working to meet the International Health Regulations laid out by WHO, according to Tom Frieden, director of the Centers for Disease Control and Prevention. In 2015, Frieden added, the president plans to allocate $45 million to the CDC for the explicit purpose of global health security. There's already promising results in one of the pilot programs the U.S. has launched, according to Frieden. The CDC worked with Uganda—a country that has dealt with numerous outbreaks, including Ebola and cholera—to transport samples from potentially infectious patients for remote testing, and used text messaging to track the cases. The CDC has already measured improvements in lab testing and interoperabillity of information and management systems in Uganda. The goal of the worldwide effort is "to slow the spread of antimicrobial resistance, establish national biosecurity systems, reduce zoonotic disease transmission, increase routine immunization, establish and strengthen national infectious disease surveillance and laboratory systems, and develop real-time electronic reporting systems and emergency operations centers," according to a press release. The White House plans to meet with the nations committed to its health agenda to measure progress this fall.

said.

#### Diseases don’t have enough momentum to kill humanity

Lind 11(Michael, policy director of the New America Foundation's Economic Growth Program; “So Long, Chicken Little;” published in Foreign Policy, March/April 2011; <http://www.foreignpolicy.com/articles/2011/02/22/so_long_chicken_little?page=0,8>)

There's nothing like a good plague to get journalists and pundits in a frenzy. Although the threat of global pandemics is real, it's all too often exaggerated. In the last few years, the world has experienced two such pandemics, the avian flu (H5N1) and swine flu (H1N1). Both fell far short of the apocalyptic vision of a new Black Death cutting huge swaths of mortality with its remorseless scythe. Out of a global population of more than 6 billion people, 8,768 are estimated to have died from swine flu, 306 from avian flu. And yet it was not just the BBC [ominously informing](http://news.bbc.co.uk/2/hi/8022437.stm) us that "the deadly swine flu … cannot be contained." Like warnings about the proliferation of nuclear weapons, the good done by mobilizing people to address the problem must be weighed against the danger of apocalypse fatigue on the part of a public subjected to endless Chicken Little scares.

## 1NR

#### Executive Circumvention now- pitiful Congress allows Obama to scapegoat.

Sanders 2/21- Matthew Sanders studied economics at Brigham Young University and business and government at Harvard University. He is a GM at Deseret Digital Media's Publisher Solutions group. (“Matthew Sanders: Rising executive power backs Congress into corners”, Deseret News, http://www.deseretnews.com/article/865597004/Rising-executive-power-backs-Congress-into-corners.html)

In the United States, we depend upon a remarkable system of participatory, citizen-led government that involves legal checks and balances of power. Last year, only 10 percent of Americans expressed confidence in Congress and falling trust in other core institutions. As the Deseret News recently editorialized, Congress has been further weakened by an emboldened presidency that has our system of government out of balance. One way to gauge executive power is its pocketbook. Today, government spending hovers around 21 percent of GDP, with 55 percent of it going out as mandatory payments for social programs like Medicaid, Medicare, food stamps and Social Security and another 24 percent going to defense. Marketable U.S. government debt surpassed $17 trillion in January 2014. Notwithstanding all the mental gymnastics performed by the likes of Paul Krugman, sensible people learned as children that "debt is a monster" and understand that debt can't be outrun, it must be paid. And if for no other reasons than it diverts Congress from thoughtful deliberation to modernize government processes, or debate a health care reform law openly, then it is indeed very, very costly. For instance, with a distracted and disheveled Congress ever available as a scapegoat for gridlock, President Obama recently signed an executive order to raise the minimum wage for federal contractor employees, circumventing Congress in its stewardship over budget and appropriations. The executive order isn't the issue, Obama's 168 orders are on par with recent presidents, and certainly less than FDR, with 3,522, and Wilson with 1,803 orders. No, it is more about the wedge it drives, yet again, between the branches of government. The final troubling element involves inaction. In the cases of the Defense of Marriage Act, and the Controlled Substances Act, this presidency has openly refused to defend or execute law or portions of laws duly passed by Congress. A president is free to drive an agenda via political influence and persuasion. He also may wield the veto pen when he disagrees with legislation. But the president does not have the right to act as a conscientious objector and simply flout the law by refusing to enact or enforce it. Doing so further erodes the constitutional power and freedom of congressional representatives.

#### Prez flex is key to quick action and intel

Glenn Sulmasy 9, law faculty of the United States Coast Guard Academy, , Anniversary Contributions: Use of Force: Executive Power: the Last Thirty Years, 30 U. Pa. J. Int'l L. 1355

Since the attacks of 9/11, the original concerns noted by Hamilton, Jay, and Madison have been heightened. Never before in the young history of the United States has the need for an energetic executive been more vital to its national security. The need for quick action in this arena requires an executive response - particularly when fighting a shadowy enemy like al Qaeda - not the deliberative bodies opining on what and how to conduct warfare or determining how and when to respond. The threats from non-state actors, such as al Qaeda, make the need for dispatch and rapid response even greater. Jefferson's concerns about the slow and deliberative institution of Congress being prone to informational leaks are even more relevant in the twenty-first century. The advent of the twenty-four hour media only leads to an increased need for retaining enhanced levels of executive [\*1362] control of foreign policy. This is particularly true in modern warfare. In the war on international terror, intelligence is vital to ongoing operations and successful prevention of attacks. Al Qaeda now has both the will and the ability to strike with the equivalent force and might of a nation's armed forces. The need to identify these individuals before they can operationalize an attack is vital. Often international terror cells consist of only a small number of individuals - making intelligence that much more difficult to obtain and even more vital than in previous conflicts. The normal movements of tanks, ships, and aircrafts that, in traditional armed conflict are indicia of a pending attack are not the case in the current "fourth generation" war. Thus, the need for intelligence becomes an even greater concern for the commanders in the field as well as the Commander-in-Chief.¶ Supporting a strong executive in foreign affairs does not necessarily mean the legislature has no role at all. In fact, their dominance in domestic affairs remains strong. Additionally, besides the traditional roles identified in the Constitution for the legislature in foreign affairs - declaring war, ratifying treaties, overseeing appointments of ambassadors, etc. - this growth of executive power now, more than ever, necessitates an enhanced, professional, and apolitical oversight of the executive. An active, aggressive oversight of foreign affairs, and warfare in particular, by the legislature is now critical. Unfortunately, the United States - particularly over the past decade - has witnessed a legislature unable to muster the political will necessary to adequately oversee, let alone check, the executive branch's growing power. Examples are abundant: lack of enforcement of the War Powers Resolution abound the executive's unchecked invasions of Grenada, Panama, and Kosovo, and such assertions as the Authorization for the Use of Military Force, the USA Patriot Act, military commissions, and the updated Foreign Intelligence Surveillance Act ("FISA"). There have been numerous grand-standing complaints registered in the media and hearings over most, if not all, of these issues. However, in each case, the legislature has all but abdicated their constitutionally mandated role and allowed the judicial branch to serve as the only real check on alleged excesses of the executive branch. This deference is particularly dangerous and, in the current environment of foreign affairs and warfare, tends to unintentionally politicize the Court.¶ The Founders clearly intended the political branches to best serve the citizenry by functioning as the dominant forces in [\*1363] guiding the nation's foreign affairs. They had anticipated the political branches to struggle over who has primacy in this arena. In doing so, they had hoped neither branch would become too strong. The common theme articulated by Madison, ambition counters ambition, n17 intended foreign affairs to be a "give and take" between the executive and legislative branches. However, inaction by the legislative branch on myriad policy and legal issues surrounding the "war on terror" has forced the judiciary to fulfill the function of questioning, disagreeing, and "checking" the executive in areas such as wartime policy, detentions at Guantanamo Bay, and tactics and strategy of intelligence collection. The unique nature of the conflict against international terror creates many areas where law and policy are mixed. The actions by the Bush administration, in particular, led to outcries from many on the left about his intentions and desire to unconstitutionally increase the power of the Presidency. Yet, the Congress never firmly exercised the "check" on the executive in any formal manner whatsoever.¶ For example, many policymakers disagreed with the power given to the President within the Authorization to Use Military Force ("AUMF"). n18 Arguably, this legislation was broad in scope, and potentially granted sweeping powers to the President to wage the "war on terror." However, Congress could have amended or withdrawn significant portions of the powers it gave to the executive branch. This lack of withdrawal or amendment may have been understandable when Republicans controlled Congress, but as of November 2006, the Democrats gained control of both houses of the Congress. Still, other than arguing strongly against the President, the legislature did not necessarily or aggressively act on its concerns. Presumably this inaction was out of concern for being labeled "soft on terror" or "weak on national security" and thereby potentially suffering at the ballot box. This virtual paralysis is understandable but again, the political branches were, and remain, the truest voice of the people and provide the means to best represent the country's beliefs, interests, and national will in the arena of foreign affairs. It has been this way in the past but the more recent (certainly over the past thirty years and even more so in the past decade) intrusions of the judicial branch into what [\*1364] was intended to be a "tug and pull" between the political branches can properly be labeled as an unintended consequence of the lack of any real legislative oversight of the executive branch.¶ Unfortunately, now nine unelected, life-tenured justices are deeply involved in wartime policy decision making. Examples of judicial policy involvement in foreign affairs are abundant including Rasul v. Bush; n19 Hamdi v. Rumsfeld; n20 Hamdan v. Rumsfeld; n21 as well as last June's Boumediene v. Bush n22 decision by the Supreme Court, all impacting war policy and interpretation of U. S. treaty obligations. Simply, judges should not presumptively impact warfare operations or policies nor should this become acceptable practice. Without question, over the past thirty years, this is the most dramatic change in executive power. It is not necessarily the strength of the Presidency that is the change we should be concerned about - the institutional search for enhanced power was anticipated by the Founders - but they intended for Congress to check this executive tendency whenever appropriate. Unfortunately, this simply is not occurring in twenty-first century politics. Thus, the danger does not necessarily lie with the natural desire for Presidents to increase their power. The real danger is the judicial branch being forced, or compelled, to fulfill the constitutionally mandated role of the Congress in checking the executive.¶ 4. PRESIDENT OBAMA AND EXECUTIVE POWER¶ The Bush presidency was, and continues to be, criticized for having a standing agenda of increasing the power of the executive branch during its eight-year tenure. Numerous articles and books have been dedicated to discussing these allegations. n23 However, as argued earlier, the reality is that it is a natural bureaucratic tendency, and one of the Founders presciently anticipated, that each branch would seek greater powers whenever and wherever possible. As the world becomes increasingly interdependent, technology and armament become more sophisticated, and with [\*1365] the rise of twenty-first century non-state actors, the need for strong executive power is not only preferred, but also necessary. Executive power in the current world dynamic is something, regardless of policy preference or political persuasions, that the new President must maintain in order to best fulfill his constitutional role of providing for the nation's security. This is simply part of the reality of executive power in the twenty-first century. n24

#### Judicial deference to executive war powers high now

McCormack 13, Professor of Law at Utah

(8/20, Wayne, U.S. Judicial Independence: Victim in the “War on Terror”, today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/

One of the principal victims in the U.S. so-called “war on terror” has been the independence of the U.S. Judiciary. Time and again, challenges to assertedly illegal conduct on the part of government officials have been turned aside, either because of overt deference to the Government or because of special doctrines such as state secrets and standing requirements. The judiciary has virtually relinquished its valuable role in the U.S. system of judicial review. In the face of governmental claims of crisis and national security needs, the courts have refused to examine, or have examined with undue deference, the actions of government officials.

#### **Judicial restriction of Presidential War Powers makes warfighting impossible**

Knott 13, Professor of National Security Affairs at the United States Naval War College

(8/22, Stephen F., War by Lawyer, www.libertylawsite.org/2013/08/22/war-by-lawyer/)

It is important to keep this in mind in light of the recent National Security Agency surveillance “scandal” which has led to calls for increased judicial oversight of the nation’s intelligence community. These calls, unfortunately, are not coming solely from the usual liberal suspects, but from conservatives who proclaim their devotion to the Constitution. This is an unfortunate turn of events, for if legislating from the bench is inappropriate in the domestic arena, it is completely unwarranted, and altogether dangerous, in the national security arena. This newfound appreciation for judicial activism from normally sober-minded conservatives can be seen in Senator Rand Paul’s (R-KY) and Representative Justin Amash’s (R-MI) proposal that class action lawsuits be filed against the National Security Agency in order to alter its practices. Paul recently announced that he would challenge “this [NSA surveillance] at the Supreme Court level. I’m going to be asking all the Internet providers and all of the phone companies, ask your customers to join me in a class-action lawsuit. If we get 10 million Americans saying ‘We don’t want our phone records looked at,’ then somebody will wake up and say things will change in Washington.” A program authorized by Congress, managed by the executive, and sanctioned by the FISA court will now be challenged by a class action lawsuit, mimicking the traditional liberal tactic of going to court when you cannot prevail in the political process. Additionally, Senator Patrick Leahy (D-VT), a longtime critic of the American intelligence community, has sponsored legislation with Senator Mike Lee (R-Utah) to “increase judicial review” of terrorist related surveillance requests. The FISA Accountability and Privacy Protection Act of 2013 would, as its sponsors put it, add more “meaningful judicial review” of requests by the government to intercept suspected terrorist communications. On top of this, President Obama has proposed that a “special advocate” be appointed to serve as an adversary to the government in FISA court proceedings. In other words, government officials will have to joust in front of a judge with a lawyer concerned about the civil rights of a suspected Al Qaeda sympathizer living in the United States. While it is not surprising that President Obama and Patrick Leahy would adopt these positions, it is surprising to see prominent Republicans, including potential 2016 GOP nominees, jumping on Pat Leahy’s bandwagon. Terrorist attacks directed from abroad are acts of war against the United States, requiring a response by the nation’s armed forces under the direction of the commander-in-chief. Unity in the executive is critical to the conduct of war, as Alexander Hamilton noted in The Federalist, and war by committee, especially a committee of lawyers, brings to armed conflict the very qualities that are the antithesis of Publius’s “decision, activity, secrecy, and dispatch.” The American military, with the assistance of the American intelligence community, fulfill the constitutional mandate to provide for the common defense. The nation’s defense establishment is not the Internal Revenue Service or the Department of Health and Human Services; if one dislikes the social welfare policies of the Obama administration or disagrees with President Obama for whatever reason, that is all well and good, but true conservatives should reject the principle that judicial review is applicable to the conduct of national defense. The founders understood that the decision to use force, the most important decision any government can make, were non-judicial in nature and were to be made by the elected representatives of the people. Nonetheless, for those weaned during an era when “privacy” was elevated to the be-all and end-all of the American experiment, the war power and related national security powers granted by the Constitution to the elected branches are trumped by modern notions of a limitless “right to privacy.” The civil liberties violations of the War on Terror are considered so egregious as to require the intervention of an appointed judiciary lacking any Constitutional mandate, and lacking the wherewithal, including information and staff, to handle sensitive national security matters. This is judicial activism at its worst and further evidence that the “political questions doctrine,” the idea of deferring to the elected branches of government on matters falling under their constitutional purview, is, for all practical purposes, dead (See the case of Totten vs. U.S., 1875, for an example of judicial deference to the elected branches on intelligence matters. This deference persisted until the late 20th century). Simply put, according to the Constitution and to almost 220 years of tradition, Congress and the President are constitutionally empowered, among other things, to set the rules regarding the measures deemed necessary to gather intelligence and conduct a war. One of the latest demands from advocates of increased judicial oversight is for a “targeted killing court.” In a similar vein, Senator Marco Rubio has called for the creation of a “Red Team” review of any executive targeting of American citizens, which would include a 15 day review process – “decision, activity, secrecy, and dispatch” be damned. A 15 day review process of targeting decisions would horrify Alexander Hamilton and all the framers of the Constitution. No doubt our 16th President would be horrified as well – imagine Abraham Lincoln applying for targeting permits on American citizens suspected of assisting the Confederacy. (“Today, we begin a 15 day review of case #633,721, that of Beauregard Birdwell of Paducah, Kentucky.”) War by lawyer might in the not too distant future include these types of targeting decisions, followed by endless appeals to unelected judges. All of this is a prescription for defeat. We are, sadly, almost at this point, for a new conception about war and national security has taken root in our increasingly legalistic society. We saw this during the Bush years when the Supreme Court for the first time in its history instructed the executive and legislative branches on the appropriate manner of treating captured enemy combatants. The Courts are now micromanaging the treatment of detainees at Guantanamo, to the point of reviewing standards for groin searches of captured Al Qaeda members. True conservatives understand the pitfalls of this legalism, especially of the ill-defined international variety. Conservatives should be especially alert to the dangers arising from elevating international law over the national interest as the standard by which to measure American conduct. The legalistic approach to the war on terror now being endorsed by prominent conservatives would cede presidential authority to executive branch lawyers and to their brethren in the judiciary who are playing a role they were never intended to play. Michael Scheuer, the former head of the CIA’s unit charged with tracking down Osama bin Laden, observed that “at the end of the day, the U.S. intelligence community is palsied by lawyers, and everything still depends on whether the lawyers approve it or not.” This is as far removed from conducting war, as Hamilton described it, with decision and dispatch, and with the “exercise of power by a single hand,” as one can get. War conducted by the courts is not only unconstitutional, it is, to borrow a phrase from author Philip K. Howard, part of the ongoing drift toward the death of common sense.