# Drone Culture

#### 98% of drone strike murders are civilians and this is considered good by the Obama administration as long as a few alleged terrorists are killed. These strikes enact psychological trauma on the communities they target and leave neighborhoods burning.

Lendman 13 (Stephen, hosts the Progressive Radio News Hour on the Progressive Radio Network three times weekly. Distinguished guests are featured. Listen live or achived. Major world and national issues are discussed. Lendman is a 2008 Project Censored winner and 2011 Mexican Journalists Club international journalism award recipient “Lawless Drone Killings” 10/25/13 http://www.globalresearch.ca/lawless-drone-killings/5355535)

Obama’s a serial liar. He falsely claims drones haven’t “caused a huge number of civilian casualties. They’re targeted, focused at people who are on a list of active terrorists trying to go in and harm Americans.”¶ Hard evidence proves otherwise. On site investigations and eyewitness testimonies are damning.¶ According to SU/NYU:¶ “US drone strike policies cause considerable and under-accounted-for harm to the daily lives of ordinary civilians, beyond death and physical injury.”¶ “Drones hover twenty-four hours a day over communities in northwest Pakistan, striking homes, vehicles, and public spaces without warning.”¶ “Their presence terrorizes men, women, and children, giving rise to anxiety and psychological trauma among civilian communities.”¶ Official statements about drone killings keeping America safe are false. SU/NYU evidence shows at most only 2% of victims are high-value combatants.¶ Others are mostly innocent civilians. Drone killings fuel resentment. They facilitate anti-American recruitment. Most Pakistanis call America the enemy. So do people in other affected countries.¶ Professor Christof Heyns co-directs the University of Pretoria’s Institute for International and Comparative Law. He serves as UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.¶ His September 13-dated UN report is titled “Extrajudicial, summary or arbitrary executions.” It omits offender country names. He clearly holds Washington responsible.¶ “The expansive use of armed drones by the first states to acquire them, if not challenged, can do structural damage to the cornerstones of international security and set precedents that undermine the protection of life across the globe in the longer term,” he said.¶ “The use of drones by states to exercise essentially a global policing function to counter potential threats presents a danger to the protection of life, because the tools of domestic policing (such as capture) are not available, and the more permissive targeting framework of the laws of war is often used instead.”¶ On October 25, General Assembly member states will discuss Heyns’ report. It calls for obeying international law. According to Heyns:¶ “Drones come from the sky but leave the heavy footprint of war on the communities they target.”¶ “The claims that drones are more precise in targeting cannot be accepted uncritically, not least because terms such as ‘terrorist’ or ‘militant’ are sometimes used to describe people who are in truth protected civilians.”¶ “Armed drones may fall into the hands of non-state actors and may also be hacked by enemies or other entities.”¶ “In sum, the number of states with the capacity to use drones is likely to increase significantly in the near future, underscoring the need for greater consensus on the terms of their use.”¶ Protecting against clear imminent threats to life alone are permissible.¶ “The view that mere past involvement in planning attacks is sufficient to render an individual targetable, even where there is no evidence of a specific and immediate attack, distorts the requirements established in international human rights law.”

Obama indiscriminately murders alleged enemies while acting as judge, jury, and executioner. Obama operates with impunity and holds all of the keys to US drone policy. Concrete statutory changes and transparency are key to solving  
Lendman 14 (Stephen, hosts the Progressive Radio News Hour on the Progressive Radio Network three times weekly. Distinguished guests are featured. Listen live or achived. Major world and national issues are discussed. Lendman is a 2008 Project Censored winner and 2011 Mexican Journalists Club international journalism award recipient, 2/12/14 Obama's Kill List)

Obama heads an administration Murder, Inc. agenda. He appointed himself judge, jury and executioner.¶ He targets anyone, anywhere for any reason or none at all. US citizens are vulnerable like foreign nationals. ¶ Murdering them in cold blood is one Obama signature away. Drones are his weapon of choice. They're instruments of state terror. They target alleged enemies half a world away or nearby.¶ Rule of law principles don't matter. Obama makes his own rules. Despots govern this way. He operates like the worst of them. He does so with technological ease.¶ The Center for Constitutional Rights (CCR) says Obama's kill list mocks due process and habeas rights. ¶ It circumvents judicial review. It gives presidents diktat power. It permits cold-blooded murder on their say. CCR executive director Vince Warren said earlier:¶ "The law prohibits the government from killing without trial or conviction other than in the face of an imminent threat that leaves no time for deliberation or due process." ¶ "That the government adds people to kill lists after a bureaucratic process and leaves them on the lists for months at a time flies in the face of the Constitution and international law."¶ ACLU executive director Anthony Romero said earlier:¶ "A program that authorizes killing US citizens, without judicial oversight, due process or disclosed standards is unconstitutional, unlawful and un-American."¶ We don't sentence people to prison on the basis of secret criteria, and we certainly shouldn't sentence them to death that way." ¶ "It is not enough for the executive branch to say 'trust us' - we have seen that backfire in the past and we should learn from those mistakes."¶ On February 10, AP headlined "Obama Officials Weigh Drone Attack on US Suspect." ¶ At issue is an unnamed US citizen/suspected Al Qaeda member. US officials allege he plans attacking US targets.¶ Under so-called stricter drone killing guidelines, Obama weighs how to kill him. Judicial fairness isn't a problem. It's making murder look legitimate by sanitizing it. ¶ Justice Department officials haven't yet "buil(t) a case against him," said AP. "Four US officials said (he's) in a country that refuses US military action on its soil and has proved unable to go after him." ¶ So-called new policy guidelines created a "conundrum for the White House," said AP. Allegedly they permit Pentagon murder only. CIA hit men are restricted to foreign nationals.¶ Two US officials called the suspect an Al Qaeda "facilitator." They allege he's "directly responsible for deadly attacks against US citizens overseas..."¶ They claim he plans more attacks with improvised explosive devices. They said he's well guarded in a "fairly remote location."¶ Unilateral attempts by US forces to capture him allegedly would be risky. Politically more-so than by predator drone attacks.¶ White House press secretary Jay Carney refused to comment. He cited Obama's May 2013 counterterrorism speech, saying:¶ "When a US citizen goes abroad to wage war against America and is actively plotting to kill US citizens, and when neither the United States, nor our partners are in a position to capture him before he carries out a plot, his citizenship should no more serve as a shield than a sniper shooting down on an innocent crowd should be protected from a SWAT team."¶ Lethal force is allegedly restricted to "to prevent(ing) or stop(ping) attacks against US persons, and even then, only when capture is not feasible and no other reasonable alternatives exist to address the threat effectively," he added. ¶ Targeted suspects must pose "a continuing, imminent threat to US persons." AP said it constitutes "the legal definition of catching someone in the act of plotting a lethal attack."¶ US guidelines aren't worth the paper they're written on. Catching someone in the act of plotting murder is what US officials claim. ¶ The chasm between administration allegations and truth is big enough to fire multiple/side-by-side Hellfire missiles through.¶ What Obama says and does is world's apart. He subverts international, constitutional and US statute law provisions. ¶ Bill of Rights protections prohibits "depriv(ing) (anyone) of life, liberty, or property without due process of law."¶ UN Charter provisions permit lethal force only in Security Council-authorized self defense. Nothing less is permissible.¶ Magna Carta principles date from 1215. They've stood the test of time. They affirm people rights. ¶ They included due process, habeas, and others free societies take for granted. They mandate limited government power.¶ Obama operates by his own rules. He invents them to fit policy. He uses them unjustifiably. He does so to justify murder. ¶ AP didn't reveal the country's name allegedly hosting the so-called American Al Qaeda. ¶ Major media reports suggest it's Pakistan. Why is hard to imagine. Drone warfare targets suspects Washington wants eliminated there regularly.¶ US officials said naming the country would compromise ongoing counterterrorism operations. They spoke on condition of anonymity.¶ They're not authorized to discuss murder by drone policy publicly, they said. They don't want Obama embarrassed more than already.¶ Justice Department, Pentagon and CIA officials declined to comment. Amnesty International said "little changed since last year, when it comes to government secrecy over killings."¶ "The policy is still the stuff of official secrecy and speculation, when it should be a matter of open debate and explicit constraints."¶ Since 2009, Obama killed four Americans abroad. Murder by drones eliminated them. They include Anwar al-Awlaki, Samir Khan, Jude Kenan Mohammed, and al-Awlaki's teenage son, Abdulrahman. Allegedly only al-Awlaki senior was intentional.¶ Hina Shamsi heads the ACLU's national Security Project. "The government's killing program has gone far beyond what the law permits, and it is based on secret evidence and legal interpretations," she said.¶ "The targeted killing of an American being considered right now shows the inherent danger of a killing program based on vague and shifting legal standards, which has made it disturbingly easy for the government to operate outside the law." ¶ Targeted administration killing operates with virtually no oversight. Rule of law principles remain inviolable. According to Shamsi:¶ "Outside of armed conflict zones, the Constitution and international law prohibit the use of lethal force unless it is used as a last resort against a concrete, specific, and imminent threat of grave harm." ¶ "Even in the context of an armed conflict against an armed group, the government may use lethal force only against individuals who are directly participating in hostilities against the United States."¶ Relying "heavily on limited and apparently unreliable intelligence only heightens our concerns about a disastrous program in which people have been wrongly killed and injured."¶ Drones kill indiscriminately. Mostly noncombatant civilians are affected. People living in targeted areas are terrorized. ¶ Few high-value targets are eliminated. Drones are instruments of state terror. Killing is extrajudicial.¶ Obama decides who dies, where and when. Human lives don't matter. Or fundamental rule of law principles.¶ Francis Boyle calls drone attacks "murders, assassinations, and extrajudicial executions."¶ They constitute "a grave violation of international human rights law, the laws of countries where attacks take place, and US domestic law."¶ They raise "serious problems of discriminating between civilians and insurgents engaged in armed conflict."¶ Killing noncombatants "raises the issue of war crimes accountability." Drones murder nameless, faceless people.¶ US citizens are as vulnerable as foreign nationals. US-style democracy subverts its own principles. Imagine a nation calling itself civilized operating extrajudicially. ¶ Imagine calling it the right thing to do. Imagine getting away with murder with impunity. Imagine authorizing it as official US policy.

#### Drones make citizens into faceless threats against the state that strips them of identity and leave them easier to murder. Compassion is lost and all state violence is justified against the Other.

Friends Committee on National Legislation 13 (Washington Newsletter, “Drones: The Face of War Today” September/October 2013 http://fcnl.org/resources/newsletter/septoct13/drones\_the\_face\_of\_war\_today/)

¶ The new face of U.S. warfare is an armed drone. Drones scan the skies in Afghanistan, Pakistan and Yemen, ready to assassinate those on U.S. government kill lists. The Obama administration’s expanded use of drones has led FCNL and some members of Congress to question these killings and the lack of accountability and transparency around them and to look closely at what they illustrate about the changing nature of warfare in the 21st century.¶ ¶ A New Kind of Warfare¶ ¶ For much of our country’s history, war has meant direct confrontation between armed groups. Attacking an opponent meant weighing the risks to your own country and people against the potential damage that the attack could inflict. In the past 13 years, the ways in which our country wages war have shifted. The U.S. is now engaged in a seemingly endless war against “terror”– fighting an ideology rather than a particular nation. Technological advances, including drones, allow individuals to be assassinated and communities to be attacked with little direct risk to the attacking nation. These attacks are shrouded in secrecy, insulating the vast majority of people from the violence that is being carried out in their names.¶ ¶ Over the last decade, Congress has ceded much of its oversight of U.S. military conflicts to the administration. Both the Bush and Obama administrations have used the 2001 Authorization for the Use of Military Force as justification for hunting down anyone who can be tied to attacks on the United States. The U.S. is creating a new kind of open-ended campaign, one that follows neither the rules of war nor the rule of law.¶ ¶ Drones, Assassination and the Rule of Law¶ ¶ Armed drones are the tool of choice for this new warfare. These weapons let the U.S. attack in secret, regardless of national borders and without oversight or public debate in the United States. As Jo Becker and Scott Shane of the New York Times reported last year, the targets for these attacks are selected by the administration from what is sometimes referred to as the “secret kill list.” The White House told the New York Times that President Obama reviews the name of each person targeted by a drone, but otherwise this list is not subject to scrutiny.¶ ¶ By targeting people on a secret kill list, the U.S. is essentially engaged in government-sanctioned assassination. When President George W. Bush authorized U.S. intelligence agencies to kill al Qaeda leaders operating anywhere in the world, he reversed a public U.S. position, dating back to the Church Committee’s findings in the 1970s, against targeted assassinations. President Obama has continued to pursue this strategy.¶ ¶ The U.S. is not limited to targeting known al Qaeda operatives. The U.S. engages in so-called “signature strikes” in which the military uses drones to target people who fit a pattern of behavior that suggests involvement in violent activities. A group of men could be killed merely for gathering in a part of Pakistan where people are known to be hostile to the U.S., and the person ordering the strike would not have to know their names.¶ ¶ Drones are a tool that can easily circumvent the rule of law. As law professor and senior State Department advisor Rosa Brooks told the Senate Judiciary Committee in April, “We have the executive branch making a claim that it has the right to kill anyone, anywhere on Earth at any time for secret reasons, based on secret evidence in a secret process undertaken by unidentified officials…[T]hat’s not the rule of law as we know it.”¶ ¶ Two recent reports from Amnesty International and Human Rights Watch found that some U.S. drone strikes have killed civilians, sometimes indiscriminately, violating international law. Drone strikes are often justified by their ability to minimize civilian casualties, but evidence is mounting that civilians are killed more often than has been reported. “The U.S. says it is taking all possible precautions during targeted killings, but it has unlawfully killed civilians and struck questionable military targets in Yemen,” said Letta Tayler, a lead researcher at Human Rights Watch. “It’s long past time for the U.S. to assess the legality of its targeted killings.”¶ ¶ The High Cost of Drone Warfare¶ ¶ Drone violence is a moral and ethical issue as much as a legal one. Coming face to face with someone described as an enemy requires a deliberate choice to override a deep human instinct against killing. Drones override this check on lethal violence, making the decision to kill seem more like a video game than a matter of life and death.¶ ¶ In a May interview with NPR, former drone operator Brendan Bryant described the way that drones made it easier to objectify the people he was targeting. “We had a wall that had five pictures on it of top al Qaeda leaders. [One day] I kind of stopped and looked at one of these guys; and I was like, man, which one of [them] is going to die today? And I stopped myself and I was like, that's not me… I was taught to respect life; even if, in the realities of war, that we have to take it, it should be done with respect. And I wanted this guy to die.”¶ ¶ Violent conflict is ugly. If we forget that, we lose something that is fundamental to our compassion and humanity. When drones kill for us, with little public awareness or scrutiny, we can more easily avoid thinking about the human life affected by these conflicts and the common humanity we share with those we are targeting.¶ ¶ Moreover, targeted killings will not succeed in ending violence against the United States. Drone killings destroy trust and lead people to respond out of fear. As Yemeni activist Faera Al-Muslimi testified before Congress in April, one drone strike instantly radicalizes people against the United States in ways that al Qaeda propaganda never could. Drone assassinations destabilize national and global security. If one government, no matter how powerful, decides it can kill whomever it wants, where and when it wants, what’s to stop other countries from deciding they can as well?¶ ¶ New Tools, New Responses¶ ¶ The technology of warfare is changing all the time. Drones are just the latest tool to transform the violence that one group can inflict on another. Cavalry, the machine gun and nuclear weapons are just some of the tools that have radically changed warfare in the past—and that have demanded new responses from those opposed to war.¶ ¶ In the United States, it is easy to be unaware of where and how the U.S. is using drones and the consequences of these attacks. A critical step in having a national conversation about drones is transparency and accountability, so that people can better understand what our country is doing and the basis on which decisions are being made.¶ ¶ Congress must also exercise more oversight of drone warfare. As Rep. Keith Ellison (MN) stated, “Drone strikes may well contribute to the extremism and terrorism the United States seeks to deter. It is Congress’s responsibility to exercise oversight and craft policies that govern the use of lethal force.” Other legislators are also asking questions. Sen. Rand Paul (KY) said this year that “there are… long-term consequences, especially when these air strikes kill innocent civilians” that the U.S. should consider.

#### The affirmative actively shapes the way our community views drone culture opposing excessive government power—withdrawing from governmental debate is complicity with the strikes

Butigan 1/10/2013 (Ken, Director of Pace e Bene, a nonprofit organization fostering nonviolent change through education, community and action, "How can you resist the age of drones?" wagingnonviolence.org/feature/how-can-you-resist-the-age-of-drones/)

A drones culture is a chilling prospect. It promises to dramatically escalate a trend that the United States has been pursuing since the inception of the national security state in the late 1940s: military superiority through surveillance — beginning with U-2 flights, the SR-71 Blackbird and the NAV-STAR satellite system — and land-, sea- and air-based weapons systems. Its logic is to establish a regime of incontestable control and to create a comprehensive, remote and automated war-fighting capability. This has profound geopolitical implications. But it also threatens something even more monumental: the increasing depersonalization and dehumanization not only of warfare but, more generally, of social organization and interaction. The terror of the Atomic Age was the potential for the annihilation of life in a matter of hours or days after a nuclear exchange. The terror of the Drone Age is living under systems of control over the course of one’s whole lifeSuch a regime could operationalize — and give factual bite to — George W. Bush’s pithy declaration, “You are either with us or against us.” The disposition matrix of the near future will have the capacity to more and more finely divide us into “us” and “them.” What is being worked out today over the skies of Pakistan, Afghanistan and Yemen — with all of its attendant horror and bloodshed on the ground — will likely be applied far and wide. All of this will be deemed “legal.” And, if allowed to proceed unhindered, will eventually pass largely out of the hands of human minders. But that’s inherent in its logic. Drones carry on the radical detachment between cause and effect that high-altitude bombers introduced during the Spanish Civil War and World War II. With the horror unseen, one could increasingly accelerate the age-old tactic of dehumanizing the opponent. In the Drone Age, the ultimate dream is to hand this task entirely off to software so that no humans fingerprints are even found on the human wreckage it leaves in its path. But there are still fingerprints — and that may be part of our salvation. My colleague Friar Louie Vitale (one of those arrested but not charged at Beale) has been part of the anti-drones movement for several years. He recently told me about a time he was vigiling at a major drones base as the employees were headed home for the day. While he stood there with a sign, a man on a motorcycle pulled over to chat. He said he was a captain who had flown a lot of missions, and now was “flying” drones sitting at a monitor with a joystick. He spoke matter-of-factly about conducting these operations. Nothing unnerved him about what he was doing, he said — except when what he called CIV CAVS (“civilian casualties”) were involved. When that happens, he told Louie, he couldn’t sleep. Or, as another younger pilot Louie met on another occasion simply said, “I can’t stand what I’m doing!” Do those who order these attacks sleep at night? For that matter, do we? The drone system is designed to keep our sleep untroubled. But there are some among us who have decided to wake up, like the five going to court in April, and to in turn invite us to do the same. What if more of us wiped the sleep from our eyes and decided that we will do everything in our power to pull back from the horrific terrain we have let our policy-makers enter? It is time to deepen and broaden this movement for human rights. We could become part of Drone Watch or Code Pink. We could read Medea Benjamin’s book, Drone Warfare: Killing by Remote Control. We could put ending the “disposition matrix” on the agenda of our organizations. We could ask our religious communities to spend some of their moral capital in standing for a more ethical future, including signing onto “A Call from the Faith-Based Community to Stop Drone Killings.” We could take action like the Beale Five — who will face a maximum sentence of six months in jail and a $5,000 fine when they head to trial in April — or like Brian Terrell, who is currently serving a prison sentence for nonviolently resisting drones. We could also investigate — and begin to resist — our local connections to the drones system. In 1988, as part of the U.S. Central America Peace Movement, the Pledge of Resistance organized the “Military Connections Campaign,” which identified how local military facilities and corporations were supporting this policy. We organized hundreds of coordinated actions with the slogan “Stopping the war starts here.” It may be time to ask, “What’s our local connection to the emerging drones culture?” There are likely many local connections, which could be the basis of a nationwide campaign to help the nation make a decision for a world free of drones and the dehumanizing culture they portend.

#### Policy focus crucial for drones – ensures public accountability

Ewan E. Mellor 12, The Australian National University, ANU College of Asia and the Pacific, Department Of International Relations, “Why policy relevance is a moral necessity: Just war theory, impact, and UAVs”

http://www.academia.edu/4175561/Why\_policy\_relevance\_is\_a\_moral\_necessity\_Just\_war\_theory\_impact\_and\_UAVs

Just War Theory and Social Criticism This section of the paper considers more generally the need for just war theorists to engage with policy debate about the use of force, as well as to engage with the more fundamental moral and philosophical principles of the just war tradition. It draws on John Kelsay’s conception of just war thinking as being a social practice, as well as on Michael Walzer’s understanding of the role of the social critic in society. It argues that the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.” Kelsay argues that: [T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force . . . citizens who choose to speak in just war terms express commitments . . . [i]n the process of giving and asking for reasons for going to war, those who argue in just war terms seek to influence policy by persuading others that their analysis provides a way to express and fulfil the desire that military actions be both wise and just. He also argues that “good just war thinking involves continuous and complete deliberation, in the sense that one attends to all the standard criteria at war’s inception, at its end, and throughout the course of the conflict.” This is important as it highlights the need for just war scholars to engage with the ongoing operations in war and the specific policies that are involved. The question of whether a particular war is just or unjust, and the question of whether a particular weapon (like drones) can be used in accordance with the jus in bello criteria, only cover a part of the overall justice of the war. Without an engagement with the reality of war, in terms of the policies used in waging it, it is impossible to engage with the “moral reality of war,” in terms of being able to discuss it and judge it in moral terms. Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. The just war theorist, as a social critic, must be involved with his or her own society and its practices. In the same way that the social critic’s distance from his or her society is measured in inches and not miles, the just war theorist must be close to and must understand the language through which war is constituted, interpreted and reinterpreted. It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to demonstrate its hypocrisy and to show the gap that exists between its practice and its values. The tradition itself provides a set of values and principles and, as argued by Cian O’Driscoll, constitutes a “language of engagement” to spur participation in public and political debate. This language is part of “our common heritage, the product of many centuries of arguing about war.” These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force. By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis. Engagement and political debate are morally necessary as the alternative is disengagement and moral quietude, which is a sacrifice of the obligations of citizenship. This engagement must bring just war theorists into contact with the policy makers and will require work that is accessible and relevant to policy makers, however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power. By engaging in detail with the policies being pursued and their concordance or otherwise with the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language. In contrast to the view, suggested by Kenneth Anderson, that “the public cannot be made part of the debate” and that “[w]e are necessarily committed into the hands of our political leadership”, it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda, is a grotesque act of intellectual irresponsibility. As Walzer has argued, it is precisely because it is “our country” that we are “especially obligated to criticise its policies.”

# Adventurism

#### Lack of accountability and oversight on drones sets the precedent for unchecked adventurism

Peter W. Singer 12, Director of the 21st Century Defense Initiative at the Brookings Institution and author of “Wired for War: The Robotics Revolution and Conflict in the 21st Century.” http://www.nytimes.com/2012/01/22/opinion/sunday/do-drones-undermine-democracy.html?pagewanted=all&\_r=0

IN democracies like ours, there have always been deep bonds between the public and its wars. Citizens have historically participated in decisions to take military action, through their elected representatives, helping to ensure broad support for wars and a willingness to share the costs, both human and economic, of enduring them. In America, our Constitution explicitly divided the president’s role as commander in chief in war from Congress’s role in declaring war. Yet these links and this division of labor are now under siege as a result of a technology that our founding fathers never could have imagined. Just 10 years ago, the idea of using armed robots in war was the stuff of Hollywood fantasy. Today, the United States military has more than 7,000 unmanned aerial systems, popularly called drones. There are 12,000 more on the ground. Last year, they carried out hundreds of strikes — both covert and overt — in six countries, transforming the way our democracy deliberates and engages in what we used to think of as war. We don’t have a draft anymore; less than 0.5 percent of Americans over 18 serve in the active-duty military. We do not declare war anymore; the last time Congress actually did so was in 1942 — against Bulgaria, Hungary and Romania. We don’t buy war bonds or pay war taxes anymore. During World War II, 85 million Americans purchased war bonds that brought the government $185 billion; in the last decade, we bought none and instead gave the richest 5 percent of Americans a tax break. And now we possess a technology that removes the last political barriers to war. The strongest appeal of unmanned systems is that we don’t have to send someone’s son or daughter into harm’s way. But when politicians can avoid the political consequences of the condolence letter — and the impact that military casualties have on voters and on the news media — they no longer treat the previously weighty matters of war and peace the same way. For the first 200 years of American democracy, engaging in combat and bearing risk — both personal and political — went hand in hand. In the age of drones, that is no longer the case. Today’s unmanned systems are only the beginning. The original Predator, which went into service in 1995, lacked even GPS and was initially unarmed; newer models can take off and land on their own, and carry smart sensors that can detect a disruption in the dirt a mile below the plane and trace footprints back to an enemy hide-out. There is not a single new manned combat aircraft under research and development at any major Western aerospace company, and the Air Force is training more operators of unmanned aerial systems than fighter and bomber pilots combined. In 2011, unmanned systems carried out strikes from Afghanistan to Yemen. The most notable of these continuing operations is the not-so-covert war in Pakistan, where the United States has carried out more than 300 drone strikes since 2004. Yet this operation has never been debated in Congress; more than seven years after it began, there has not even been a single vote for or against it. This campaign is not carried out by the Air Force; it is being conducted by the C.I.A. This shift affects everything from the strategy that guides it to the individuals who oversee it (civilian political appointees) and the lawyers who advise them (civilians rather than military officers). It also affects how we and our politicians view such operations. President Obama’s decision to send a small, brave Navy Seal team into Pakistan for 40 minutes was described by one of his advisers as “the gutsiest call of any president in recent history.” Yet few even talk about the decision to carry out more than 300 drone strikes in the very same country. I do not condemn these strikes; I support most of them. What troubles me, though, is how a new technology is short-circuiting the decision-making process for what used to be the most important choice a democracy could make. Something that would have previously been viewed as a war is simply not being treated like a war. THE change is not limited to covert action. Last spring, America launched airstrikes on Libya as part of a NATO operation to prevent Col. Muammar el-Qaddafi’s government from massacring civilians. In late March, the White House announced that the American military was handing over combat operations to its European partners and would thereafter play only a supporting role. The distinction was crucial. The operation’s goals quickly evolved from a limited humanitarian intervention into an air war supporting local insurgents’ efforts at regime change. But it had limited public support and no Congressional approval. When the administration was asked to explain why continuing military action would not be a violation of the War Powers Resolution — a Vietnam-era law that requires notifying Congress of military operations within 48 hours and getting its authorization after 60 days — the White House argued that American operations did not “involve the presence of U.S. ground troops, U.S. casualties or a serious threat thereof.” But they did involve something we used to think of as war: blowing up stuff, lots of it. Starting on April 23, American unmanned systems were deployed over Libya. For the next six months, they carried out at least 146 strikes on their own. They also identified and pinpointed the targets for most of NATO’s manned strike jets. This unmanned operation lasted well past the 60-day deadline of the War Powers Resolution, extending to the very last airstrike that hit Colonel Qaddafi’s convoy on Oct. 20 and led to his death. Choosing to make the operation un~~man~~ned proved critical to initiating it without Congressional authorization and continuing it with minimal public support. On June 21, when NATO’s air war was lagging, an American Navy helicopter was shot down by pro-Qaddafi forces. This previously would have been a disaster, with the risk of an American aircrew being captured or even killed. But the downed helicopter was an unmanned Fire Scout, and the story didn’t even make the newspapers the next day. Congress has not disappeared from all decisions about war, just the ones that matter. The same week that American drones were carrying out their 145th unauthorized airstrike in Libya, the president notified Congress that he had deployed 100 Special Operations troops to a different part of Africa. This small unit was sent to train and advise Ugandan forces battling the cultish Lord’s Resistance Army and was explicitly ordered not to engage in combat. Congress applauded the president for notifying it about this small noncombat mission but did nothing about having its laws ignored in the much larger combat operation in Libya. We must now accept that technologies that remove humans from the battlefield, from unmanned systems like the Predator to cyberweapons like the Stuxnet computer worm, are becoming the new normal in war. And like it or not, the new standard we’ve established for them is that presidents need to seek approval only for operations that send people into harm’s way — not for those that involve waging war by other means. WITHOUT any actual political debate, we have set an enormous precedent, blurring the civilian and military roles in war and circumventing the Constitution’s mandate for authorizing it. Freeing the executive branch to act as it chooses may be appealing to some now, but many future scenarios will be less clear-cut. And each political party will very likely have a different view, depending on who is in the White House. Unmanned operations are not “costless,” as they are too often described in the news media and government deliberations. Even worthy actions can sometimes have unintended consequences. Faisal Shahzad, the would-be Times Square bomber, was drawn into terrorism by the very Predator strikes in Pakistan meant to stop terrorism. Similarly, C.I.A. drone strikes outside of declared war zones are setting a troubling precedent that we might not want to see followed by the close to 50 other nations that now possess the same un~~man~~ned technology — including China, Russia, Pakistan and Iran. A deep deliberation on war was something the framers of the Constitution sought to build into our system. Yet on Tuesday, when President Obama talks about his wartime accomplishments during the State of the Union address, Congress will have to admit that its role has been reduced to the same part it plays during the president’s big speech. These days, when it comes to authorizing war, Congress generally sits there silently, except for the occasional clapping. And we do the same at home. Last year, I met with senior Pentagon officials to discuss the many tough issues emerging from our growing use of robots in war. One of them asked, “So, who then is thinking about all this stuff?” America’s founding fathers may not have been able to imagine robotic drones, but they did provide an answer. The Constitution did not leave war, no matter how it is waged, to the executive branch alone. In a democracy, it is an issue for all of us.

#### Only accountability prevents future intervention and escalation

Judah A. Druck 12, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, CORNELL LAW REVIEW, Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf

The Introduction of Technology-Driven Warfare and Shifting Wartime Doctrines The recent actions in Libya illustrate the culmination of a shift toward a new era of warfare, one that upsets the system of social and political checks on presidential military action. Contrary to the series of larger conflicts fought in the twentieth century, this new era has ushered in a system of war devoid of some of the fundamental aspects of war, including the traditional costs discussed above. Specifically, through the advent of military technology, especially in the area of robotics, modern-day hostilities no longer require domestic sacrifices, thereby concealing the burden of war from mainstream consciousness.116 By using fewer troops and introducing drones and other forms of mechanized warfare into hostile areas more frequently,117 an increased number of recent conflicts have managed to avoid many domestic casualties, economic damages, and drafts.118 In a way, less is on the line when drones, rather than people, take fire from enemy combatants, and this reality displaces many hindrances and considerations when deciding whether to use drones in the first place.119 This move toward a limited form of warfare has been termed the “Obama Doctrine,” which “emphasizes air power and surgical strikes, rather than boots on the ground.”120 Under this military framework, as indicated by the recent use of drones in the Middle East, the traditional harms associated with war might become increasingly obsolete as technology replaces the need for soldiers. Indeed, given the increased level of firepower attached to drones, we can imagine a situation where large-scale military engagements are fought without any American soldiers being put in harm’s way, without Americans having to ration their food purchases, and without teenagers worrying about being drafted.121 For example, “[w]ith no oxygen- and sleep-needing human on board, Predators and other [unmanned aerial vehicles] can watch over a potential target for 24 hours or more—then attack when opportunity knocks.”122 Thus, if the recent actions in Libya are any indication of what the future will look like, we can predict a major shift in the way the United States carries out wars .123 The Effects of Technology-Driven Warfare on Politics and Social Movements The practical effects of this move toward a technology-driven, and therefore limited, proxy style of warfare are mixed. On the one hand, the removal of American soldiers from harm’s way is a clear benefit,124 as is the reduced harm to the American public in general. For that, we should be thankful. But there is another effect that is less easy to identify: public apathy. By increasing the use of robotics and decreasing the probability of harm to American soldiers, modern warfare has “affect[ed] the way the public views and perceives war” by turning it into “the equivalent of sports fans watching war, rather than citizens sharing in its importance.”125 As a result, the American public has slowly fallen victim to the numbing effect of technology-driven warfare; when the risks of harm to American soldiers abroad and civilians at home are diminished, so too is the public’s level of interest in foreign military policy.126 In the political sphere, this effect snowballs into both an uncaring public not able (or willing) to effectively mobilize in order to challenge presidential action and enforce the WPR, and a Congress whose own willingness to check presidential military action is heavily tied to public opinion.127 Recall, for example, the case of the Mayaguez, where potentially unconstitutional action went unchecked because the mission was perceived to be a success.128 Yet we can imagine that most missions involving drone strikes will be “successful” in the eyes of the public: even if a strike misses a target, the only “loss” one needs to worry about is the cost of a wasted missile, and the ease of deploying another drone would likely provide a quick remedy. Given the political risks associated with making critical statements about military action, especially if that action results in success,129 we can expect even less congressional WPR enforcement as more military engagements are supported (or, at the very least, ignored) by the public. In this respect, the political reaction to the Mayaguez seems to provide an example of the rule, rather than the exception, in gauging political reactions within a technology-driven warfare regime. Thus, when the public becomes more apathetic about foreign affairs as a result of the limited harms associated with technology-driven warfare, and Congress’s incentive to act consequently diminishes, the President is freed from any possible WPR constraints we might expect ~~him~~ to face, regardless of any potential legal issues.130 Perhaps unsurprisingly, nearly all of the constitutionally problematic conflicts carried out by presidents involved smaller-scale military actions, rarely totaling more than a few thousand troops in direct contact with hostile forces.131 Conversely, conflicts that have included larger forces, which likely provided sufficient incentive for public scrutiny, have generally complied with domestic law.132 The result is that as wars become more limited,133 unilateral presidential action will likely become even more unchecked as the triggers for WPR enforcement fade away. In contrast with the social and political backlash witnessed during the Civil War, World War I, the Vietnam War, and the Iraq War, contemporary military actions provide insufficient incentive to prevent something as innocuous and limited as a drone strike. Simply put, technology-driven warfare is not conducive to the formation of a substantial check on presidential action. THE WAR POWERS RESOLUTION IN THE ERA OF TECHNOLOGY-DRIVEN WARFARE A. Why an Unconstrained Executive Matters Today If public scrutiny acts as a check on presidential action by pressuring Congress into enforcing domestic law (namely, the WPR), then that check has weakened given the increased use of technology-driven warfare abroad.135 As a result, fewer checks on presidential military actions exist, implying that we will see more instances of unilateral presidential initiatives. But if the new era of warfare removes the very issues associated with traditional warfare, should we be concerned about the American public’s increasing numbness to it all? The answer is undoubtedly yes. First, from a practical standpoint, the psychology surrounding mechanized warfare makes it easier for the United States to enter hostilities initially.136 Without having to worry about any of the traditional costs of war (such as a draft, rationing, casualties, etc.), the triggers that have historically made the public wary of war are now gone. When machines, rather than human beings, are on the front lines, the public (and, as a result, politicians and courts) will not act to stop the continued use of drones. In other words, people will simply stop caring about our increased actions abroad, regardless of their validity, constitutionality, or foreign harm. But again one must wonder: should we care? After all, even if we increase the number of military conflicts abroad, the repercussions hardly seem worth worrying about. For example, worrying that WPR violations will cause significant harm to the United States seems somewhat misplaced given the limited nature of technology-driven warfare. Granted, this style of warfare might make it easier to enter hostilities, but the risk of subsequent harm (at least to the United States) is low enough to mitigate any real danger. Furthermore, even if the effects of warfare might become increasingly dulled, any use of force that would eventually require traditional, Vietnam-esque types of harms as the result of technology-driven warfare would in a sense “wake up the populace” in order to check potentially unconstitutional action.137 Thus, if our level of involvement requires machines and only machines, why worry about a restrained level of public scrutiny? The answer is that a very real risk of harm exists nonetheless. War by its very nature is unpredictable.138 Indeed, one of the major grievances concerning the war in Vietnam was that we ended up in a war we did not sign up for in the first place.139 The problem is not the initial action itself but the escalation. Therefore, while drone strikes might not facially involve any large commitment, the true threat is the looming possibility of escalation.140 That threat exists in the context of drones, whether because of the risk of enemy retaliation or because of a general fear that an initial strike would snowball into a situation that would require troops on the ground.141 In both cases, an apparently harmless initial action could eventually unravel into a situation involving harms associated with traditional warfare.142 Worse yet, even if that blowback was sufficient to incentivize the populace and Congress to mobilize, the resulting involvement would only occur after the fact.143 If we want restraints on presidential action, they should be in place before the United States is thrown into a war, and this would require public awareness about the use of drones.144 As such, whether it is unforeseen issues arising out of the drones themselves145 or unforeseen consequences stemming from what was ostensibly a minor military undertaking, there is reason to worry about a populace who is unable to exert any influence on military actions, even as we shift toward a more limited form of warfare.146 Another issue associated with a toothless WPR in the era of technology-drive warfare involves humanitarian concerns. If one takes the more abstract position that the public should not allow actions that will kill human beings to go unchecked, regardless of their legality or underlying rationale, then that position faces serious pressure in the era of technology-driven warfare. As the human aspect of warfare becomes more attenuated, the potential humanitarian costs associated with war will fade out of the collective consciousness, making it easier for the United States to act in potentially problematic ways without any substantial backlash. Rather than take note of whom we target abroad, for example, the numbing effect of technology-driven warfare forces the public to place “enormous trust in our leaders” despite the fact that good faith reliance on intelligence reports does not necessarily guarantee their accuracy.147 Accordingly, as the level of public scrutiny decreases, so too will our ability to limit unwarranted humanitarian damage abroad.148 At the very least, some dialogue should occur before any fatal action is taken; yet, in the technology-driven warfare regime, that conversation never occurs.149 Of course, this Note has argued that the issues associated with technology-driven warfare (an increased level of military involvement abroad, potential for escalation, humanitarian difficulties, etc.) though very real, are less prominent than the harms associated with traditional warfare. But perhaps this premise is incorrect; that is, perhaps technology-driven warfare does present sufficient harm to trigger social and political scrutiny. For example, pecuniary harms are very real contemporary concerns, and they seem to play an increased role in determining a country’s standing.150 In this respect, given the fi nancial costs of drone strikes (and military spending in general),151 perhaps we need not be worried about an absence of public scrutiny. Yet given the traditional costs of war, pecuniary harm hardly seems like the type of concern sufficient to create the type of political checks present in the Civil War, World War I, Vietnam, or Iraq. In all four situations, American lives were at stake, entire households faced life-changing effects of war in a very real way, and the entire country saw major social and political transformations. Economic harm is certainly an issue worth considering, especially as the United States takes on more and more debt; yet, whether that sort of harm rises to the level sufficient to trigger mass citizen mobilization remains to be seen.152 Indeed, if the recent actions in Libya are any indication, financial harm is far too attenuated to create any sort of substantial backlash. Future technology-driven conflicts will likely create a clearer picture of the role of pecuniary damage, but as it stands, this sort of harm fails to “rally the troops” for public attentiveness.

#### Executive war power *structurally* ensures groupthink and escalatory interventions

Fleischman 10 – Matthew Fleischman, J.D. Candidate at New York University School of Law, “A Functional Distribution of War Powers”, New York University Journal of Legislation and Public Policy, 13 N.Y.U. J. Legis. & Pub. Pol'y 137, Lexis

While Nzelibe and Yoo's model is clearly plausible, it misses certain critical institutional constructs. Their analysis attempts to determine which branch is the more effective agent in this principal-agent problem; however, they fail to realize that the institutional design is not an either-or choice. n96 The whole notion of separation of powers or checks and balances is rooted in the idea of having one agent checking the other agent. n97 The system's design "promotes deliberation among multiple agents, which encourages them to reveal private information that might otherwise remain hidden." n98 While there is little empirical evidence on the value of deliberation, Professor James Fishkin has found evidence that "significant shifts in opinion" take place after participating in public policy deliberations. n99 Studies [\*152] such as this one show that there is value to deliberating. Thus, there must be something unique and different about war powers that justifies abandoning the traditional and effective means of coming to a decision. The first argument offered by Nzelibe and Yoo reasons that presidents tend to be held more democratically accountable for foreign policy than Congress and should therefore be given significant power in this area, and asserts that ex post congressional action is sufficient to mitigate the effects of poor decisions. n100 First of all, while the President may be seen as the key decision maker in the war powers arena, that does not mean that congressional actors are immune from being held democratically accountable for the decision to engage in significant armed conflict. n101 Beyond overestimating the negative accountability effects of going to war, Nzelibe and Yoo fail to account for the numerous benefits from going to war. Professors Cecil Crabb and Pat Holt observed that "once a president has made a foreign affairs decision that becomes known to the public, he automatically receives the support of at least 50 percent of the American people, irrespective of the nature of the decision." n102 This is commonly known as the "rally around the flag" effect. n103 This surge of patriotic sentiment is temporary, n104 but very real. When this sentiment evaporates, the President can react in a multitude of ways. While accountability can breed prudence, it can also lead to "gambling for resurrection." n105 This is an [\*153] agency problem in which leaders prolong unsuccessful wars in the hope that the tides of war will eventually turn, saving the leader's legacy. n106 Ultimately, unilateral Executive action does garner increased accountability, but can lead to short-term political gain and an unwillingness to concede defeat. Furthermore, ex post congressional constraints on presidential actions are insufficient. The fact is, "ex post congressional involvement can only terminate some presidential mistakes and can never recover the sunk costs of bad presidential decisions." n107 Not only are there sunk costs, but "even some opponents of the initial decision to go to war recognize that overly hasty withdrawal could be a poor policy at later stages." n108 Ex post decisions are made in response to a new status quo, one in which use of the power of the purse can be viewed as endangering troops n109 or giving America a weaker image abroad. n110 The second way in which Nzelibe and Yoo justify expansive executive powers is by arguing that the President has superior information to Congress. n111 Yet, allowing for a second opinion on the same information will reduce the likelihood of poor decision making, while not positively or negatively impacting the quality of the information in and of itself. n112 Therefore, Type I errors n113 are less likely when Congress is consulted. Nzelibe and Yoo cite the Iraq War as proof that intelligence failures can occur with or without congressional involvement. n114 However, it could instead be argued that the failure was caused by "executive manipulation of information to exaggerate a threat." n115 The problem was not the informational asymmetry, but rather the use of that information. One logical solution to this problem would be to increase the information gathering and interpreting capabilities of Congress. Nzelibe and Yoo mistakenly take the Executive's informational advantage as a given when it is entirely alterable. [\*154] Therefore, the information advantage can be lessened, which would greatly diminish the odds of Type I errors. Any shift in an independent variable should lead to a corresponding shift in the causal variable. In this case, to the extent that the frequency of Type I errors is correlated with informational disparities, correcting the disparities should negate the odds of Type I errors occurring. The third functional argument presented by Nzelibe and Yoo concerns the relative value of signaling to different regime types. n116 Given that they advocate for a President-First approach, but concede that congressional authorization has value in disputes between democratic states, n117 there is no real disagreement about the value of congressional authorization in these disputes. That leaves conflicts between democratic nations and rogue states or terrorist organizations as the lone area where the two sides disagree on this issue. Even before one can question this distinction, the definition of a rogue nation must be determined. Nzelibe and Yoo leave this task to the President. Nzelibe and Yoo believe that the leaders of rogue states are insulated from domestic political pressure, n118 but this is simply not true, as "all leaders are answerable to some coalition of domestic political forces on which their power and political survival rests. Failure in conflict and war helps shorten the tenure of such leaders." n119 All leaders pursue a rational strategy to maintain power. n120 Wars occur when political leaders attempt to rally the masses behind a national cause via aggressive rhetoric and policies. Thus, all leaders, whether of rogue nations or of first world countries, are subject to popular pressure and suffer consequences at home for losing wars. Nonetheless, elected presidents are more concerned with national support and are therefore more likely to engage in such rhetoric and promote war, since it has been shown to increase the approval rating of presidents. n121 [\*155] On the other hand, the Legislature has more localized interests and would be resistant to using such rhetoric. Localized interests are not rallied by promoting a national identity or a national battle but by catering to a smaller community's needs and interests. Because of the political advantages gained by a president going to war and the Legislature's inclination to shirk the issue, n122 unilateral presidential action is likely to lead to an overly aggressive position on military engagements. Therefore, congressional involvement should decrease the likelihood of Type I errors with respect to all regimes. The totality of the analysis suggests that deliberation decreases the likelihood of Type I errors. This type of deliberation cannot occur within the Executive branch alone. While the president consults with staffers and cabinet secretaries, they are likely to "succumb to groupthink, as it has been called - the overt and subtle pressures driving group cohesiveness that can distort the decision-making process." n123 When a group decides upon a view, dissent becomes difficult and there is pressure to reject alternatives. n124 Furthermore, even before coalescing around a particular opinion, executive staffers are likely to possess policy preferences. Type II errors (not entering "good" wars) would only be more likely under the Congress-First approach if Congress were more likely than the Executive to be opposed to good wars. However, since research shows that Congress is likely to approve most wars independent of circumstances n125 that is highly unlikely to be the case. But there is no reason to believe that Congress has any aversion to good wars. n126 Ultimately, a Congress-First system would decrease Type I errors and have little impact on Type II errors when dealing with traditional warfare, and it is the institutional design that would better accommodate functionalists' concerns and desires.

#### Conflict escalation is the most likely scenario for war

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The understanding that small but violent acts can spark global conflagration is etched into the world's consciousness. The reverberations from Princip's shots in the summer of 1914 ultimately took the lives of more than 10 million people, shattered four empires and dragged more than two dozen countries into war. This hot summer, as the world watches the violence in the Middle East, the awareness of peace's fragility is particularly acute. The bloodshed in Lebanon appears to be part of a broader upsurge in unrest. Iraq is suffering through one of its bloodiest months since the U.S.-led invasion in 2003. Taliban militants are burning schools and attacking villages in southern Afghanistan as the United States and NATO struggle to defend that country's fragile government. Nuclear-armed India is still cleaning up the wreckage from a large terrorist attack in which it suspects militants from rival Pakistan. The world is awash in weapons, North Korea and Iran are developing nuclear capabilities, and long-range missile technology is spreading like a virus. Some see the start of a global conflict. "We're in the early stages of what I would describe as the Third World War," former House Speaker Newt Gingrich said last week. Certain religious websites are abuzz with talk of Armageddon. There may be as much hyperbole as prophecy in the forecasts for world war. But it's not hard to conjure ways that today's hot spots could ignite. Consider the following scenarios: • Targeting Iran: As Israeli troops seek out and destroy Hezbollah forces in southern Lebanon, intelligence officials spot a shipment of longer-range Iranian missiles heading for Lebanon. The Israeli government decides to strike the convoy and Iranian nuclear facilities simultaneously. After Iran has recovered from the shock, Revolutionary Guards surging across the border into Iraq, bent on striking Israel's American allies. Governments in Syria, Jordan, Egypt and Saudi Arabia face violent street protests demanding retribution against Israel — and they eventually yield, triggering a major regional war. • Missiles away: With the world's eyes on the Middle East, North Korea's Kim Jong Il decides to continue the fireworks show he began earlier this month. But this time his brinksmanship pushes events over the brink. A missile designed to fall into the sea near Japan goes astray and hits Tokyo, killing a dozen civilians. Incensed, the United States, Japan's treaty ally, bombs North Korean missile and nuclear sites. North Korean artillery batteries fire on Seoul, and South Korean and U.S. troops respond. Meanwhile, Chinese troops cross the border from the north to stem the flow of desperate refugees just as U.S. troops advance from the south. Suddenly, the world's superpower and the newest great power are nose to nose. • Loose nukes: Al Qaeda has had Pakistani President Pervez Musharraf in its sights for years, and the organization finally gets its man. Pakistan descends into chaos as militants roam the streets and the army struggles to restore order. India decides to exploit the vacuum and punish the Kashmir-based militants it blames for the recent Mumbai railway bombings. Meanwhile, U.S. special operations forces sent to secure Pakistani nuclear facilities face off against an angry mob. • The empire strikes back: Pressure for democratic reform erupts in autocratic Belarus. As protesters mass outside the parliament in Minsk, president Alexander Lukashenko requests Russian support. After protesters are beaten and killed, they appeal for help, and neighboring Poland — a NATO member with bitter memories of Soviet repression — launches a humanitarian mission to shelter the regime's opponents. Polish and Russian troops clash, and a confrontation with NATO looms. As in the run-up to other wars, there is today more than enough tinder lying around to spark a great power conflict. The critical question is how effective the major powers have become at managing regional conflicts and preventing them from escalating. After two world wars and the decades-long Cold War, what has the world learned about managing conflict?

#### Interventions goes nuclear

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

#### Our method is important. Policy research and deliberation in the private competitive debate space strengthens public deliberation – these debates connect with on-going public debates and provide a bulwark against rhetorics that short-circuit deliberation.

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The public debates on presidential war powers co-hosted by the Miller Center and the Cross-Examination Debate Association provide an avenue for intercollegiate debaters to translate competitive research for public use. It has recently become common for collegiate programs to host public debates, tangentially related to the prior year’s topic, following the conclusion of the competitive season. In the last four years, two of these events were hosted by a non-debate organization. In June 2010, the Center for Strategic & International Studies (CSIS) held a debate featuring the National Debate Tournament champions, Eric Lanning and Carly Wunderlich from Michigan State University, and the Copeland Award winners, Ovais Inamullah and Stephen Weil from Emory University. In May 2013, CSIS held another debate featuring the Copeland Award winners, Andrew Arsht and Andrew Markoff from Georgetown University, and the National Debate Tournament runner-up, Peyton Lee and Arjun Vellayappan from Northwestern University. These events, whether high profile like the CSIS energy debate or low-profile hosted by individual colleges, only occur at the end of the season. As a result, they lack the viability of making a timely intervention into the ongoing deliberation over the year’s topic. The war powers debate, co-hosted by CEDA and the Miller Center seek to reverse that trend. The necessity of having ongoing public debates on the collegiate topic serves two key functions. First, an ongoing theme in recent NDT/CEDA topic selection has centered on the “timeliness” of the topic and how the debate community can be more relevant to current events. Topic papers have highlighted the salience of the controversy area to ongoing political deliberation. For instance, the war powers topic paper argued, “The controversy is timely but not too timely – the news is dominated by unchecked presidential war powers such as UAV drone strikes, warrantless wiretaps, and preventive war powers” (Young, 2013, p. 3). Following the announcement of the topic, multiple current events happened that placed war powers in the political spotlight. In June, Edward Snowden released a number of U.S. documents pertaining to surveillance. In August/September, the Syrian conflict called into question whether Obama needed permission from Congress to initiate a strike. While these events may complicate the research burden of collegiate debaters, it affords the debate community a special opportunity to contribute to ongoing deliberation. The call for this style of outreach from collegiate debate programs has come internally and externally. Externally, communication scholars have distanced themselves from traditional collegiate debate. J. Michael Hogan criticized that “policy debate,” as currently constructed, fails to “encourage collaboration and public service” (2010, p. 435). Internally, debate coaches have declared a new focus is necessary to sustain debate’s pedagogical benefits. For its students, Gordon Stables claims, “Debate could be more meaningful to the skills needed by tomorrow’s youth than perhaps any time in recent memory” (2011, p. 245). For the public, Matthew G. Gerber argues that we a “more publicly accessible form of intercollegiate policy debate” (2009, p. 92). The war powers debate series is an attempt to move in the direction of achieving each of these goals. For Hogan, they serve as a collaborative effort between debate and non-debate organizations. For Stables, they train collegiate debaters in how policymaking deliberation occurs. For Gerber, they provide a public forum from which to showcase debate research. Taken together, the connection between tournament competition and a public collaboration reorients the pedagogical function of debate. Gordon Mitchell and his colleagues comment on this possibility, “The debate tournament site’s potential to work as a translational pipeline for scholarly research presents unique opportunities for colleges and universities seeking to bolster their institutional infrastructure for undergraduate research” (Mitchell et al, 2010, p. 15). Indeed, the debate series affords competitors the opportunity to become part of the discussion and inform policymakers about potential positions, as opposed to the traditional reactionary format of hosting public debates at the season’s end. Empirically, these events had the effect of “giv[ing] voice to previously buried arguments” that “subject matter experts felt reticent to elucidate because of their institutional affiliations” (Mitchell, 2010, p. 107). Given the timeliness of the topic, these debates provide a new voice into the ongoing deliberation over war powers and help make the fruits of competitive research have a public purpose. The second major function concerns the specific nature of deliberation over war powers. Given the connectedness between presidential war powers and the preservation of national security, deliberation is often difficult. Mark Neocleous describes that when political issues become securitized; it “helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms.” (2008, p. 71). Collegiate debaters, through research and competitive debate, serve as a bulwark against this “short-circuiting” and help preserve democratic deliberation. This is especially true when considering national security issues. Eric English contends, “The success … in challenging the dominant dialogue on homeland security politics points to efficacy of academic debate as a training ground.” Part of this training requires a “robust understanding of the switch-side technique” which “helps prevent misappropriation of the technique to bolster suspect homeland security policies” (English et. al, 2007, p. 224). Hence, competitive debate training provides foundation for interrogating these policies in public. Alarmism on the issues of war powers is easily demonstrated by Obama’s repeated attempts to transfer detainees from Guantanamo Bay. Republicans were able to launch a campaign featuring the slogan, “not in my backyard” (Schor, 2009). By locating the nexus of insecurity as close as geographically possible, the GOP were able to instill a fear of national insecurity that made deliberation in the public sphere not possible. When collegiate debaters translate their knowledge of the policy wonkery on such issues into public deliberation, it serves to cut against the alarmist rhetoric purported by opponents. In addition to combating misperceptions concerning detainee transfers, the investigative capacity of collegiate debate provides a constant check on governmental policies. A new trend concerning national security policies has been for the government to provide “status updates” to the public. On March 28, 2011, Obama gave a speech concerning Operation Odyssey Dawn in Libya and the purpose of the bombings. Jeremy Engels and William Saas describe this “post facto discourse” as a “new norm” where “Americans are called to acquiesce to decisions already made” (2013, p. 230). Contra to the alarmist strategy that made policy deliberation impossible, this rhetorical strategy posits that deliberation is not necessary. Collegiate debaters researching war powers are able to interrogate whether deliberation is actually needed. Given the technical knowledge base needed to comprehend the mechanism of how war powers operate, debate programs serve as a constant investigation into whether deliberation is necessary not only for prior action but also future action. By raising public awareness, there is a greater potential that “the public’s inquiry into potential illegal action abroad” could “create real incentives to enforce the WPR” (Druck, 2010, p. 236). While this line of interrogation could be fulfilled by another organization, collegiate debaters who translate their competitive knowledge into public awareness create a “space for talk” where the public has “previously been content to remain silent” (Engels & Saas, 2013, p. 231). Given the importance of presidential war powers and the strategies used by both sides of the aisle to stifle deliberation, the import of competitive debate research into the public realm should provide an additional check of being subdued by alarmism or acquiescent rhetorics. After creating that space for deliberation, debaters are apt to influence the policies themselves. Mitchell furthers, “Intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process” (2010, p. 107). With the timeliness of the war powers controversy and the need for competitive debate to reorient publicly, the CEDA/Miller Center series represents a symbiotic relationship that ought to continue into the future. Not only will collegiate debaters become better public advocates by shifting from competition to collaboration, the public becomes more informed on a technical issue where deliberation was being stifled. As a result, debaters reinvigorate debate.

# Prolif

#### Now’s key—window is closing for model of established norms on drones

Kristin Roberts 13, News Editor – National Journal, March 22, http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321

“The history of technology development like this is, you never maintain your lead very long. Somebody always gets it,” said David Berteau, director of the International Security Program at the Center for Strategic and International Studies. “They’re going to become cheaper. They’re going to become easier. They’re going to become interoperable,” he said. “The destabilizing effects are very, very serious.” Berteau is not alone. Zenko, of the Council on Foreign Relations, has urged officials to quickly establish norms. Singer, at Brookings, argues that the window of opportunity for the United States to create stability-supporting precedent is quickly closing. The problem is, the administration is not thinking far enough down the line, according to a Senate Intelligence aide. Administration officials “are thinking about the next four years, and we’re thinking about the next 40 years. And those two different angles on this question are why you see them in conflict right now.” That’s in part a symptom of the “technological optimism” that often plagues the U.S. security community when it establishes a lead over its competitors, noted Georgetown University’s Kai-Henrik Barth. After the 1945 bombing of Hiroshima and Nagasaki, the United States was sure it would be decades before the Soviets developed a nuclear-weapon capability. It took four years. With drones, the question is how long before the dozens of states with the aircraft can arm and then operate a weaponized version. “Pretty much every nation has gone down the pathway of, ‘This is science fiction; we don’t want this stuff,’ to, ‘OK, we want them, but we’ll just use them for surveillance,’ to, ‘Hmm, they’re really useful when you see the bad guy and can do something about it, so we’ll arm them,’ ” Singer said. He listed the countries that have gone that route: the United States, Britain, Italy, Germany, China. “Consistently, nations have gone down the pathway of first only surveillance and then arming.” The opportunity to write rules that might at least guide, if not restrain, the world’s view of acceptable drone use remains, not least because this is in essence a conventional arms-control issue. The international Missile Technology Control Regime attempts to restrict exports of unmanned vehicles capable of carrying weapons of mass destruction, but it is voluntary and nonbinding, and it’s under attack by the drone industry as a drag on business. Further, the technology itself, especially when coupled with data and real-time analytics, offers the luxury of time and distance that could allow officials to raise the evidentiary bar for strikes—to be closer to certain that their target is the right one. But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions. A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs. Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists. The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

#### US norm on drone warfare delegitimizes countries who want to proliferate

**Whibley 13** (James Whibley received a M.A. in International Relations from Victoria University of Wellington, New Zealand in 2012. His research is soon to be published in Intelligence and National Security., 2/6/2013, "The Proliferation of Drone Warfare: The Weakening of Norms and International Precedent", journal.georgetown.edu/2013/02/06/the-proliferation-of-drone-warfare-the-weakening-of-norms-and-international-precedent-by-james-whibley/)

In a recent article, David Wood expresses concern over the start of a drone arms race, with China’s People’s Liberation Army beginning to adopt drone technology and Iran possibly supplying drones to Hezbollah in Lebanon. Other reports show that Pakistan has also developed its own set of drones, with offers of assistance from China to help improve their technological sophistication. The proliferation of drone technology is in many ways unsurprising, as technology always spreads across the globe. Yet, the economic and organizational peculiarities of drones may mean their adoption is more likely than other high-tech weapons. Michael C. Horowitz, in his widely praised book The Diffusion of Military Power, notes that states and non-state actors face a number of possible strategic choices when considering military innovations, with the adoption of innovative technology not a foregone conclusion. States will consider both the financial cost of adopting new technology and the organizational capacity required to adopt new technologies — that is, the need to make large-scale changes to recruitment, training, or strategic doctrine. From a financial perspective, drones are an attractive option for state and non-state actors alike, as they are vastly cheaper to build and operate than other forms of aerial technology, with the high level of commercial applications for drone technology helping drive down their cost. Organizationally, drones still require a significant level of training to operate in a combat setting, inhibiting their immediate adoption. Yet, as strategic doctrine in nearly every state prioritizes combating terrorism, drone programs will be easier to integrate into military structures as Horowitz notes that how a military organization defines its critical tasks determines the ease of adopting innovations. Even if the level of organizational capacity needed to operate drones eludes most terrorist organizations, the apparent willingness of states such as Iran to supply militant groups with drones raises the possibility of terrorist groups acquiring tacit knowledge about operating them by networking with sympathising states. If drones are destined to proliferate, the more important issue may become whether American drone doctrine is setting a precedent for other states over how drones are used, and if so, is American drone use weakening the long-standing international norm against assassination? Current US practices include the use of drones in countries without a declaration of war, the routine targeting of rescuers at the scene of drone attacks and the funerals of victims, and the killing of US citizens. **The existence of such practices lends legitimacy to illiberal actions and significantly diminishes the moral authority of the US to condemn similar tactics used by other states, whether against rebellious populations in their own territory or enemies abroad**. While drone advocates such as Max Boot argue that other countries are unlikely to follow any precedents about drone use established by America, **power has an undeniable effect in establishing which norms are respected or enforced**. America used its power in the international system after World War 2 to embed **norms about human rights and liberal political organization**, not only in allies, but in former adversaries and the international system as a whole. Likewise, **the literature on rule-oriented constructivism presents a powerful case that norms have set precedents on the appropriate war-fighting and deterrence policies when using weapons of mass destruction and the practices of colonialism and human intervention**. Therefore, **drones advocates must consider the possible unintended consequences of lending legitimacy to the unrestricted use of drones**. However, with the Obama administration only now beginning to formulate rules about using drones and seemingly uninterested in restraining its current practices, **the US may miss an opportunity to entrench international norms about drone operations**. If countries begin to follow the precedent set by the US, there is also the risk of **weakening pre-existing international norms about the use of violence**. In the summer 2000 issue of International Security, Ward Thomas warned that, while the long-standing norm against assassination has always been less applicable to terrorist groups, the targeting of terrorists is, “likely to undermine the norm as a whole and erode the barriers to the use of assassination in other circumstances.” Such an occurrence would represent a deleterious unintended consequence to an already inhumane international system, justifying greater scrutiny of the drone program. Realism cautions scholars not to expect ethical behaviour in international politics. Yet, the widespread use of drones by recent administrations with little accountability and the lack of any normative framework about their deployment on the battlefield could come to be seen as a serious strategic error and moral failing. If the Obama administration was nervous about leaving an amorphous drone policy to a possible Romney Presidency, then surely China or Russia possessing such a program would be terrifying.

#### Drone prolif escalates and destroys deterrence without strong norms—multiple scenarios for conflict

Michael J. Boyle 13, Assistant Professor, Political Science – La Salle, International Affairs 89: 1 (2013) 1–29

An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones is that it has generated a new and dangerous arms race for this technology. At present, the use of lethal drones is seen as acceptable to US policy-makers because no other state possesses the ability to make highly sophisticated drones with the range, surveillance capability and lethality of those currently manufactured by the United States. Yet the rest of the world is not far behind. At least 76 countries have acquired UAV technology, including Russia, China, Pakistan and India.120 China is reported to have at least 25 separate drone systems currently in development.121 At present, there are 680 drone programmes in the world, an increase of over 400 since 2005.122 Many states and non-state actors hostile to the United States have begun to dabble in drone technology. Iran has created its own drone, dubbed the ‘Ambassador of Death’, which has a range of up to 600 miles.123 Iran has also allegedly supplied the Assad regime in Syria with drone technology.124 Hezbollah launched an Iranian-made drone into Israeli territory, where it was shot down by the Israeli air force in October 2012.125 A global arms race for drone technology is already under way. According to one estimate, global spending on drones is likely to be more than US$94 billion by 2021.126 One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market.128 Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more.129 The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities. The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to develop and deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them.

#### Drone prolif escalates every hotspot including Iran-Israel, Senkakus, and South China Seas

Xiaolin 11/2 (Duan, The Diplomat, “The Rise of the Drones” 11/2/13 http://thediplomat.com/2013/11/02/the-rise-of-the-drones/)

In a broader sense, America’s use of drones may create more strategic dilemmas for regional and global peace and stability: specifically proliferation and a possible arms race involving drones that could leave the world more prone to conflict.¶ Drones are usually deployed and sent to turbulent areas for intelligence collection and targeted assassinations. They rely heavily on remote control and information links. Small technical errors can result in the rapid proliferation of modern weapons and technology. Case in point: In December 2011, Iran hijacked a U.S. Stealth RQ-170 by spoofing its GPS signal. Iranian Revolutionary Guards then reversed-engineered it, decoded the data and software, and produced a copy. Now, Iran has around 17 drones, including six armed UAVs in use. Its Shahed-129 is capable of attacking air and land targets, which “marks a significant technological advance.”¶ America’s use of drones has also prompted many other countries to develop their own or buy drones from the international market, including Britain, Israel, India, Russia, South African and China. Indeed, China is particularly ambitious, having sold Wing Loong UAVs to a number of countries. It is now developing its stealth drone “Li Jian” (Sharp Sword), which makes it the third country capable of producing such weapons, after America’s X-47 and France’s nEUROn.¶ Countries that don’t have drones may feel threatened and less secure, and seek similar or other asymmetrical means to maintain the balance of power. This could lead to an arms race. What’s more, as the adage says, to the man with a hammer everything looks like a nail. Leaders and field commanders may become overconfident in their technology, making them more assertive than prudence would normally dictate.¶ Security experts worry that drones, usually fielded in geopolitically dangerous areas of the world, may contribute to the outbreak of more small wars and conflict escalation. In the Middle East, Iran and Israel are adversaries armed with advanced drones. Israel is now more likely to use drones in strikes against Iran’s nuclear facilities. If that happens, Iran will certainly retaliate, probably using drones, too. In East Asia, China has used drones to monitor the disputed Senkaku/Diaoyu islands in the East China Sea, and Japan has indicated that it plans to do the same. Tokyo has said it may shoot down Chinese drones, prompting a warning by Beijing that this would mean war with China. Taiwan, South Korea, India and a number of ASEAN countries are seeking to buy Global Hawk drones from the U.S., potentially escalating tensions in the South China Sea.

#### Senkakus causes global nuclear war—US draw-in

**Eland 7/29/**13, Ivan, Senior Fellow and Director of the Center on Peace & Liberty, The Independent Institute, “Why U.S. Policy in East Asia is Dangerous”, http://www.huffingtonpost.com/ivan-eland/why-us-policy-in-east-asi\_b\_3671931.html

Even in the more advanced regions during the Cold War, was it rational for the United States to protect these nations with an American nuclear umbrella-- one that ultimately pledged to incur destruction of American cities to save London, Paris, Berlin, and Tokyo from the communist hordes? A communist takeover of any of these places would have not have been a good day, but incineration of American cities would have been even worse. Yet long after the Cold War is over, the American nuclear shield extends even wider to include a number of countries in Europe and East Asia. In East Asia, the American nuclear backstop protects Japan, South Korea, Australia, and the Philippines formally, and Taiwan and other nations informally. But what if a local conflict between the Chinese and a U.S. ally inadvertently escalates into a nuclear stand off between China and the United States? And it easily could. A rising China is an ally of South Korea's nemesis, North Korea. China also claims Taiwan and has disputes with U.S. allies over islands in the South China Sea (with the Philippines) and in the East China Sea (with Japan). In the last case, China has recently upgraded its coast guard. Meanwhile, a new conservative government in Japan is making noises about scrapping Japan's pacifist constitution and obtaining offensive weapons, and recent dangerous confrontations have occurred between Japanese and Chinese forces near the disputed islands. With a new hawkish and more aggressive government, Japan--like a mouthy little brother standing behind his huge sibling and taunting the opponent--could easily drag the United States into an undesired war with nuclear-armed China. During World War I, outdated alliances dragged the major European powers into a cataclysmic war that nobody wanted. Outdated Cold War alliances could do the same to the United States now in East Asia.

# Plan

#### The United States federal government should determine that the offensive use of combat drones constitutes an introduction of United States Armed Forces into hostilities.

# Solvency

#### WPR key to public accountability – ensures transparency and acts as a bulwark on presidential authority.

John Patera 12 J.D., May 2012, Hamline University School of Law. Spring. 33 Hamline J. Pub. L. & Pol'y 387

To focus on the Resolution's shortcomings, however, is to only tell part of the story because the Resolution does retain one extremely useful feature. The Resolution remains an excellent tool for Congress to control public opinion regarding a president's unilateral deployment of armed forces and, therefore, can still encourage the president to act in accordance with its strictures despite its lack of enforceability in a court of law. n155 The history of the Resolution tells a story of consistent technical violations by the executive branch. A closer look nevertheless reveals that the Resolution has been largely successful at accomplishing its stated purpose: to "fulfill the intent of the [\*418] framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities." n156 Ensuring that Congress has an opportunity to weigh in on any deployment of American armed servicemen begins with the Resolution's requirement that presidents consult with Congress within 48 hours. n157 Every president has complied with the 48-hour requirement and consulted with Congress even though maintaining that the Resolution itself was unconstitutional. n158 President Obama went one step further and for the first time implicitly recognized the constitutionality of the Resolution. n159 Further, it has been effective at encouraging the executive branch to communicate openly with Congress and to not act unilaterally without a substantial showing of support. n160 Indeed, the Resolution was somewhat effective at the conflict's inception as President Obama provided notice of the conflict in compliance with the Resolution's 48-hour rule, and shaped American involvement in the NATO operation to fit its requirements. As previously discussed, the President expressly excluded the possibility of putting "boots on the ground", and from the conflict's inception, specifically defined its limited scope. n161 Compliance with the 48-hour requirement, and providing Congress with information regarding the nature of the conflict reinforces the usefulness of the Resolution because, according to a Senate report, the intent behind Section 8(c) of the Resolution was "to prevent secret, unauthorized military support activities." n162 The Resolution [\*419] has encouraged transparency when a president acts abroad, and in doing so allows the Congress to shape public opinion regarding the conflict. The Resolution was ineffective, however, at restraining President Obama as he sustained the conflict because Congress was largely unsuccessful at shaping public opinion. n163 This can partially be attributed to the operation's successful outcome and relative brevity; however, there is a more fundamental problem. The Obama administration's limited operation and use of drone technology deprived Congress of the opportunity to argue that he was putting American lives at risk. Congress was forced to present to the public an abstract debate over the meaning of "hostilities" for the purposes of the Resolution, without the benefit of concrete language that the President could not avoid. Further, perhaps in an attempt to make the debate less abstract, Congress~~men~~ were relegated to focusing on the fiscal cost of the conflict, rather than its legality. n164 Due to the unique nature of the conflict, the Resolution lost any and all effectiveness once underway. For the first time since the Resolution's passage, however, a president recognized the authority of the Resolution to restrict executive power. n165 Congress should capitalize on this fact and take the opportunity to dull some of the gloss on executive power. This is important because with each passing year, drones become more technologically capable, more deadly, and will be relied upon in greater numbers. The War Powers Resolution was not designed to restrict limited military operations that do not risk American personnel, and drones by their very nature operate in a limited fashion without risk to American servicemen. Therefore, as the [\*420] military transitions into the 21st century, so too must the Vietnam era War Powers Resolution. C. A Solution The Resolution remains an important tool for Congress to shape public opinion and needs to be updated. Therefore, with the advent of new technology that could not have been predicted by its drafters, it should be amended to make it a more effective in the 21st century. The Obama Administration's arguments for why it was not engaging in "hostilities" within the meaning of the Resolution are at the very least supportable and undermine the Resolution's effectiveness as a curb on executive power. As Representative Boehner argued, however, to suggest that one is not engaging in "hostilities" while armed drones are firing upon military targets "defies rational thought." n166 If Congress wishes to use the Resolution as a means of limiting presidential action through public pressure, than it must amend the Resolution to explicitly prohibit the offensive use of drones. As demonstrated by the conflict in Libya, assertions by members of Congress that a president is engaging in "hostilities" by deploying drones are undermined by the limited manner in which they operate, and more importantly, the relative lack of exposure of American personnel to harm. Members of Congress attempted to rectify this by passing funding legislation that would specifically prohibit the offensive use of drones in Libya, but were unsuccessful. n167 Further, if passed, the funding legislation would merely have been an ad hoc veto against the unilateral action taken by the President. This was not the intent of those who drafted the Resolution. The purpose of the Resolution was to ensure Congress' participation in the initial decision to send armed forces abroad. n168 With regards to the operation in Libya, the Resolution provided the [\*421] guidelines that shaped the scope of American involvement. n169 Indeed, it is reasonable to infer that the operation would have been carried out in a different manner, if at all, had the Resolution included a specific prohibition against the offensive use of drone technology. At the very least, should the Libyan conflict prove to be a blueprint for future small-scale military interventions, Congress would have concrete language to point to when attempting to shape public opinion. If Congress wants to ensure its role in the decision to send American military forces abroad, then it must recognize that drones are here to stay. V. Conclusion The War Powers Resolution needs updating. Though it has its critics, the Resolution does still serve a purpose in ensuring that Congress plays a concurrent role in the field of foreign policy, as intended by this Nation's Founders. The Resolution's language does not, however, adequately address the types of small-scale conflicts that are likely to occur in the 21st century. A product of the Vietnam era, the Resolution places too great of an emphasis on the exposure of American servicemen to harm, and gives presidents the freedom to rely on new technologies to skirt its strictures. Drone technology is here to stay. Technological advancements mean that drones will be more agile, more deadly, and more effective. Further, the increase in the numbers of drones utilized by American armed forces mean that they will play an even greater role in future conflicts. The drafters of the Resolution did not, and could not envision the day where American pilots could deliver their aircraft's deadly payload while remaining safely on the ground, far from the conflict. The intent in passing the Resolution was to ensure that Congress has a mechanism to ensure its concurrent participation in the decision to involve the Nation in armed conflict. Congress should therefore amend the Resolution to [\*422] include the offensive use of armed drones within the definition of "hostilities."

#### Public scrutiny through the WPR key – constraint on executive power to use drones is impossible without it.

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B. Why Existing Theories of Presidential Constraint Are No Longer Sufficient Naturally, some have argued that an unchecked President is not necessarily an issue at all. Specifically, in The Executive Unbound, Eric Posner and Adrian Vermeule argue that the lack of presidential constraint is actually a rational development: we want a President who can act with alacrity, especially in a world where quick decisions may be necessary (e.g., capturing a terrorist).153 But rather than worry about this progression, Posner and Vermeule argue that sufficient political restraints remain in place to prevent a president from acting recklessly, making the inability of legal constraints (such as the WPR) to curtail presidential action a moot point.154 Specifically, a mix of “elections, parties, bureaucracy, and the media” acts as an adequate constraint on presidential action, even absent any legal checks on the executive.155 Posner and Vermeule find that presidential credibility and popularity create a deep incentive for presidents to constrain their own power. This restraint does not arise from a sense of upholding the Constitution or fear of political backlash, but from the public itself.156 Because of these nonlegal constraints, the authors conclude that the fear of an unconstrained President (one that has the potential to go so far as tyranny) is unwarranted.157 The problem with such a theory is that the requisite social and political awareness that might have existed in large-scale wars has largely disappeared, allowing the President to act without any fear of diminished credibility or popularity. Specifically, Posner and Vermeule seem to rely on public attentiveness in order to check presidential action but do not seem to consider a situation where public scrutiny fails to materialize. The authors place an important caveat in their argument: “As long as the public informs itself and maintains a skeptical attitude toward the motivations of government officials, the executive can operate effectively only by proving over and over that it deserves the public’s trust.”158 But what happens when such skepticism and scrutiny vanish? The authors premise their argument on a factor that does not exist in a regime that utilizes technology-driven warfare. If credibility is what controls a President, and an apathetic populace does not care enough to shift its political views based on the use of technology-driven warfare abroad, then a President need not worry about public sentiment when deciding whether to use such force. This in turn means that the theory of self-restraint on the part of the President fails to account for contemporary warfare and its social impact, making the problem of public numbing very pertinent.159 CONCLUSION On June 21, 2011, the United States lost contact with a Fire Scout helicopter flying over Libya. Military authorities ultimately concluded that Qaddafi forces shot the helicopter down, adding to the final cost of America’s intervention.160 Yet there would be no outrage back home: no candlelit vigils, no congressional lawsuits, no protests at the White House gates, no demands for change. Instead, few people would even know of the Fire Scout’s plight, and even fewer would care. That is because the Fire Scout helicopter was a drone, a pilotless machine adding only a few digits to the final “cost” of the war, hardly worth anyone’s time or effort. As these situations become more and more common—where postwar assessments look at monetary, rather than human costs—the fear of unilateral presidential action similarly becomes more pertinent. Unlike past larger-scale wars, whose traditional harms provided sufficient incentive for the populace to exert pressure on the President (either directly or via Congress), technology-driven warfare has removed the triggers for checks on presidential action. And though the military actions that have raised WPR issues involved limited, small-scale operations, the volatile and unpredictable nature of warfare itself could eventually put American lives in danger, a risk worth considering given the increased use of drones abroad. Thus, the same conditions are now in place as when the WPR was enacted, creating a need to revisit the importance of the WPR in light of the numbing effect of technology-driven warfare. Although it might be tempting to simply write off the WPR as a failed experiment in aggressive congressional maneuvering given its inability to prevent unilateral presidential action in the past, the new era of warfare and its effects on the populace has created a newfound sense of urgency, one that requires a strong statutory barrier between the President and military action abroad. Thus, we need stronger WPR enforcement as it becomes easier to enter into “hostilities.” While others focus on the WPR itself,161 the emphasis of this Note is on the public’s role in preventing unilateral presidential action. In this respect, the simplest solution for the numbing effect of contemporary warfare is an increased level of public attentiveness and scrutiny concerning military actions abroad, regardless of the lack of visible costs at home. As we have seen, once the public becomes vigilant about our less-visible foreign actions, we can expect our politicians to become receptive to domestic law. But as this Note points out, the issues surrounding a toothless WPR will continue to grow and amplify as society enters a new age of technology-driven warfare. Thus, there is a pressing need for greater public awareness of the new, and perhaps less obvious, consequences of our actions abroad.162 Perhaps taking note of these unforeseen costs will improve the public’s inquiry into potential illegal action abroad and create real incentives to enforce the WPR.

#### Plan’s clarity ensures judicial enforcement and deters circumvention.

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Effective accountability mechanisms constrain policymakers' freedom to choose to use force by increasing the costs of use-of-force decisions and imposing barriers on reaching use-of-force decisions. The accountability mechanisms discussed here, when effective, reduce the likelihood of resorting to force (1) through the threat of electoral sanctioning, which carries with it a demand that political leaders explain their resort to force; (2) by limiting policymakers to choosing force only in the manners authorized by the legislature; and (3) by requiring policymakers to adhere to both domestic and international law when resorting to force and demanding that their justifications for uses of force satisfy both domestic and international law. When these accountability mechanisms are ineffective, the barriers to using force are lowered and the use of force becomes more likely. Use-of-force decisions that avoid accountability are problematic for both functional and normative reasons. Functionally, accountability avoidance yields increased risk-taking and increases the likelihood of policy failure. The constraints imposed by political, supervisory, fiscal, and legal accountability "make[] leaders reluctant to engage in foolhardy military expeditions... . If the caution about military adventure is translated into general risk-aversion when it comes to unnecessary military engagements, then there will likely be a distributional effect on the success rates of [democracies]." n205 Indeed, this result is predicted by the structural explanation of the democratic peace. It also explains why policies that rely on covert action - action that is necessarily less constrained by accountability mechanisms - carry an increased risk of failure. n206 Thus, although accountability avoidance seductively holds out the prospect of flexibility and freedom of action for policymakers, it may ultimately prove counterproductive. In fact, policy failure associated with the overreliance on force - due at least in part to lowered barriers from drone-enabled accountability avoidance - may be occurring already. Airstrikes are deeply unpopular in both Yemen n207 and Pakistan, n208 and although the strikes have proven critical [\*421] to degrading al-Qaeda and associated forces in Pakistan, increased uses of force may be contributing to instability, the spread of militancy, and the failure of U.S. policy objectives there. n209 Similarly, the success of drone [\*422] strikes in Pakistan must be balanced against the costs associated with the increasingly contentious U.S.-Pakistani relationship, which is attributable at least in part to the number and intensity of drone strikes. n210 These costs include undermining the civilian Pakistani government and contributing to the closure of Pakistan to NATO supplies transiting to Afghanistan, n211 thus forcing the U.S. and NATO to rely instead on several repressive central Asian states. n212 Arguably the damage to U.S.-Pakistan relations and the destabilizing influence of U.S. operations in Yemen would be mitigated by fewer such operations - and there would be fewer U.S. operations in both Pakistan and Yemen if U.S. policymakers were more constrained by use-of-force accountability mechanisms. From a normative perspective, the freedom of action that accountability avoidance facilitates represents the de facto concentration of authority to use force in the Executive Branch. While some argue that such concentration of authority is necessary or even pragmatic in the current international environment, n213 it is anathema to the U.S. constitutional system. Indeed, the founding generation's fear of foolhardy military adventurism is one reason for the Constitution's diffusion of use-of-force authority between Congress and the President. n214 That generation recognized that a president vested with an unconstrained ability to go to war is more likely to lead the nation into war. Among the relevant accountability-holders, Congress is best positioned to strengthen the U.S. accountability system for use-of-force decisions. Congress can both define the limits of presidential authority to [\*423] use force and compel adherence to those limits. Moreover, Congress need not wait for an election or a plaintiff with standing to employ its accountability mechanisms. Congress should reinvigorate the WPR regime by insisting on presidential compliance. Congress should no longer tolerate scenarios like Kosovo or Libya in which the President uses force beyond the sixty-day window without congressional authorization. Moreover, Congress should not allow such a scenario to arise in the first place. When the President uses force abroad, Congress should take up the matter immediately and determine well before the expiration of the sixty-day clock whether the United States will go to war. This determination is Congress's constitutional responsibility. Earlier determinations will also avoid the spectacle of last-minute congressional ratification of a president's decision to go to war simply to avoid the appearance of marginalization, as was the case during the 1991 Gulf War. Obviously, merely approving or disapproving of a president's decision to use force is not enough. Congress must be willing to enforce its determination through its appropriations authority. Having actually employed its supervisory accountability mechanism in the manner described here, Congress will more likely be able to rely on judicial support and enforcement. Congress should strengthen the WPR regime by defining hostilities in a manner that links hostilities to the scope and intensity of a use of force, irrespective of the attendant threat of U.S. casualties. Without defining hostilities, Congress has ceded to the President the ability to evade the trigger and the limits of the WPR. The President's adoption of a definition of hostilities that is tied to the threat of U.S. casualties or the presence of U.S. ground troops opens the door to long-lasting and potentially intensive operations that rely on drones - at least beyond the sixty-day window - that escape the WPR by virtue of drones being pilotless (which is to say, by virtue of drones being drones). Tying hostilities to the intensity and scope of the use of force will limit the President's ability to evade Congressional regulation of war. It will curtail future instances of the United States being in an armed conflict for purposes of international law but not for purposes of domestic law, as was the case in Libya. Finally, a statutory definition of hostilities will provide the judiciary with a meaningful standard for determining presidential compliance with the WPR - assuming the future existence of a plaintiff able to surmount the various prudential doctrines that have counseled against entertaining WPR cases thus far. Finally, Congress should insist that force used under the covert action legal regime actually be covert. That is, force used under covert action's permissive accountability regime should demonstrate an objective intent to avoid the apparent or publicly acknowledged role of the U.S. government. [\*424] Where a use of force is extensive and U.S. involvement is apparent, that use of force should be subject to the more rigorous WPR regime. The U.S. drone campaign over Pakistan may present just such a case - those strikes ceased being covert in any meaningful way years ago. Thus, the current regime reduces the barriers to a more permissive accountability scheme to a mere labeling exercise. Of course, there are other methods by which accountability for the use-of-force decisions - particularly, use-of-force decisions employing drones - might be increased. Some have suggested the establishment of a "drone court," modeled on the Foreign Intelligence Surveillance Court, to provide ex ante judicial review of targeted strikes, at least. n215 Others have suggested the creation of a new cause of action for the families of drone strike targets who argue their family members were wrongly targeted, and the imposition of ex post accountability. n216 Each suggestion has merit; however, neither suggestion will impose substantially greater accountability on the President as long as the judiciary maintains its historical deference to the President in matters implicating use of force. Regardless, these new judicially-focused schemes require Congressional action, too. Thus, even these schemes require Congress to do what it has so far been unwilling to do: legislate mechanisms that enhance accountability for policymakers charged with deciding when and how force is used.

#### WPR solves – Norm of executive compliance and it ensures public scrutiny.

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For all its efforts, the WPR has received mostly criticism. n43 From concerns over the constitutionality of the legislative veto provisions, n44 concerns that have proven to be warranted, n45 to the [\*869] vagueness of the statutory text n46 and the WPR's lack of practical effect, n47 the WPR has been regarded as a failure. The WPR has also been criticized for applying only to actions involving U.S. armed forces, leaving operations involving U.S. intelligence agencies conspicuously unregulated. n48 Thus, even if the WPR were to be interpreted as being consistent with the Constitution, opponents of the WPR would still likely consider it to be nothing but a sixty-day "blank check" for the Executive. n49 This Note contends, however, that the WPR is undeserving of such criticism. To review presidential unilateral uses of force since 1973 is to find a spirit of compliance with the WPR. This success is the result of the Executive heeding the U.S. public's distaste for bloody and protracted conflict - a public sentiment that the WPR codifies. The WPR is interesting because its success has come in an unorthodox fashion: Of its four main provisions, two are easily avoidable and two are unconstitutional. n50 The fact that the WPR has still affected presidential decisionmaking makes it a fascinating legislative accomplishment. Some have argued, however, that the great difference in conflicts since Vietnam is related solely to political constraints on the Executive and not the WPR. n51 This argument fails for two reasons. The first is its inability to explain the Executive's historical compliance with the WPR's consulting and reporting requirements. n52 The second is more subtle: opponents of the WPR fail to recognize that, because of the WPR's impotency, it is only a political constraint. The WPR's normative force thus exceeds its bare textual requirements. [\*870] Indeed, it is the WPR's cognizance of a broad public sentiment that fuels its strength. One cannot downplay its significance as a product of the nation's legislature. As Justice Holmes so eloquently and so forcefully stated: What proximate test of excellence can be found except correspondence to the actual equilibrium of force in the community - that is, conformity to the wishes of the dominant power. [Be it] wise or not, the proximate test of a good government is that the dominant power has its way. n53 This concept is especially salient given that the WPR was passed over President Nixon's veto. n54 In sum, an outrageous unilateral presidential use of force may prompt a legislator to cite the WPR and argue that to flout the will of the legislature is to flout the will of the people, and that to flout the will of the people is to ignore a central tenet of representative government. Thus, even if the Executive can defy the WPR in a court of law, it cannot avoid losing to the WPR in a court of public opinion.