### Heg Advantage

#### Hegemony is no longer stabilizing

**Bandow 11** -- Senior Fellow @ the CATO Institute (Doug, " Solving the Debt Crisis: A Military Budget for a Republic," Jan 31st, http://www.cato.org/pub\_display.php?pub\_id=12746)

**More than two decades after the Cold War dramatically ended, the U.S. maintains a Cold War military. America has a couple score allies, dozens of security commitments, hundreds of overseas bases, and hundreds of thousands of troops overseas. Yet international hegemonic communism has disappeared, the Soviet Union has collapsed, Maoist China has been transformed, and pro-communist Third World dictatorships have been discarded in history's dustbin**. The European Union has a larger economy and population than America does. Japan spent decades with the world's second largest economy. South Korea has 40 times the GDP and twice the population of North Korea. As Colin Powell exclaimed in 1991, "I'm running out of demons. I'm running out of enemies. I'm down to Castro and Kim Il-sung." Yet America accounts for roughly half of the globe's military outlays. In real terms the U.S. government spends more on the military today than at any time during the Cold War, Korean War, or Vietnam War**. It is difficult for even a paranoid to concoct a traditional threat** to the American homeland. Terrorism is no replacement for the threat of nuclear holocaust. Commentator Philip Klein worries about "gutting" the military and argued that military cuts at the end of the Cold War "came back to haunt us when Sept. 11 happened." Yet the reductions, which still left America by far the world's most dominant power, neither allowed the attacks nor prevented Washington from responding with two wars. And responding with two wars turned out to be a catastrophic mistake. Evil terrorism is a threat, but existential threat it is not. Moreover**, the best response is not invasions and occupations —** as the U.S. has learned at high cost in both Afghanistan and Iraq. Rather, the most effective tools are improved intelligence, Special Forces, international cooperation, and restrained intervention. Attempts at nation-building are perhaps even more misguided than subsidizing wealthy industrialized states. America's record isn't pretty. The U.S. wasn't able to anoint its preferred Somali warlord as leader of that fractured nation. Washington's allies in the still unofficial and unstable nation of Kosovo committed grievous crimes against Serb, Roma, and other minorities. Haiti remains a failed state after constant U.S. intervention. The invasion of Iraq unleashed mass violence, destroyed the indigenous Christian community, and empowered Iran; despite elections, a liberal society remains unlikely. After nine years most Afghans dislike and distrust the corrupt government created by the U.S. and sustained only by allied arms. **The last resort of those who want America to do everything everywhere is to claim that the world will collapse into various circles of fiery hell without a ubiquitous and vast U.S. military presence. Yet there is no reason to believe that scores of wars are waiting to break out. And America's prosperous and populous allies are capable of promoting peace and stability in their own regions.** Indeed, U.S. security guarantees are profoundly dangerous. Intended to deter by making American involvement automatic, they ensure American

#### Drones hurting American alliances, oversight and transparency needed

Omar S. **Bashir**, Foreign Affairs, “Who Watches the Drones? The Case for Independent Oversight” 20**12** <http://www.foreignaffairs.com/articles/138141/omar-s-bashir/who-watches-the-drones>

Aside from enabling accountability at home, the oversight system could also help with foreign publics and governments. The United States has taken expensive steps in order to avoid perceptions of recklessness abroad: for instance, Georgetown professor David Koplow [argues](http://amzn.to/SP80TP) that the Pentagon's recent investments in less-destructive weaponry reflect, in part, a growing emphasis on global perceptions. Washington should thus worry that more than half of respondents in 17 of 20 countries disapprove of U.S. drone strikes, according to a Pew Global survey. An independent oversight program is not going to change minds in Lahore or Karachi, where opposition to drones seems to be driven more by the perceived violation of sovereignty than by indiscriminate killing (there are [indications](http://reut.rs/LxHR1B) that opposition to drones is actually lower in regions where drone strikes are clustered). Still, because the drone is a salient symbol of American recklessness, oversight might reduce public opposition to U.S. policy in Europe and elsewhere. That would make it easier for foreign leaders to overcome domestic opposition to security cooperation with the United States. Further, the U.S. counterterrorism chief John Brennan has noted that the administration is "establishing precedents that other nations may follow." But, for now, other countries have no reason to believe that the United States carries out its own targeted killing operations responsibly. Without a credible oversight program, those negative perceptions of U.S. behavior will fill the vacuum, and an anything-goes standard might be the result. U.S. denunciations of other countries' programs could come to ring hollow. If the United States did adopt an oversight system, those denunciations would carry more weight. So, too, would U.S. pressure on other states to adopt similar systems: just as suspicions grow when countries refuse nuclear inspection, foreign governments that turned down invitations to apply a proven system of oversight to their own drone campaigns would reveal their disregard for humanitarian concerns.

#### Alliances are key to hegemony

Joseph S. Nye 13 Jr. is a professor at Harvard’s Kennedy School of Government, “American power in the 21st century will be defined by the ‘rise of the rest’” 6-28-13, <http://articles.washingtonpost.com/2013-06-28/opinions/40255646_1_american-power-u-s-economy-united-states>, DOA: 7-23-13, y2k

In the last century, the United States rose from the status of second-tier power to being the world’s sole superpower. Some worry that the United States will be eclipsed in this century by China, but that is not the problem. There is never just one possible outcome. Instead, there are always a range of possibilities, particularly regarding political change in China. Aside from the political uncertainties, China’s size and high rate of economic growth will almost certainly increase its strength in relation to the United States. But even when China becomes the world’s largest economy, it will lag decades behind the United States in per-capita income, which is a better measure of an economy’s sophistication. Moreover, given our energy resources, the U.S. economy will be less vulnerable than the Chinese economy to external shocks. Growth will bring China closer to the United States in power resources, but as Singapore’s former prime minister Lee Kwan Yew has noted, that does not necessarily mean that China will surpass the United States as the world’s most powerful country. Even if China suffers no major domestic political setbacks, projections based on growth in gross domestic product alone ignore U.S. military and “soft power” advantages as well as China’s geopolitical disadvantages in the Asian balance of power. The U.S. culture of openness and innovation will keep this country central in an information age in which networks supplement, if not fully replace, hierarchical power. The United States is well positioned to benefit from such networks and alliances if our leaders follow smart strategies. In structural terms, it matters that the two entities with per-capita income and sophisticated economies similar to that of the United States — Europe and Japan — are both allied with the United States. In terms of balances-of-power resources, that makes a large difference for the net position of American power, but only if U.S. leaders maintain the alliances and institutional cooperation. In addition, in a more positive sum view of power with, rather than over, other countries, Europe and Japan provide the largest pools of resources for dealing with common transnational problems. On the question of absolute — rather than relative — American decline, the United States faces serious domestic problems in debt, secondary education and political gridlock. But these issues are only part of the picture. Of the many possible futures, stronger cases can be made for the positive over the negative. Among the negative futures, the most plausible is one in which the United States overreacts to terrorist attacks by turning inward and closing itself off to the strength it obtains from openness. But barring such mistaken strategies, there are, over a longer term, solutions to the major problems that preoccupy us. Of course, for political or other reasons, such solutions may remain forever out of reach. But it is important to distinguish between situations that have no solutions and those that, at least in principle, can be solved. Decline is a misleading metaphor and, fortunately, President Obama has rejected the suggested strategy of “managing decline.” As a leader in research and development, higher education and entrepreneurial activity, the United States is not in absolute decline, as happened in ancient Rome. In relative terms, there is a reasonable probability that the United States is likely to remain more powerful than any single state in the coming decades. We do not live in a “post-American world,” but neither do we live any longer in the “American era” of the late 20th century. In terms of primacy, the United States will be “first” but not “sole.” No one has a crystal ball, but the National Intelligence Council (which I once chaired) may be correct in its 2012 projection that although the unipolar moment is over, the United States probably will remain first among equals among the other great powers in 2030 because of the multifaceted nature of its power and legacies of its leadership. The power resources of many states and non-state actors will rise in the coming years. U.S. presidents will face an increasing number of issues in which obtaining our preferred outcomes will require power with others as much as power over others. Our leaders’ capacity to maintain alliances and create networks will be an important dimension of our hard and soft power. Simply put, the problem of American power in the 21st century is not one of a poorly specified “decline” or being eclipsed by China but, rather, the “rise of the rest.” The paradox of American power is that even the largest country will not be able to achieve the outcomes it wants without the help of others.

#### Drone strikes hurt U.S. credibility – lack of transparency, oversight and restrictions allow any bombing to be blamed on the U.S.

Zenko 13, (Micah, fellow at the Council on Foreign Relations, with expertise in Conflict Prevention; US national security policy, military planning and operations and nuclear weapons policy. “Reforming U.S. Drone Strike Policies”, Council on Foerign Relations Special Report no. 65, January 2013 <http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736>, pg15)

The problem with maintaining that drone strikes are covert is that both the American and international publics often misunderstand how drones are used. And in affected states, citizens often blame the United States for collateral damage that could have been caused by the host states’ own weapon systems. According to a recent report from Yemen: It’s extremely difficult to figure out who is responsible for any given strike. . . . It could be a manned plane from the Yemeni Air Force or the U.S. military. Or it could be an unmanned drone flown by the U.S. military or the CIA. . . . But no matter who launches a particular strike, Yemenis are likely to blame it on the Americans. What’s more, we found that many more civilians are being killed than officials acknowledge.37 Congressional oversight of drone strikes varies depending on whether the CIA or the U.S. military is the lead executive authority. The CIA, according to the chair of the Senate Select Committee on Intelligence, Senator Dianne Feinstein, meets its “fully and currently informed” legal obligations through “monthly in-depth oversight meetings to review strike records and question every aspect of the program.” 38 Individual JSOC strikes are not reported to the relevant armed services committees, but are covered under the broad special access program biannual reporting to Congress. According to senior staff members on the Senate Foreign Relations Committee and House Foreign Affairs Committee, many of their peers have little understanding of how drone strikes are conducted within the countries for which they are responsible for exercising oversight. Even serving White House officials and members of Congress repeatedly make inaccurate statements about U.S. targeted killings and appear to be unaware of how policies have changed over the past decade.39 At the same time, the judiciary committees have been repeatedly denied access to the June 2010 Office of Legal Counsel memorandum that presented the legal basis for the drone strike that killed U.S. citizen and alleged leader of AQAP Anwar al-Awlaki in September 2011.40 Finally, despite nearly ten years of nonbattlefield targeted killings, no congressional committee has conducted a hearing on any aspect of them.

#### **AND** credibility will make the difference in maintaining hegemonic standing

APSA 9 (American Political Science Association, The American Political Science Association is the leading professional organization for the study of political science and serves more than 15,000 members in over 80 countries. With a range of programs and services for individuals, departments and institutions, APSA brings together political scientists from all fields of inquiry, regions, and occupational endeavors within and outside academe in order to expand awareness and understanding of politics, “ U.S. Standing in the World: ¶ Causes, Consequences, ¶ and the Future,” Task Force Report, October 2009,

http://www.apsanet.org/media/PDFs/APSAUSStandingShortFinal.pdf

p. 3-4)

Unlike something a nation possesses and can easily measure, like wealth or military ¶ might, standing is an attribute assigned to the United States by actors beyond its ¶ borders—such as foreign leaders and peoples, international organizations, and transnational ¶ groups—and assessed by citizens within them. U.S. standing has both an absolute and a ¶ relative quality. It is absolute in the sense that it can be high or low and can vary over time. It ¶ is relative in that U.S. standing could be better or worse than that of other countries or actors, ¶ such as China or the European Union.¶ Standing has two major facets: credibility and esteem. Credibility refers to the U.S. ¶ government’s ability to do what it says it is going to do—to “stand up” for what it believes, ¶ and to “stand against” threats to its interests and ideals. Esteem refers to America’s stature, ¶ or what America is perceived to “stand for” in the hearts and minds of foreign publics and policymakers. Credibility and esteem can be mutually reinforcing, but they can also be ¶ difficult to pursue in tandem—a trade-off implied by Machiavelli’s famous dictum: “it is much ¶ safer to be feared than loved.” ¶ Standing is densely interwoven with U.S. “hard power”—the nation’s material military ¶ and economic capabilities. U.S. capabilities help the nation realize its interests, and a modern ¶ military and robust economy breed appeal and respect. Power and standing, however, are not ¶ the same thing. U.S. standing may vary even if U.S. hard power does not, as we have seen since ¶ 2000: standing has declined (see Figure 3), but relative American power has been steady (see ¶ Figure 5 below).. Likewise with “soft power”: a country’s standing can rise and fall even as the ¶ attractiveness of its system remains relatively constant. And unlike pro- or anti-Americanism, ¶ standing is not about whether others are ¶ for or against the United States, but instead ¶ whether they view the United States as a ¶ credible actor with traits that should be ¶ admired or emulated. ¶ Why should policymakers—or political scientists—care about standing at all?¶ First, recent history suggests that standing can play a fundamental role in the shaping ¶ of strategy. In the wake of the 9/11 attacks, President George W. Bush initiated a new ¶ national strategy for the United States that favored the credibility dimension of standing—¶ emphasizing a policy package of assertive unilateralism, preventive use of force, and aggressive ¶ democratization. The administration achieved some initial successes, swiftly toppling the ¶ Taliban in Afghanistan, securing dismantlement of Libya’s nuclear program, and encouraging ¶ an apparent halt or slow-down in Iran’s nuclear program. ¶ Yet, over time, despite the lack of further terrorist attacks on U.S. soil, American ¶ standing declined. The Bush administration’s single-minded approach lost significant ¶ support at home and abroad, as the United States grew mired in Iraq, was accused of ¶ violations of international law, and drew international criticism and resentment—even as ¶ Osama bin Laden remained at large. This decline in standing only made it harder for the ¶ United States to be effective in foreign affairs—prompting the Bush administration to take ¶ what some saw as a reverse course after 2005 and return to the typical pattern of American ¶ internationalism since World War II. ¶ More distant history speaks to the significance of standing as well. In the long ¶ competition with the Soviet Union, the United States was anxious that its reputation to ¶ protect its allies, especially those in Europe, be seen as credible by both Soviet leaders and ¶ Europeans. U.S. participation in the Korean and Viet Nam wars was spurred by the fear that a ¶ perception of diminished U.S. credibility would lead others to join a rising Communist tide. ¶ As Lyndon Johnson explained to Martin Luther King, Jr. in early 1965, “If I pulled out [of ¶ Vietnam] ... I think the Germans would be scared to death that our commitment to them was ¶ no good, and God knows what we’d have in other places in the world....”¶ Standing is the everyday currency of America’s existence in the world. Political standing ¶ is akin to long-term political capital (or “goodwill” in accounting). It has intrinsic value, ¶ including in the self-understanding of Americans, even when it has no readily observable ¶ behavioral implications.

#### **Alliance cooperation is key to gain cooperation to prevent pandemics, economic collapse, and integrate rising powers to prevent nuclear conflict**

Richardson ‘8 (A New Realism A Realistic and Principled Foreign Policy By Bill Richardson From Foreign Affairs , January/February 2008

A third trend transforming the world is the rapid rise of Asian economic and military power. India and China are destined to be global powers in the decades ahead -- one as a democracy, the other not. And a fourth trend is the reemergence of Russia as an assertive global and regional player with a large nuclear arsenal and control over energy resources -- and one tempted by authoritarianism and militant nationalism. The rise of India and China and the reemergence of Russia call forU.S. **strategic leadership** to integrate these **powerful nuclear-armed nations** into a **stable global order**. A fifth trend transforming our world is the increase in global economic interdependence and financial imbalances without the sufficient growth of institutional capacities to manage these realities. Globalization has made every country's economy more vulnerable to resource constraints and financial shocks that originate beyond its borders. A global energy crisis or a sudden collapse of the U.S. dollar could do great damage to the world economy. The sixth trend we face is that of **grave global environmental** and health **problems**. **Climate change and pandemics** such as AIDS **do not respect national borders**. Poverty, ethnic conflict, and overpopulation spill over national boundaries, feeding into a growing underground economy of money launderers, counterfeiters, and smugglers of drugs, arms, and human beings. Together, these six trends present us with problems that are international and societal in their origins -- and that, accordingly, will require international and societal solutions. They also demand political leadership that only the United States, the sole superpower, can provide. If the world succeeds in defeating jihadism, preventing nuclear terrorism, integrating rising powers into a stable order, protecting the stability of global financial markets, and fighting global environmental and health threats, theUnited States will deserve much of the credit. If the world fails to meet these challenges, the United States will deserve much of the blame. A NEW REALISM To cope with this new world, we need a New Realism in our foreign policy -- an ethical, principled realism that harbors no illusions about the importance of a strong military in a dangerous world but that also understands the importance of diplomacy and multilateral cooperation. We need a New Realism based on the understanding that what goes on inside of other countries profoundly impacts us -- but that we can only influence, not control, what goes on inside of other countries. A New Realism for the twenty-first century must understand that to solve our own problems, we **need to work** with **other governments that respect and trust us**. To be effective in the coming decades, America must set the following priorities. First and foremost, we must **rebuild our alliances**. We cannot lead other nations toward solutions to shared problems if they do not trust our leadership. We need to restore respect and appreciation for our allies -- and for the democratic values that unite us -- if we are to work with them to solve global problems. We must restore our commitment to international law and to multilateral cooperation.

### HUMAN RIGHTS ADVANTAGE

#### US drone policy erodes international human rights law and accelerates proliferation of indiscriminate killing

McDonnell 2012 (Thomas M., Professor of Law at Pace Law and an expert in international law, “Sow What Your Reap: Using Predator and Reaper Drones to Carry out Assassinations or Targeted Killings of Suspected Islamic Terrorists”, George Washington International Law Review, no. 44, pgs 315-316) PY

The major industrial states are racing to produce robotic weap-¶ ons; at least fifty-six nations are developing them.311 Furthermore,¶ there now is "massive spending" to develop completely autono-¶ mous weapons that take "humans out of the loop."312 The combi-¶ nation of advances in robotic weaponry and threats from terrorist¶ non-state actors is incendiary. It enables government officials to¶ call the Geneva Conventions quaint and obsolete and even more¶ liberal governmental officials to offer far-reaching legal interpreta-¶ tions justifying targeted killing with remotely operated weapon¶ systems.¶ Drones raise the ante. The ease of using drones and the lack of¶ danger to the attackers increase the likelihood of using attack¶ drones more than ever before and in areas far from armed conflict,¶ thereby eroding humanitarian law and human rights law. For the¶ attacked people-generally technologically limited, but united by¶ an extreme fundamentalist religious ethos-targeted killing by¶ such means must be particularly infuriating.¶ At the very least, there is a reasonable doubt that using drones¶ for targeted killing operations of suspected Islamic terrorists will,¶ in the long run, seriously disable the terrorist organizations they¶ lead. Despite the decapitation of numerous Taliban and al Qaeda¶ leaders and the Obama administration's belief that the strikes have¶ effectively paralyzed al Qaeda in the Pakistan tribal areas, there is¶ some evidence to suggest that such operations might actually¶ strengthen such organizations both internally and externally.¶ Employed against these targets, the unchivalrous, seemingly cow-¶ ardly, method of warfare might result in greater support for ter-¶ rorists and more terrorist recruits in the Islamic world.¶ Perhaps even more important, compiling hit lists and then using¶ a machine remotely operated from a distant land, to take the life of¶ listed suspected terrorists appears much more like murder than¶ honorable combat and, thereby, undermines world public order.¶ Furthermore despite their precision, drone missile attacks often¶ endanger non-combatants. The United States and its allies should¶ restrict the targeted killing of suspected Islamic terrorists to the¶ exceptional case where a militant poses an imminent threat to the¶ United States, allied troops or civilians, and, as a matter of policy, if¶ not crystallized, international law, ensure that innocent civilians be¶ spared.¶ The West and the United States should learn from their own¶ experience in Afghanistan resulting in the Tactical Directive and¶ from the history of air warfare in Vietnam, and World War II that¶ interpreting combat immunities strictly and human rights and¶ humanitarian law protections broadly is our best hope for uphold-¶ ing the United States' moral authority and for lessening rather¶ than inflaming conflict, especially with religiously motivated terror-¶ ist movements in repressed societies largely colonized by Western¶ hands.

#### Human rights protection prevents extinction

Annas et al 2 Edward R. Utley Prof. and Chair Health Law @ Boston U. School of Public Health and Prof. SocioMedical Sciences and Community Science @ Boston U. School of Medicine and Prof. Law @ Boston U. School of Law [George, Lori Andrews, (Distinguished Prof. Law @ Chicago-Kent College of Law and Dir. Institute for Science, Law, and Technology @ Illinois Institute Tech), and Rosario M. Isasa, (Health Law and Biotethics Fellow @ Health Law Dept. of Boston U. School of Public Health), American Journal of Law & Medicine, “THE GENETICS REVOLUTION: CONFLICTS, CHALLENGES AND CONUNDRA: ARTICLE: Protecting the Endangered Human: Toward an International Treaty Prohibiting Cloning and Inheritable Alterations”, 28 Am. J. L. and Med. 151, L/N]

The development of the atomic bomb not only presented to the world for the first time the prospect of total annihilation, but also, paradoxically, led to a renewed emphasis on the "nuclear family," complete with its personal bomb shelter. The conclusion of World War II (with the dropping of the only two atomic bombs ever used in war) led to the recognition that world wars were now suicidal to the entire species and to the formation of the United Nations with the primary goal of preventing such wars. n2 Prevention, of course, must be based on the recognition that all humans are fundamentally the same, rather than on an emphasis on our differences. In the aftermath of the Cuban missile crisis, the closest the world has ever come to nuclear war, President John F. Kennedy, in an address to the former Soviet Union, underscored the necessity for recognizing similarities for our survival: ¶ [L]et us not be blind to our differences, but let us also direct attention to our common interests and the means by which those differences can be resolved . . . . For, in the final analysis, our most basic common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal. n3 ¶ That we are all fundamentally the same, all human, all with the same dignity and rights, is at the core of the most important document to come out of World War II, the Universal Declaration of Human Rights, and the two treaties that followed it (together known as the "International Bill of Rights"). n4 The recognition of universal human rights, based on human dignity and equality as well as the principle of nondiscrimination, is fundamental to the development of a species consciousness. As Daniel Lev of Human Rights Watch/Asia said in 1993, shortly before the Vienna Human Rights Conference: ¶ Whatever else may separate them, human beings belong to a single biological species, the simplest and most fundamental commonality before which the significance of human differences quickly fades. . . . We are all capable, in exactly the same ways, of feeling pain, hunger, [\*153] and a hundred kinds of deprivation. Consequently, people nowhere routinely concede that those with enough power to do so ought to be able to kill, torture, imprison, and generally abuse others. . . . The idea of universal human rights shares the recognition of one common humanity, and provides a minimum solution to deal with its miseries. n5 ¶ Membership in the human species is central to the meaning and enforcement of human rights, and respect for basic human rights is essential for the survival of the human species. The development of the concept of "crimes against humanity" was a milestone for universalizing human rights in that it recognized that there were certain actions, such as slavery and genocide, that implicated the welfare of the entire species and therefore merited universal condemnation. n6 Nuclear weapons were immediately seen as a technology that required international control, as extreme genetic manipulations like cloning and inheritable genetic alterations have come to be seen today. In fact, cloning and inheritable genetic alterations can be seen as crimes against humanity of a unique sort: they are techniques that can alter the essence of humanity itself (and thus threaten to change the foundation of human rights) by taking human evolution into our own hands and directing it toward the development of a new species, sometimes termed the "posthuman." n7 It may be that species-altering techniques, like cloning and inheritable genetic modifications, could provide benefits to the human species in extraordinary circumstances. For example, asexual genetic replication could potentially save humans from extinction if all humans were rendered sterile by some catastrophic event. But no such necessity currently exists or is on the horizon.

#### The only alternative to international law is genocide and nuclear war.

**Shaw 01** [10/3/01 Martin Shaw Professor of International Relations and Politics at the University of

Sussex. “The unfinished global revolution: intellectuals and the new politics of international relations” http://www.martinshaw.org/unfinished.pdf]

The new politics of international relations require us, therefore, to go beyond the anti-imperialism of the intellectual left as well as of the semi-anarchist traditions of the academic discipline. We need to recognize three fundamental truths. First, in the twenty-first century people struggling for democratic liberties across the non-Western world are likely to make constant demands on our solidarity. Courageous academics, students and other intellectuals will be in the forefront of these movements. They deserve the unstinting support of intellectuals in the West. Second, the old international thinking in which democratic movements are seen as purely internal to states no longer carries conviction – despite the lingering nostalgia for it on both the American right and the anti-American left. The idea that global principles can and should be enforced worldwide is firmly established in the minds of hundreds of millions of people. This consciousness will a powerful force in the coming decades. Third, global state-formation is a fact. International institutions are being extended, and (like it or not) they have a symbiotic relation with the major centre of state power, the increasingly internationalised Western conglomerate. The success of the global-democratic revolutionary wave depends first on how well it is consolidated in each national context – but second, how thoroughly it is embedded in international networks of power, at the centre of which, inescapably, is the West. From on these political fundamentals, strategic propositions can be derived. First, democratic movements cannot regard non-governmental organisations and civil society as ends in themselves. They must aim to civilise local states, rendering them open, accountable and pluralistic, and curtail the arbitrary and violent exercise of power. Second, democratising local states is not a separate task from integrating them into global and often Western-centred networks. Reproducing isolated local centres of power carries with it classic dangers of states as centres of war.84 Embedding global norms and integrating new state centres with global institutional frameworks are essential to the control of violence. (To put this another way: the proliferation of purely national democracies is not a recipe for peace.) Third, while the global revolution cannot do without the West and the UN, neither can it rely on them unconditionally. We need these power networks, but we need to tame them too, to make their messy bureaucracies enormously more accountable and sensitive to the needs of society worldwide. This will involve the kind of ‘cosmopolitan democracy’ argued for by David Held85. It will also require us to advance a global social-democratic agenda, to address the literally catastrophic scale of world social inequalities. This is not a separate problem: social and economic reform is an essential ingredient of alternatives to warlike and genocidal power; these feed off and reinforce corrupt and criminal political economies. Fourth***,*** if we need the global-Western state, if we want to democratise it and make its institutions friendlier to global peace and justice, we cannot be indifferent to its strategic debates. It matters to develop international political interventions, legal institutions and robust peacekeeping as strategic alternatives to bombing our way through zones of crisis. It matters that international intervention supports pluralist structures, rather than ratifying Bosnia-style apartheid.86 As political intellectuals in the West, we need to have our eyes on the ball at our feet, but we also need to raise them to the horizon. We need to grasp the historic drama that is transforming worldwide relationships between people and state, as well as between state and state. We need to think about how the turbulence of the global revolution can be consolidated in democratic, pluralist, international networks of both social relations and state authority. We cannot be simply optimistic about this prospect. Sadly, it will require repeated violent political crises to push Western and other governments towards the required restructuring of world institutions.87 What I have outlined is a huge challenge; but the alternative is to see the global revolution splutter into partial defeat, or degenerate into new genocidal wars - perhaps even nuclear conflicts. The practical challenge for all concerned citizens, and the theoretical and analytical challenges for students of international relations and politics, are intertwined.

#### Accepting international legal norms key to multiple global issues and long term interests.

**Charney 03** [10/03 Jonathan I. Charney, Of the Board of Editors. Support for this paper was provided by the Vanderbilt University School of Law. Research assistance was provided by Jennifer McGinty, J.D. Vanderbilt University, 1993. “Universal International Law”, Lexis]

To resolve such problems, it may be necessary to establish new rules that are binding on all subjects of international law regardless of the attitude of any particular state. For unless all states are bound, an exempted recalcitrant state could act as a spoiler for the entire international community.Thus, **states that are not bound by international laws** designed to combat universal environmental threats **could become havens for the harmful activities concerned**. Such states might have an economic advantage over states that are bound because they would not have to bear the costs of the requisite environmental protection. They would be free riders on the system and would benefit from the environmentally protective measures introduced by others at some cost. Furthermore, the example of such free riders might undermine the system by encouraging other states not to participate, and could thus derail the entire effort. Similarly, **in the case of international terrorism, one state that serves as a safe haven for terrorists can threaten all. War crimes, apartheid or genocide committed in one state** might **threaten international peace and security worldwide.** Consequently, for certain circumstances it may be incumbent on the international community to establish international law that is binding on all states regardless of any one state's disposition. Unfortunately, the traditions of the international legal system appear to work against the ability to legislate universal norms. States are said to be sovereign, thus able to determine for themselves what they must or may do. State autonomy continues to serve the international system well in traditional spheres of international relations. The freedom of states to control their own destinies and policies has substantial value: it permits diversity and the choice by each state of its own social priorities. Few, if any, states favor a world government that would dictate uniform behavior for all. Consequently, many writers use the language of autonomy when they declare that international law requires the consent of the states that are governed by it. Many take the position that a state that does not wish to be bound by a new rule of international law may object to it and be exempted from its application. If sovereignty and autonomy prevailed in all areas of international law, however, one could hardly hope to develop rules to bind all states. In a community of nearly two hundred diverse states, it is virtually impossible to obtain the acceptance of all to any norm, particularly one that requires significant expenses or changes in behavior. Complete autonomy may have been acceptable in the past when no state could take actions that would threaten the international community as a whole. Today, the enormous destructive potential of some activities and the precarious condition of some objects of international concern make full autonomy undesirable, if not potentially catastrophic. In this article I explore the limits of state autonomy to determine whether some or all of international law may be made universally binding regardless of the position of one or a small number of unwilling states. To accomplish this objective, I begin by analyzing the secondary rules of recognition (the doctrine of sources) used to establish primary rules of international law. While treaties may require the consent of individual states to be binding on them, such consent is not required for customary norms. Finally, I explore in greater depth the actual processes by which many customary law norms have come into being in the last half of the twentieth century. The contemporary process that is often used is significantly different from that described in the classic treatises on the formation of customary law. Contemporary procedural developments place the international legal system closer to the more formal notions of positive law, facilitating the development of universal international law. These procedural developments strengthen the argument that the system may establish general international law binding on all states, regardless of the objection of a small number of states. Like many others, I take the position that there exists an international legal system with standards and procedures for making, applying and enforcing international law. [n6](http://www.lexisnexis.com:80/us/lnacademic/frame.do?tokenKey=rsh-20.246868.40305856505&target=results_DocumentContent&reloadEntirePage=true&rand=1245438917994&returnToKey=20_T6809495082&parent=docview#n6) As a jurisprudential matter, the source of the obligation to abide by international law is a matter of debate. Perhaps the most popular theory is that states become bound to the international legal system on the basis of a social contract, actual consent or tacit consent. [n7](http://www.lexisnexis.com:80/us/lnacademic/frame.do?tokenKey=rsh-20.246868.40305856505&target=results_DocumentContent&reloadEntirePage=true&rand=1245438917994&returnToKey=20_T6809495082&parent=docview#n7) Other theories dispense with consent as  the source of a state's obligation to abide by international law. The principal ones maintain (1) that natural law imposes a duty on those located within the territorial scope of the legal system to abide by it, especially when it is legitimate and just; [n8](http://www.lexisnexis.com:80/us/lnacademic/frame.do?tokenKey=rsh-20.246868.40305856505&target=results_DocumentContent&reloadEntirePage=true&rand=1245438917994&returnToKey=20_T6809495082&parent=docview#n8) (2) that principles of fair play or gratitude bind those who benefit from the legal system to abide by its rules; [n9](http://www.lexisnexis.com:80/us/lnacademic/frame.do?tokenKey=rsh-20.246868.40305856505&target=results_DocumentContent&reloadEntirePage=true&rand=1245438917994&returnToKey=20_T6809495082&parent=docview#n9) and (3) that utilitarian considerations based on the value of the rule or of the system to individuals obligate them to abide by the law. [n10](http://www.lexisnexis.com:80/us/lnacademic/frame.do?tokenKey=rsh-20.246868.40305856505&target=results_DocumentContent&reloadEntirePage=true&rand=1245438917994&returnToKey=20_T6809495082&parent=docview#n10) Depending upon the theory, the consent of states may or may not be found at the root of all international law. Be that as it may, the system of international law serves the practical interests of states. As is true of all societies, the international community has a need for rules to impart a degree of order, predictability and stability to relations among its members. **The rules of the [international] system** also **permit members to avoid conflict and injury, and promote beneficial** reciprocal and cooperative **relations. They may even promote values of justice and morality.** The international legal system is supported not only by states' interests in promoting individual rules, but also by their interests in preserving and promoting the system as a whole. Thus, states collectively and severally maintain an interest in encouraging law-abiding behavior. There is also an effective decentralized system for imposing sanctions on violators of the law through individual state and collective acts of disapproval, denial and penalties. Fear of sanctions, the desire to be viewed by others as law-abiding, and domestic institutional inclinations to conform to rules denominated as law further impel states to comply with international law. Despite the decentralized nature of the international legal system, there are strong reasons why states need international law and are compelled to abide by it. Its decentralized structure places some limits on what can be accomplished, but within those limits **international law has an important role.** Even though **individual states** may find short-term advantages in violating the law in particular situations, their **long-term interests are likely to be served best by the system.** Because the decentralized international legal system is governed directly by the subjects of the law, i.e., states, it inherently favors rules of law that optimize the interests of states. Despite the differences in power and influence of states, no individual or small group of states is now dominant. Decisions tend to reflect the power relationships and the right of all states to participate in reaching them. When the lawmakers themselves are the primary subjects of the law, the law should reflect their collective interests.

### Plan: The United States Congress should establish a federal court with jurisdiction over targeted killing authorization that will create a cause of action–with nominal damages–for individuals who have been the targets of such operations

### Solvency

#### Retrospective review solves for disads

Steve **Vladeck**, professor of law and the associate dean for scholarship at American University Washington College of Law, [Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…](http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/),February 10, 20**13** <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>

At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I actually think virtually all of these concerns could be mitigated. For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to adversity or judicial competence. Re: adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief (more on that below), it’s hard to see any pure Article III problem with such a suit for retrospective relief. As for competence, judges *routinely* review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what [*Tennessee v. Garner*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=471&invol=1) contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, [it demonstrates that](http://www.brookings.edu/research/reports/2011/05/guantanamo-wittes) judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances–albeit not always ideally–the government’s interest in secrecy with the detainee’s ability to contest the evidence against him. Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures, so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own. More to the point, it should also follow that courts would be far more able to review the questions that will necessary be at the core of these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight–removed from the pressures of the moment and with the benefit of the dispassionate distance on which judicial review must rely. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc. And in addition to the substantive questions, it will also be much easier for courts to review the government’s own *procedures* after they are employed, especially if the government itself is already conducting after-action reviews that could be made part of the (classified) record in such cases. Indeed, the government’s *own* analysis could, in many cases, go along way toward proving the lawfulness *vel non* of an individual strike…To be sure, there are a host of legal doctrines that would get in the way of such suits–foremost among them, [the present judicial hostility](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=471&invol=1) to causes of action under [*Bivens*](http://supreme.justia.com/cases/federal/us/403/388/case.html); the state secrets privilege; and official immunity doctrine. But I am a firm believer that, except where the President himself is concerned (where there’s a stronger argument that [immunity is constitutionally grounded](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0457_0731_ZS.html)), each of these concerns can be overcome by statute–so long as Congress creates an express cause of action for nominal damages, and so long as the statute both (1) expressly overrides state secrets and official immunity doctrine; and (2) replaces them with carefully considered procedures for balancing the secrecy concerns that would arise in many–if not most–of these cases, these legal issues would be overcome. Perhaps counterintuitively, I also believe that after-the-fact judicial review wouldn’t raise anywhere near the same prudential concerns as those noted above. Leaving aside how much less pressure judges would be under in such cases, it’s also generally true that damages regimes don’t have nearly the same validating effect on government action that ex ante approval does. Otherwise, one would expect to have seen a dramatic upsurge in lethal actions by law enforcement officers after each judicial decision refusing to impose individual liability arising out of a prior use of deadly force. So far as I know, no such evidence exists. Of course, damages actions aren’t a perfect solution here. It’s obvious, but should be said anyway, that in a case in which the government *does* act unlawfully, no amount of damages will make the victim (or his heirs) whole. It’s also inevitable that, like much of the Guantánamo litigation, most of these suits would be resolved under extraordinary secrecy, and so there would be far less *public* accountability for targeted killings than, ideally, we might want. That said, there are two enormous upsides to damages actions that, in my mind, make them worth it–even if they are deeply, fundamentally flawed: ***First***, if nothing else, the specter of damages, even nominal damages, should have a deterrent effect on future government officers, such that, if a targeted killing operation ever *was* carried out in a way that violated the relevant legal rules, there *would* be liability–and, as importantly, precedent–such that the next government official in a similar context might think twice, and might make sure that he’s that much more convinced that the individual in question *is* who the government claims, and that there’s no alternative to the use of lethal force. ***Second***, at least where the targets of such force are U.S. citizens, I believe that there is a non-frivolous argument that the Constitution requires at least *some* form of judicial process–and, compared to the alternatives, nominal damages actions litigated under carefully circumscribed rules of secrecy may be the only way to get all of the relevant constituencies to the table. That’s a very long way of reiterating what I wrote in [my initial response](http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/) to the DOJ white paper, but I end up in the same place: If folks really want to provide a judicial process to serve as a check on the U.S. government’s conduct of targeted killing operations, this kind of regime, and not an ex ante “drone court,” is where such endeavors should focus.

#### Cause of action hearings properly balance oversight with constitutionality – avoids all of their legal arguments

Steve **Vladeck**, professor of law and the associate dean for scholarship at American University Washington College of Law, [What’s *Really* Wrong With the Targeted Killing White Paper](http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/), February 5, 20**13** <http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/>

This all leads me to what I’ve increasingly come to believe is the only real solution here: If folks are really concerned about this issue, especially on the Hill, then Congress should create a cause of action–with nominal damages–for individuals who have been the targets of such operations (or, more honestly, their heirs). The cause of action could be for $1 in damages; it could expressly abrogate the state secrets privilege and replace it with a procedure for the government to offer at least some of its evidence *ex parte* and *in camera*; and it could abrogate qualified immunity so that, in every case, the court makes law concerning how the government applies its criteria in a manner consistent with the Due Process Clause of the Fifth Amendment. This wouldn’t in any way *resolve*the legality of targeted killings, but it would clear the way for courts to do what courts do–ensure that, when the government really is depriving an individual of their liberty (if not their life), it does so in a manner that comports with the Constitution–as the *courts*, and not just the Executive Branch, interpret it. It’s not a perfect solution, to be sure, but if ever there was a field in which the perfect is the enemy of the good, this is it.