### 1AC Due Process

#### THE ADVANTAGE IS DUE PROCESS!

#### The status quo’s reliance on executive self-restraint kills due process – oversight creates assurance in the system

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

The Obama Administration has addressed the controversy over targeted killing in an effort to assuage concerns over the program’s constitutionality, including concerns over due process protections.162 However, the Administration’s explanations do little but reiterate the gaping hole in guaranteed due process protections if Americans are targeted with lethal force.163 In fact, the Administration’s attempts to justify the current response emphasize the desperate need for a clear articulation of the law and a mechanism for constitutional safeguards.164 Harold Koh, the Legal Adviser to the Department of State, addressed the criticisms of targeted killing in a speech at the Annual Meeting of the American Society of International Law in March 2010.165 Koh addressed the concern that “the use of lethal force against specific individuals fails to provide adequate process and thus constitutes unlawful extrajudicial killing.”166 First, he asserted that a state engaged in armed conflict is not required to provide legal process to military targets.167 Koh then attempted to reassure the critics of targeted killing that the program was conducted responsibly and with precision.168 He said that the procedures for identifying targets for the use of lethal force are “extremely robust,” without providing any explanation or details to substantiate this claim.169 He then argued that “[i]n my experience, the principles of proportionality and distinction . . . are implemented rigorously throughout the planning and execution of lethal operations to ensure that such operations are conducted in accordance with international law.”170 Koh dismissed constitutional claims over targeted killing by simply suggesting that the program is legal and responsible.171 But this response only begs the question over targeted killing: what mechanisms are in place to prevent the unsafe and irresponsible use of this extraordinary power? Asserting that the program is legal and responsible without substantiating this assertion rests on notions of blind faith in executive prudence and responsibility, and provides no grounds for reassurance.172 The Obama Administration’s assurances regarding the targeted killing program are unsatisfactory because they fail to address the primary concern at issue: the possibility that an unchecked targeted killing power within the Executive Branch is an invitation for abuse.173 Without some form of independent oversight, there is no mechanism for ensuring the accurate and legitimate use of targeted killings in narrowly tailored circumstances.174

#### Exclusive executive authority over drones guarantees a high error rate and use of state secrets

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

Currently, there is no specific evidence that the targeted killing program has been used for illegitimate purposes other than national defense and security. However, the Executive’s exercise of authority in identifying and pursuing threats of terror has produced a worrisome error rate.175 According to an analysis of Predator drone strikes in Pakistan conducted by the New America Foundation, since 2004, the non-militant fatality rate has been roughly 20 percent.176 In other words, about one-fifth of those killed by Predator drone strikes have been non-military targets, including innocent civilians.177 In June of 2010, it was reported that the government lost nearly 75 percent of the cases involving habeas petitions filed by detainees at Guantanamo Bay.178 This suggests that for the majority of detained enemy combatants, the government has had insufficient evidence for the assertion that the detained individuals were involved in hostilities against the United States.179 The rate of error in these instances only adds to the concern over the procedural guarantees of the targeted killing process and the need for a more standardized process with a robust system of screening and oversight. There is also historical precedent for cautiously evaluating the legitimacy and constitutionality of unreviewable executive authority in matters of espionage and national security. In 1976, President Ford issued an executive order outlawing political assassination.180 The order was a response to revelations after the Watergate scandal that the CIA had attempted to assassinate Cuban President Fidel Castro multiple times.181 Every U.S. president since Ford has upheld the ban on political assassinations in subsequent executive orders.182 This is an example of classified CIA activity that, once publicly known, was deemed unacceptable as a matter of law and policy.183 The current targeted killing program conducted in executive secrecy raises concerns similar to those of political assassination. The state secrets privilege is another form of unreviewable executive power that ought to be met with skepticism. In Aulaqi, the DOJ raised the state secrets privilege as alternative grounds for summary judgment, claiming that litigating the issues before the court would require the disclosure of sensitive classified intelligence and would endanger national security.184 Originally, the state secrets privilege was a rarely-used but formidable evidentiary objection.185 Since the terrorist attacks of September 11, however, it has been used much more frequently and as grounds for the dismissal of entire cases.186 Not only is the expanded use of the state secrets privilege problematic, so too is the privilege itself.187 The Supreme Court formally recognized the privilege in United States v. Reynolds. 188 However, the validity of even this first use of the privilege has been called into question, raising concerns over the potential for government abuse.189 In Reynolds, the government argued that certain accident reports containing state secrets should be kept out of trial.190 Although the Court agreed, the merits of this decision have since been cast in doubt.191 When the accident reports in Reynolds later became public, they were shown to contain no sensitive state secrets.192 Instead, the reports contained potentially embarrassing evidence of negligent government conduct.193 As long as targeted killing is conducted under the cloak of the state secrets privilege, there is no guarantee that the program will be free of government misconduct. C. The Need for a Resolution Concerns over targeted killing error rates and historical abuses of executive power cast extraordinary doubt over the adequacy of the Obama Administration’s legal justification of targeted killing, as articulated by the Department of State.194 The government’s argument is that it should be taken at its word when it assures the public that the process for identifying and targeting suspected terrorists with lethal force is careful, rigorous, and legal.195 This is not an adequate explanation of targeted killing law for two reasons. First, this explanation leaves unanswered the question of how the targeted killing program is careful, rigorous, and legal.196 Second, there is ample historical evidence that suggests that executive guarantees of authority and privilege ought to be met with skepticism.197 Without some form of independent oversight or review, taking the Executive Branch at its word is not an adequate form of due process and provides no minimum constitutional guarantee.198

#### SCENARIO ONE IS LEGAL CRISES!

#### Obama’s white paper claimed due process for citizens, but executive implementation creates a legal disaster that wrecks due process – providing notice and opportunity is key

Feldman 13 (Noah, Professor of Constitutional and International Law – Harvard University, “Obama’s Drone Attack on Your Due Process,” Bloomberg, 2-8, <http://www.bloomberg.com/news/2013-02-08/obama-s-drone-attack-on-your-due-process.html>)

\*modified

The biggest problem with the recently disclosed Obama administration white paper defending the drone killing of radical clerk Anwar al-Awlaki isn’t its secrecy or its creative redefinition of the words “imminent threat.” It is the revolutionary and shocking **transformation of the meaning of due process**.

Fortunately, as seen during John Brennan’s confirmation hearing for Central Intelligence Agency director, Congress is starting to notice.

Due process is the oldest and most essential component of the rule of law. It goes back to the Magna Carta, when the barons insisted that King John agree not to kill anyone or take property without following legal procedures.

What they meant -- and what has been considered the essence of due process since -- is that the accused must be notified of the charges against him and have the opportunity to have his[\*/her\*] case heard by an impartial decision maker. If you get due process, you can’t complain about the punishment that follows. If you don’t get that opportunity, you’ve been the victim of arbitrary power.

Are U.S. enemies entitled to due process? Well, no -- not if they are arrayed against the country on the battlefield. In war, you don’t try the enemy. You kill him, preferably before he kills you. And if some of the Japanese troops at Guadalcanal had held U.S. citizenship, it wouldn’t have suddenly given them due process rights. If Awlaki was an enemy fighting on the battlefield, he wouldn’t have deserved due process while the fight was on. Off it, he should legally be like any other U.S. citizen, innocent until proven guilty.

Generous Idea

Yet, despite claiming that the Awlaki killing was justified because he was an operational leader of al-Qaeda, and thus in some sense an enemy on the battlefield, the white paper still assumes that due process applies to U.S. citizens abroad who adhere to the enemy. On the surface, this sounds plausible and even generous: Why not consider the possibility that a U.S. citizen abroad has some rights against being killed out of the blue?

In fact, though, applying due process analysis to Awlaki produces a legal disaster. The problem is, once you consider due process, you have to give it some meaning -- and the meaning you choose will cast a long shadow over what the term means everywhere else.

The white paper uses two Supreme Court cases to assess what process is due to an American about to be killed by a drone. The first, Mathews v. Eldridge, is a 1976 case in which the court held that the elaborate administrative processes necessary after a person lost his Social Security disability benefits were constitutionally acceptable even though there was no evidentiary hearing before the benefits were terminated. In that case, the court said that the process due could be determined by balancing the individual’s interest against the government’s.

The other case was 2004’s Hamdi v. Rumsfeld, where the court held that a detained enemy combatant -- in custody, not on the battlefield -- must receive “notice of the factual basis for his classification, and a fair opportunity to rebut the Government’s factual assertions before a neutral decision- maker.”

Astonishingly, the white paper follows its summary of these decisions with the bald assertion that a citizen outside U.S. territory can be killed if a high-level official determines that he poses an imminent threat, it would be unfeasible to capture him and the laws of war would otherwise permit the killing.

Never Explained

The non sequitur is breathtaking. Awlaki wouldn’t receive notice, the opportunity to be heard or a hearing before a decision maker. In other words, he would receive none of the components of traditional due process -- not even one. How the absence of due process could be magically transformed into its satisfaction is never stated or explained. All we get is the assertion that a target’s interest in life must be “balanced against” the government’s interest in protecting other Americans. On this theory, no due process would be due to those accused of murder, because their lives would have to be balanced against the government’s interest in protecting their potential victims.

#### Obama relies on internal review to legally say that targeted killing meets due process– but it doesn’t! External review prevents manipulation of the law that spills over to undermine due process in other areas

Powell 13 (Jeff, Professor of Law – Duke University School of Law, Former Member – Justice Department’s Office of Legal Counsel, Former Deputy Assistant Attorney, “Jeff Powell on Targeted Killing and Due Process,” Lawfare Blog, 6-21, <http://www.lawfareblog.com/2013/06/jeff-powell-on-targeted-killing-and-due-process/>)

There is much to admire in the speech President Barack Obama gave on May 23rd in which he gave us his views on “lethal, targeted action” against high ranking members of al-Qaeda and its allies, above all his acknowledgment that the “laws constrain the power of the President, even during wartime.” For all his speech’s virtues, however, Mr. Obama’s comments about one legal issue, due process, should disturb us deeply. In discussing his insistence “on strong oversight of all lethal action,” the President stated, “for the record,” that he “do[es] not believe it would be constitutional for the government to target and kill any U.S. citizen – with a drone, or a shotgun – without due process.” Mr. Obama had just referred to the killing of Anwar Awlaki, whose death was “the one instance when we targeted an American citizen,” and he plainly was not confessing constitutional error. There is no serious doubt, then, that the President thinks that the US government deprived Mr. Awlaki of his life with due process. Unfortunately, Mr. Obama’s discussion of that issue **is fundamentally flawed** in two ways: first, in his assumption that due process applies at all, and second, in his belief that the administration’s procedures satisfy due process.

The President’s blanket assertion that our government must always provide due process before killing a citizen may seem self-evident – after all, the Fifth Amendment demands that no person (not citizen!) shall be deprived of life, liberty or property without due process of law — but Mr. Obama was wrong nonetheless. Due process requires fairness in government’s dealings with those it governs; it simply does not apply to military decisions, in hostilities that Congress has authorized, about attacking members of enemy forces who are not under American control. Mr. Obama was not justifying the killing of Mr. Awlaki as an extrajudicial execution but as the elimination of a particular enemy officer in the field as an act of war. The Constitution imposes other constraints on presidential action in a time of war, but due process has no role in what the Supreme Court’s 2004 decision in Hamdi v. Rumsfeld termed “the Executive in its exchanges …with enemy organizations in times of conflict.”

If there is no constitutional due process requirement at all, why does it matter that Mr. Obama assumes that there is? Is there any real harm in putting forth a standard for meeting a burden that doesn’t exist? There is, because the President’s reasoning may undercut the meaning of due process in other circumstances where the constitutional requirement does apply.

From comments he and other officials have made, and from the Justice Department “White Paper” that was leaked earlier this year, what he had in mind seems clear: it is the “strong oversight” over targeting decisions that the President himself has mandated that he and his advisors believe satisfies the Constitution. The White Paper lays out the argument: the executive branch itself has provided a targeted US citizen due process because only high-level members of al-Qaeda and its allies are targeted, the decision to use lethal force is made by an “informed, high-level official of the U.S. government,” that official must determine that the potential target poses an “imminent threat of violent attack,” and it must not be feasible to capture the individual without excessive risk to the lives of American personnel or vital American interests. As the President put it, Mr. Awlaki “was continuously trying to kill people” as part of his role in al-Qaeda, and although Mr. Obama “would have detained and prosecuted Awlaki if we captured him before he carried out a plot … we couldn’t.”

I have no objection to the procedures that the White Paper outlines: indeed they are roughly the sort of careful decisionmaking that I would hope my government would employ in such a grave matter. (Whether our current practices of targeted killing are a wise or even moral policy overall is another question.) Nor am I criticizing the determination that Mr. Awlaki met the White Paper’s targeting criteria: I have no reason or inclination to doubt the President’s view of the facts. But the White Paper’s claim that these laudable procedures amount to due process is quite indefensible.

The White Paper (correctly) invoked the Hamdi v. Rumsfeld decision for the due process analysis that applies in the war against al-Qaeda, but its understanding of the Constitution’s requirements could hardly be more at odds with the discussion of “the central meaning of procedural due process” in Justice Sandra Day O’Connor’s lead opinion: “Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner,” and they must be heard by a “neutral and detached judge.” “These essential constitutional promises may not be eroded,” Justice O’Connor concluded, but the White Paper – and I think we can assume the President as well – apparently find these promises inapplicable in the context of targeted killings.

It takes only a moment’s reflection to see that the President’s laudable procedures for imposing “strong oversight” over targeting decisions are worlds apart from Hamdi’s “essential constitutional promises” – indeed, it is hard to imagine how a military decision about attacking an enemy combatant could be otherwise. Of course the White Paper does not propose that potential targets be given notice of the government’s possible interest in killing them. Of course it does not contemplate, much less require, that a targeted individual be heard at any time or in any manner as to why the government is mistaken about his identity or activities. Of course it does not provide for a neutral and detached decisionmaker to resolve any factual uncertainty: the ultimate decisionmaker here is the President in his capacity as commander in chief, who (we should hope) is not in the least neutral or detached in carrying out his responsibility for national security. Calling the executive’s own procedures the due process that is meant to check arbitrary executive decisions isn’t merely an erosion of the “essential constitutional promises” but their wholesale repudiation. If Mr. Awlaki was entitled to due process, then his killing violated the Constitution.

Since due process doesn’t apply to a US military decision, in a situation of actual and authorized hostilities, to attack a member of the enemy’s forces who is a legitimate target under the law of war, the Constitution was not in fact violated. But my concern here is to identify the patent error in the White Paper’s and the President’s thinking about due process, because that error is likely to confuse our thinking about the wisdom and morality of targeted killing. The decision to kill a known, identified human being is a brutal one, the action of doing so is ugly to think about, even apart from the fact that sometimes other people die (as Mr. Obama acknowledged with sorrow). This brutality and ugliness are part of the grim reality of war. When we pretend to ourselves that our procedures for making such decisions satisfies the constitutional requirements of due process, we cast a veil of civility and even humanity over something that is inherently violent and dehumanizing.

I am not a pacifist, and I accept that the brutality of war is sometimes unavoidable. But the law’s antiseptic language about the weighing and balancing of interests according to “the traditional due process analysis” that supplies the legal “framework for assessing the process due a U.S. citizen” (I quote from the White Paper) masks, in a deeply misleading fashion, the brutality, the terror and the violence of war – even if we are right to conclude that we should take lethal action against our enemies. It serves no good purpose for the President and his advisors, or for any of us as citizens, to pretend that targeted killing is or can be anything other than the brutality it is.

The problem with the President’s constitutional error is not limited to its power to confuse our thinking about the reality of targeted killing. Once a legal argument gains legitimacy in the courts, or among executive officials, or in public discussion, it tends to expand beyond its original boundaries – the intellectual habits of lawyers and the traditional legalism of American public debate make this almost inevitable. By dint of repetition if nothing else, the claim that the executive’s own internal cogitations can amount to constitutional due process threatens to acquire the sort of legitimacy that will tempt future lawyers, and future Presidents, to apply it in other contexts. During World War Two, Justice Robert Jackson rejected the government’s argument that it was constitutional to intern US citizens purely on the basis of their Japanese ancestry because the decision rested on the executive’s claim of military necessity. Jackson didn’t propose that the courts interfere with the military’s actions, but he vigorously objected to anyone rationalizing the decision as constitutional. Accept that conclusion, Jackson wrote, and “[t]he principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need.” The same worry applies to the President’s rewriting of what due process requires. Neither Mr. Obama nor anyone else can foresee or prevent future claims that we must turn the idea of due process on its head because of some perceived need to do so. The President and his advisors should rethink the White Paper’s faulty reasoning, and we should all keep in view the difference between “the essential constitutional promises” due process embodies, and the modes of military decision that our government employs in waging war.

#### Creates a slippery slope – spills over to drug-trafficking

Mataconis 13 (Doug, Private Practice Attorney, “President Obama’s Troubling Justification For Targeted Killings,” Outside the Beltway, 2-5, <http://www.outsidethebeltway.com/136544/>)

Obviously, the biggest concern here is the fact that the memo presents a fairly broadly open-ended definition of what an “imminent” attack actually is. It certainly doesn’t have the same meaning that it does in general conversation. This seems especially true given the fact that the al-Awlaki killing occurred nearly two years after the terrorist attack he was accused of masterminding, the 2009 “Underwear Bomber” attack. If we’re talking about the plot to apparently send bombs disguised as toner cartridges into the United States from Yemen, the killing took place a years after the alleged threat. Since we have never been privy to any of the evidence that the Administration supposedly had against him, it’s hard to see how he was the kind of “imminent” threat that ordinary use of the word would suggest or why it wouldn’t have been just as acceptable to capture him and bring him back to the United States for trial.

Ron Fournier points out many of the questions that arise from these memo:

1. Where does this slippery slope end? If killing Americans with no due process is OK when their alleged crime is consorting with al-Qaida, it’s not a huge intellectual leap to give government officials the same judge-and-jury authority over other heinous acts such as mass murder, drug-trafficking and pornography.

2. Shouldn’t there be a higher standard? In the torture debate, many Americans seemed to buy the concept that extreme measures might be necessary to prevent an imminent attack against the U.S. Should the standard be higher for torture than murder?

3. What makes a targeting killing lawful? Holder told the public months ago that killing Americans can be justified if “capture is not feasible.” But the memo gives more leeway to government officials, condoning the killing of an American if U.S. troops would be put at risk in an attempted capture, for example. Why the double-speak?

4. Why the secrecy? Obama promised to run the most transparent administration of modern times, and in many ways he’s kept the pledge. But not on this life-and-death issue. A group of 11 senators, led by Democrat Ron Wyden of Oregon, have urged Obama to release all Justice Department memos on targeting killings. There are many more, and more important, documents than the Isikoff memo that need exposure. The public deserves to know why its president, without due process or visibility, is issuing death sentences to alleged terrorists, some of them Americans. They learned today that the public statements of administration officials on this matter can’t be trusted.

Based on an initial reading of the memo (which is available as a PDF file), it seems pretty clear that the Administration is attempting to make it appear that their policy limits the President’s authority when, in reality, it greatly expanding it. By defining “imminence” so loosely, as well as the other qualifications that are put on the decision of whether or not to target someone for killing, they have managed to vastly expand the powers of the Presidency just as President George W. Bush did during his time in office. This is of concern for two reasons.

First, as I’ve said in other posts regarding this matter, the idea that the President can decide on his own when an American citizen can be targeted for assassination by means of a secret process which American courts cannot review is a profoundly disturbing one. Who’s to say that this some rule can’t be used to target someone in the United States, or in a foreign country that, if requested, would be more than likely to assist us in arrest of such a suspect? Once you concede the idea that a President has the right to order the death of an American citizen without trial or any other form of due process, you’ve opened the floodgates to all kinds of potential problems.

#### Broad applications of due process for drug-trafficking is key to global support that solves organized crime

Lichter 9 (Brian A., J.D. – Northwestern School of Law, “THE OFFENCES CLAUSE, DUE PROCESS, AND THE EXTRATERRITORIAL REACH OF FEDERAL CRIMINAL LAW IN NARCO-TERRORISM PROSECUTIONS,” Northwestern University Law Review, 103(4), http://www.law.northwestern.edu/lawreview/v103/n4/1929/lr103n4lichter.pdf)

The new narco-terrorism statute raises important constitutional issues that warrant further scholarly exploration. In a world of increasingly globalized crime, the constitutional rights of foreign nationals, the extraterritorial jurisdiction of federal courts, and Congress‘s power to legislate extraterritorially will become central questions within our constitutional framework. These issues, taken together, raise the broader question of the proper balance between individual liberties and national security interests in a post-9/11 world. This Comment argues that the government‘s power to proscribe narcoterrorism is broad. But while the Constitution should act as a shield for national interests rather than a sword in extraterritorial prosecutions, 207 the government‘s power is not—and cannot be—exercised without constraint. Although Congress‘s Offences Clause power is broad, it is not limitless. To check this broad power, the Executive is under no obligation to initiate § 960a prosecutions, particularly if a prosecution would pose thorny political and diplomatic questions. The Fifth Amendment‘s Due Process Clause also limits the extraterritorial reach of federal law. Although this Comment argues that due process does not require a territorial nexus, measuring due process pursuant to internationally accepted bases of jurisdiction in extraterritorial prosecutions is advantageous for policy reasons. Exercising jurisdiction in accordance with international law is politically beneficial because it demonstrates the United States‘ compliance with accepted norms and puts other countries on notice as to when the United States will likely assert jurisdiction. Moreover, international law, through protective jurisdiction, provides a tool by which federal courts can exercise jurisdiction over extraterritorial violations of nonperemptory norms. As this Comment suggests, this jurisdiction is a safety net that permits the U.S. government to protect its own security interests, along with those of allied governments, through the criminal law. In this way, § 960a can become a powerful prosecutorial tool in the fightagainst international crime.

#### Nuclear war

**Dobriansky, 1 -** Under Secretary for Global Affairs at the State Department (Paula, “The Explosive Growth of Globalized Crime,”http://www.iwar.org.uk/ecoespionage/resources/transnational-crime/gj01.htm

Certain types of international crime -- terrorism, human trafficking, drug trafficking, and contraband smuggling -- involve serious violence and physical harm. Other forms -- fraud, extortion, money laundering, bribery, economic espionage, intellectual property theft, and counterfeiting -- don't require guns to cause major damage. Moreover, the spread of information technology has created new categories of cybercrime.

For the United States, international crime poses threats on three broad, interrelated fronts. First, the impact is felt directly on the streets of American communities. Hundreds of thousands of individuals enter the U.S. illegally each year, and smuggling of drugs, firearms, stolen cars, child pornography, and other contraband occurs on a wide scale across our borders.

Second, the expansion of American business worldwide has opened new opportunities for foreign-based criminals. When an American enterprise abroad is victimized, the consequences may include the loss of profits, productivity, and jobs for Americans at home.

Third, international criminals engage in a variety of activities that pose a grave threat to the national security of the United States and the stability and values of the entire world community. Examples include the acquisition of weapons of mass destruction, trade in banned or dangerous substances, and trafficking in women and children. Corruption and the enormous flow of unregulated, crime-generated profits are serious threats to the stability of democratic institutions and free market economies around the world.

#### Independently – the plan prevents the misuse of surveillance drones in Syria and Mexico

Sager and Schneider 13 (Josh and Dan, Writers – The Boston Occupier, “America’s Dangerous Drone Precedent: A Secret and Unaccountable Program of Targeted Killings,” Progressive Cynic, 1-29, <http://theprogressivecynic.com/2013/01/29/americas-dangerous-drone-precedent-a-secret-and-unaccountable-program-of-targeted-killings/>)

In addition to their use as a tool in extrajudicial assassination, drones are quickly becoming a hot-ticket item for government agencies that want to conduct surveillance. U.S. Customs and Border Protection currently operates nine drones, using them for border and drug trafficking surveillance; Homeland Security has used them to support FEMA during disaster relief operations; and the Seattle Police Department recently caused a stir when the Mayor and City Council found out that they were operating a pair of surveillance drones.

Support for laissez-faire regulation of this new industry is likely to find a home in the new Congress. Changes between the 112th and 113th sessions haven’t done much to alter the makeup of the House Unmanned Systems Caucus, a bipartisan group of Representatives that collectively received over $8 million in campaign donations from drone manufacturers during the 2012 elections. In early 2012, the “drone caucus” was instrumental in shaping the Federal Aviation Administration Authorization Act (FAAAA), a law passed annually to approve funding for the FAA. This year’s FAAAA contained a special section addressing unmanned aerial vehicles, and specifically requests that both representatives of the aviation and drone industries have a say in crafting how drones are deployed within the country.

This kind of private-public partnership strengthens as the use of drones for surveillance and war around the world increases, and will surely have a strong influence over which countries will have access to this technology, and will set the terms for how it is used. A September study released by NYU and Stanford pointed out the dangers in allowing drone use to spread without a legal framework for their sale and use.

When it comes to them being as a tool of war, researchers ominously noted that:

“US practices may also facilitate recourse to lethal force around the globe by establishing dangerous precedents for other governments. As drone manufacturers and officials successfully reduce export control barriers, and as more countries develop lethal drone technologies, these risks increase.”

Three months into the Afghanistan War, Ali Qaed Sinan al-Harithi and five others (including a U.S. citizen) became the first six fatalities of the U.S. drone program. Not in Afghanistan, however, but in Yemen. In 2001, the U.S. justified the strikes similarly to how Israel, during the First Intifada, justified its own “targeted killing” program. The U.S. said that because Harithi could not possibly be arrested, and was alleged to be a member of al-Qaeda, it was legal to kill him because the U.S. was “at war” with terrorism and this conflict justified ignoring the sovereignty of another state.

Without the constraint of an enforceable international law, there may be too few barriers in place to stop other nations from exploiting the same loopholes that the U.S. has to kill members of groups they deem ‘terrorists’—say, Mexican drug cartels or the Free Syrian Army—but their own citizens, as well. Seen in this light, the assassinations of Harithi, Awlaki, and thousands of others are not mere casualties of short-term war; they are the first dead in new breed of globalized warfare, bound only by feasibility and the size of one’s defense budget.

#### That causes global escalation of the Syria crisis

Rozoff 13 (Rick, investigative journalist, “U.S. Drone Strikes In Syria: Dangerous Escalation,” Global Research, 3-18, <http://www.globalresearch.ca/u-s-drone-strikes-in-syria-dangerous-escalation/5327190>)

The introduction of drone strikes by the United States inside Syria would mark a dangerous escalation in the Syrian unrest, says Rick Rozoff, manager of the Stop NATO organization.Rozoff told the U.S. Desk that if deadly U.S drone strikes are expanded to Syria, it would be “the most disturbing manifestation of the international drone warfare policy.”

Drone attacks inside Syria would be “an act of utter provocation,” he said.

“If the U.S. directly engage in military strikes, which is what drone attacks are, means that the U.S. has openly intervened and become belligerent in the war on Syria and it could lead to an escalation of tensions not only in the region but globally.”

#### Nuclear war

**Russell 9** (James, Senior Lecturer in the Department of National Security Affairs – Naval Postgraduate School, “Strategic Stability Reconsidered: Prosepects for Nuclear War and Escalation in the Middle East,” Online)

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or **as a result of miscalculation** or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could **quickly escalate** in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the **context of an unstable strategic framework**. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with **substantial risk for the entire world.**

#### Also causes Russia nuclear war

PressTV 8-8-13 (“Israel can spark US-Russia thermonuclear war: LaRouche,” <http://www.presstv.com/detail/2013/08/08/317842/israel-can-spark-usrussia-nuclear-war/>)

American political activist Lyndon LaRouche has warned that the continuation of Israeli behavior towards Syria, including the recent air strikes against the Arab country, could end in a US-Russia thermonuclear war.

His comments appeared in an article by Jeffrey Steinberg, which has been published in the latest issue of Executive Intelligence Review, a weekly news magazine founded by LaRouche himself.

“Lyndon LaRouche warned on Aug. 3 that ongoing Israeli actions, including the July 5 Israeli Air Force (IAF) bombing of a depot near Latakia, Syria which held Russian-made anti-ship cruise missiles, could trigger a wider war, drawing the United States into thermonuclear conflict with Russia,” the article starts.

Following the attack, American officials said the air strike had failed to destroy all the missiles. Steinberg said the leak proved that the US wanted to distance itself from any military measure against Russian targets in Syria to avoid further escalation of any future conflict with Moscow.

“According to U.S. intelligence sources contacted by EIR, the leaks are intended to make clear that the United States is not supporting the Israeli strikes against Russian targets against Syria. Such strikes could lead to an escalation that directly draws the United States into a head-on confrontation with Russia,” the piece read.

#### SCENARIO TWO IS HUMAN RIGHTS!

#### Lack of due process on drones spills over – it’s the knockout blow for rights guarantees

Blum and Heymann 10 (Gabriella, Assistant Professor of Law – Harvard Law School, and Philip, Professor of Law – Harvard Law School, “Law and Policy of Targeted Killing,” Harvard National Security Journal, 1 Harv. Nat'l Sec. J. 145, Lexis)

As we have shown, targeted killings may be justified even without declaring an all-out "war" on terrorism. A war paradigm is overbroad in the sense that it allows the targeting of any member of a terrorist organization. For the United States, it has had no geographical limits. When any suspected member of a hostile terrorist organization--regardless of function, role, or degree of contribution to the terrorist effort--might be targeted anywhere around the world without any due process guarantees or monitoring procedures, targeted killings run grave risks of doing both short-term and lasting harm. In contrast, a peacetime paradigm that enumerates specific exceptions for the use of force in self-defense is more legitimate, more narrowly tailored to the situation, offers potentially greater guarantees for the rule of law. It is, however, harder to justify targeted killing operations under a law enforcement paradigm when the tactic is used as a continuous and systematic practice rather than as an exceptional measure. Justifying targeted killings under a law enforcement paradigm also threatens to erode the international rules that govern peacetime international relations as well as the human rights guarantees that governments owe their own citizens.

#### Fixing the US war on terror policy’s key to create effective human rights norms – clear, national standards are key

Mutua 7 (Makau, SUNY Distinguished Professor, Professor of Law, Floyd H. & Hilda L. Hurst Faculty Scholar, and Director of the Human Rights Center – Buffalo Law School, “Standard Setting in Human Rights: Critique and Prognosis,” Human Rights Quarterly, Vol. 29, http://www.law.buffalo.edu/content/dam/law/restricted-assets/pdf/faculty/mutuaM/journals/hrq2907.pdf)

Even with historic conceptual and institutional breakthroughs, a lot remains to be done to secure human dignity. Although human rights standards have been set in virtually all areas that touch on human dignity, normative gaps and weaknesses still exist in many areas. New normative frameworks are needed in some areas, while in others they must be elaborated and strengthened. Standard setting is a dynamic process that must respond to a rapidly changing globe and challenges that come with the emergence of new problems and conditions. The argument that the era of standard setting is over is not only mistaken, but dangerous.

The setting of human rights standards is not a static process. The conditions of humanity that human rights standards seek to safeguard and promote are evolving concepts. New conditions of oppression and powerlessness are forever being discovered, and new challenges are constantly emerging. For example, the gay rights movement and the campaign for the rights of people with disabilities were unthinkable just a few decades ago. The current US war on terror has similarly thrown up new obstacles to established norms. There is no doubt that these and many other issues require a normative response. The struggle for and definition of human freedom and development is a continuous and evolutionary process. These issues require unceasing vigilance, revision, re-evaluation, deepening, and re-definition. Broad norms and standards must be unpacked, broken down, elucidated, revised, and may even need to be rejected and replaced by new and different standards. The scope, reach, and content of norms must be comprehensible to their beneficiaries, as well as to those who bear the responsibility for their implementation. Vacuous, rhetorical, and vague standards accomplish little.

To be effective, standards must have a clear path for their implementation and enforcement. This is an area of weakness. Institutions that are responsible for the promotion and protection of human rights standards—states and IGOs—are largely perceived by NGOs as reluctant, unwilling, unable, or ineffectual actors. They are seen as interested mostly in blunting the bite of human rights to safeguard state sovereignty. The effect of human rights must be translated at the national level, so municipal institutions that safeguard basic rights are critical to enforcement. Judiciaries, national human rights institutions, bar associations, NGOs, police and security apparatuses, and legislatures must be in the frontline to entrench, deepen, promote, and protect human rights. However, only human rights NGOs among these institutions can usually be relied on to advance the human rights agenda with vigor, honesty, and a healthy disinterest. Human rights norms must be internalized by states in their legal and political orders to be effective.

#### Human rights cred solves global war

William W. Burke-White 4, Lecturer in Public and International Affairs and Senior Special Assistant to the Dean, Woodrow Wilson School of Public and International Affairs, Princeton University, Spring 2004, Harvard Human Rights Journal, 17 Harv. Hum. Rts. J. 249, p. 279-280

This Article presents a strategic--as opposed to ideological or normative--argument that the promotion of human rights should be given a more prominent place in U.S. foreign policy. It does so by suggesting a correlation between the domestic human rights practices of states and their propensity to engage in aggressive international conduct. Among the chief threats to U.S. national security are acts of aggression by other states. Aggressive acts of war may directly endanger the United States, as did the Japanese bombing of Pearl Harbor in 1941, or they may require U.S. military action overseas, as in Kuwait fifty years later. Evidence from the post-Cold War period [\*250] indicates that states that systematically abuse their own citizens' human rights are also those most likely to engage in aggression. To the degree that improvements in various states' human rights records decrease the likelihood of aggressive war, a foreign policy informed by human rights can significantly enhance U.S. and global security.¶ Since 1990, a state's domestic human rights policy appears to be a telling indicator of that state's propensity to engage in international aggression. A central element of U.S. foreign policy has long been the preservation of peace and the prevention of such acts of aggression. n2 If the correlation discussed herein is accurate, it provides U.S. policymakers with a powerful new tool to enhance national security through the promotion of human rights. A strategic linkage between national security and human rights would result in a number of important policy modifications. First, it changes the prioritization of those countries U.S. policymakers have identified as presenting the greatest concern. Second, it alters some of the policy prescriptions for such states. Third, it offers states a means of signaling benign international intent through the improvement of their domestic human rights records. Fourth, it provides a way for a current government to prevent future governments from aggressive international behavior through the institutionalization of human rights protections. Fifth, it addresses the particular threat of human rights abusing states obtaining weapons of mass destruction (WMD). Finally, it offers a mechanism for U.S.-U.N. cooperation on human rights issues.

#### And it’s key to Russian democracy

Mendelson 9 (Sarah, Senior Fellow in the Russia and Eurasia Program – Center for Strategic and International Studies, “U.S.-Russia Relations and the Democracy and Rule of Law Deficit”, 6-19, http://www.tcf.org/publicat ions/internationalaffairs/US-RussianRelationsandtheDemocracyandRuleofLawDeficit.pdf)

In fact, coping with authoritarian trends in Russia (and elsewhere) will involve changes in U.S. policies that have, on the surface, nothing to do with Russia. Bush administration counterterrorism policies that authorized torture, indefinite detention of terrorist suspects, and the rendering of detainees to secret prisons and Guantánamo have had numerous negative unintended con­sequences for U.S. national security, including serving as a recruitment tool for al Qaeda and insurgents in Iraq.4 Less often recognized, these policies also have undercut whatever leverage the United States had, as well as limited the effectiveness of American decision-makers, to push back on authoritarian poli­cies adopted by, among others, the Putin administration. At its worst, American departures from the rule of law may have enabled abuse inside Russia. These departures certainly left human rights defenders isolated.5 Repairing the dam­age to U.S. soft power and reversing the departure from human rights norms that characterized the Bush administration’s counterterrorism policies will provide the Obama administration strategic and moral authority and improve the ability of the United States to work with allies. It also can have positive consequences for Obama’s Russia policy. The changes that need to be made in U.S. counterterrorism policies, how­ever politically sensitive, are somewhat more straightforward than the adjust­ments that must be made to respond to the complex issues concerning Russia. The Obama administration must determine how best to engage Russian lead­ers and the population on issues of importance to the United States, given Russia’s poor governance structures, the stark drop in oil prices, Russia’s continued aspirations for great power status, and the rather serious resentment by Russians concerning American dominance and prior policies. The policy puzzle, therefore, is how to do all this without, at the same time, sacrificing our values and undercutting (yet again) U.S. soft power. This report assesses the political dynamics that have shaped Russia’s authoritarian drift, briefly addresses a few of the ways in which they mat­ter for U.S. policy, and suggests several organizing principles to help the Obama administration manage this critical relationship. Possible approaches include working closely with Europe on a joint approach to Russia, accurately anticipating the unintended consequences of U.S. policy in one realm (such as Kosovo) for Russia policy, and embracing the rights of states to choose their Sarah E. Mendelson 5 own security alliances. A final important principle relates to U.S. engagement with Russians beyond the Kremlin. President Obama should speak directly to the Russian people, engaging in a manner that respects their interests and desires, but also reflects the core values of the Obama administration; that is, “reject[s] as false the choice between our safety and our ideals.”6 The Obama administration also should endorse a platform and a process for a renewed dialogue between U.S. and Russian civil society. The View from the Kremlin Two interactive dynamics over the past several years have shaped the dominant approach by the Russian government to the outside world: the United States declined as a world power, and at the same time, the Russian state accumulated massive wealth from high gas and oil prices. Following what many in the Russian elite view as the “humiliation” of the 1990s, by 2008, Russia was no longer a status quo power. Instead, revisionist in nature, Russian authorities focused on the restoration of great power status.7 Fueled by petrodollars, the government tackled this project in numerous ways, including military exer­cises around the globe, soft power projects such as a twenty-four-hour-a-day English language cable news station, “think tanks” in New York and Paris, and perhaps most important, gas and oil distribution systems meant to make Russia a central player in energy security for decades to come.8 This restora­tion project undoubtedly will be slowed by the current financial crisis and drop in oil revenues, but the building blocks remain in place. As the restoration project evolved, the Putin administration increasingly challenged aspects of the post–World War II and post–cold war legal, secu­rity, and economic architecture, and suggested the need for new arrangements. Many in the Russian elite seemed to view the changes that have occurred in Europe over the past twenty years, such as the enlargement of the North 6 U.S.-Russian Relations and the Democracy and Rule of Law Deficit Atlantic Treaty Organization (NATO) and the European Union (EU), as ille­gitimate, driven not by the choices of local governments or populations, but by the will of Washington. Nostalgia for the Soviet era, a related sentiment, is widely shared, and is an important source of former president and now Prime Minister Vladimir Putin’s popularity.9 Some experts even suggest that many in Russia’s governing structures believe that Europe whole and free—that is, post–cold war Europe—is not in the security interest of Russia. The Carnegie Moscow Center’s Lilya Shevtsova has labeled this view “great power nation­alism” and observes that the “Putin-Medvedev-Lavrov doctrine” derives from the premise that Russia seeks to contain the West—while the West is busy trying not to offend Russia.10 Some other studies suggest that Russian policy­makers have attempted, in fact, to divide the United States from Europe, and generally have preferred bilateral to multilateral engagement.11 At the United Nations, Russia, together with China, repeatedly has challenged international responses to gross human rights violations in Burma, Darfur, and Zimbabwe, and it has engaged in systematic efforts to undermine the Organization for Security and Co-operation in Europe’s (OSCE) election monitoring efforts and the Council of Europe’s human rights monitoring.12 Meanwhile, Russian lead­ers seem to believe the current European security arrangements are soft com­mitments, ripe for renegotiation and restructuring. President Dmitri Medvedev has, in fact, called for a new “collective security arrangement,” at the same time reintroducing the concept of spheres of influence.13 All of these actions taken together, along with the decline in U.S. soft power, have looked at times as if some in the Russian government were trying to reset the table on human rights and international law, exporting its democracy and rule of law deficit abroad. How best can the United States, together with Europe, respond to this situation? Two additional dynamics are relevant: Russian internal weaknesses, both political and economic, but also the degree to which the Russian authori­ties’ assessment of the condition of the international system is correct. For Sarah E. Mendelson 7 example, in August 2008, Russian government officials fecklessly deployed human rights and international law rhetoric to justify the Russian use of force in South Ossetia—was that just a murky reflection of the current deeply incon­sistent international order?14 Will that calculation be challenged by the Obama administration? How can it do so effectively? Will we see a new era of more robust international organizations, underpinned by respect for human rights and international law? If not, will we be in for a period of serious instability in Europe, along Russia’s borders? Russia’s Democracy and Rule of Law Deficit What makes these questions so pressing is the reality that American and European political strategy dating back to the early 1990s of integrating Russia into the Euro-Atlantic community and thus encouraging democratic develop­ment has largely failed. By 2009, Vladimir Putin’s policies have systemati­cally closed off nearly all legitimate structures for voicing opposition. Many nongovernmental organizations are under daily pressure from the authorities.15 The parliament is dominated by a government-run party, United Russia, and outcomes of local and national elections are controlled by the authorities. The government controls national television. The few critically minded journalists that exist routinely are threatened or are under constant surveillance by the authorities, and twenty murders of journalists since 2000 have gone unsolved.16 One small newspaper known for its criticism of Kremlin policies has seen four of its journalists killed in recent years. At a minimum, the authorities have pre­sided over an era of impunity, and at worst, some fear government authorities may have been directly involved in these deaths.17 Meanwhile, the democratic political opposition is extremely marginal and dysfunctional—irrespective of whatever government pressures are brought to bear on it. Russia has no leading liberal figures that might emerge as national leaders at present. In years past, the fighting among liberal parties was legend­ary, and led to multiple fratricidal losses in single-mandate districts, as liberal parties ran against one another—back when there were competitive elections for parliamentary seats.18 Today, it is unclear when or how the democratic opposition will repair itself. Yet, as political space has shrunk steadily in the past ten years, the major­ity of Russians do not appear to mind. In terms of the younger generation, the conventional wisdom that wealth would lead to a demand for democracy has not been borne out; only about 10 percent of survey respondents could be considered strongly supportive of democracy, while most are ambivalent. In the early 1990s, many in the West assumed that the older Soviet generation would be replaced eventually by a younger, pro-Western, pro-democratic gen­eration. Experts and policymakers alike assumed this succession would be a natural course of events, like gravity. A similar conventional wisdom about the younger generation in Russia continues. It holds that iPods, lattes, skateboards, and other artifacts of Western consumer culture will translate into a desire for independent media, justice, and human rights. In 2005 and 2007, in an environment of steadily shrinking political space, a study based at the Center for Strategic and International Studies (CSIS) explored how young Russians viewed Soviet history and Stalin. Our nationally representative surveys of 16-to-29-year-old Russians suggested that, despite economic prosperity, most young people gravitated enthusiastically to Vladimir Putin’s ideological platform of revisionist history and nostalgia. The narrative advanced by the government concerning recent history quite simply resonated with this younger generation. In both surveys, a majority believed that Stalin did more good than bad and that the collapse of the Soviet Union was the greatest geopolitical catastrophe of the twentieth century. These findings undoubtedly reflected coordinated strategic communications efforts by government authorities, including sup­port of a teacher’s guide rewriting Soviet history, downplaying the deaths of millions of citizens, and effacing historical memory. These actions facilitated Russia’s authoritarian trend.19 In sum, the Russian middle class and support for authoritarian governance coexist. The tacit bargain of the past decade, however, in which dissenters were punished but Russians’ pocketbooks grew, may now be threatened by the inter­national economic crisis. Oil prices plunged from a high of $147 a barrel in July 2008 to about $40 a barrel in December 2008. If the price of oil stays low, the lubricating effect of oil and gas revenues may well dry up, laying bare Russia’s dysfunctional state institutions and challenging the authorities’ ability to govern. Economic hardship and poor governance seem, at least anecdotally, to correlate with an increase in public protest and nervousness on the part of the ruling authorities.20 Perhaps, in the long run, the mix of economic hard times and poor governance will stimulate a greater demand for democracy and the rule of law in Russia, as citizens grow unhappy with state institutions that do not function and link that dysfunction to poor governance. In the near term, we can expect growth in nationalism and xenophobia. 21 To be sure, the democracy and rule of law deficit and the growth in nationalism pose problems primarily for Russians. In the twenty-first cen­tury, independent investigative journalism and the legitimate use of courts for prosecution are necessary to fight corruption. Today, Russia is plagued by corruption, and the Russian authorities dominate both television and court decisions.22 Independent newspapers and Internet sites exist, but journal­ists who have engaged in investigative journalism have been killed or live under threat.23 In a state where the rule of man predominates, the population experiences the police as predatory rather than protective. Torture in police stations is said to be common and police officers who have been rotated through Chechnya are said to be especially abusive.24 In a 2004 CSIS survey of 2,400 Russians ages 16 to 65, 41 percent of respondents feared arbitrary arrest by the police.25 In a 2007 CSIS survey of 2,000 Russians ages 16 to 29, 62 percent of respondents fully or partially distrusted the police.26 While one cannot make direct comparisons for methodological reasons, it is worth bearing in mind a recent study of attitudes toward police in China, where only 25 percent reported distrust.27 Undoubtedly, the democracy and rule of law deficit varies regionally, but it is particularly worrisome in the southern regions of Russia. The govern­ment’s approach to what it perceives as widespread radical Islamic sentiment in the North Caucasus has increased violence rather than contained it. Between May 1 and August 31, 2008, there were at least 282 incidents, and between September 1 and December 31, 2008 there were at least 333.28 When the situ­ation is at its most dire, the Russian government appears not to control this part of its territory. Many experts worry that there will be war in the North Caucasus in 2009, or possibly that, south of the border, a Russian-Georgia war will break out again.29 That prognosis may be overly gloomy, but violence is clearly on the rise and the socioeconomic conditions in the region are dire. Why It Matters What does any of this have to do with the Obama administration? The democ­racy and rule of law deficit in Russia has a range of security and human rights implications for the United States and our allies in Europe. For example, the Obama administration comes to office with a number of arms control goals. These plans may be complicated by the absence of Russian military reform that, in turn, correlates with abuse inside the army. (They are also complicated by continued government reliance on nonconventional forces: in September 2008, President Medvedev committed to modernizing the nuclear arsenal.30) Serious, joint counterterrorism efforts with the United States, Europe, and Russia are likely to remain illusive as long as the police and security ser­vices are corrupt and abusive, and the media, a potential source to expose that corruption, is largely controlled by the government. Even at the nongov­ernmental, track-two level, it is now difficult to have the sort of transatlantic Sarah E. Mendelson 11 policy dialogue on terrorism that has been common among other nations and societies since 2001.31 The most dire evidence suggests that security service personnel or contractors have been deployed abroad, in European cities, to eliminate Kremlin enemies. In the most famous example, British authorities have sought the extradition from Moscow of former KGB bodyguard and cur­rent Duma member Andrew Lugovoi for the murder by Polonium poisoning of Alexander Litvinenko in London in November 2006.32 Kremlin proxies, such as Chechnya’s Ramzan Kadyrov, may have agents doing the same on his behalf on the streets of Austria, also with apparent impunity.33 At a minimum, the Russian authorities seem to have drawn a red line at additional enlargement of Euro-Atlantic organizations. Instead of allowing states and societies to decide for themselves what alliances and security or economic arrangements they want, Russian officials speak of “zones of inter­est” and “neutral” spaces—presumably such as Ukraine. In the worst case scenario, the Kremlin might decide to probe the resolve of existing NATO and EU security commitments. Presumably, this realization led General James Craddock to request that NATO begin defense planning for the Baltic states.34 Some believe, although the evidence is not clear, that the May 2007 cyber attack on Estonian government agencies, banks, newspapers, and other organi­zations was a first probe by the Russian government.35 In the August 2008 war in Georgia, for which all sides deserve some blame, experts saw evidence of additional Russian government cyber attacks and a prime example of blatant disregard for international law as the Russian government sought to change an internationally recognized border by force.36 Meanwhile, existing Euro-Atlantic organizations are negatively and directly affected by Russia’s democracy and rule of law deficit. In recent years, the European Court of Human Rights has heard far more cases from Russia than any other country, effectively substituting for Russia’s domestic judiciary. Some European human rights lawyers argue that this situation is severely undermining the court’s efficacy and ability to handle cases from a broad range of countries. Moreover, the Russian government increasingly has failed to compensate victims or their families, apparently now risking its expul­sion from the Council of Europe.37 According to numerous OSCE officials, the Kremlin has waged a systematic campaign to undercut the organization’s vari­ous monitoring efforts.38 The emergent norm of international election observa­tion has been undermined by the Kremlin’s attempts to legitimize fraudulent elections at home and in neighboring states, supporting a wave of authoritarian governments in this region.39

#### Global nuclear war

Goodby 2 (James E., Former Fellow – US Institute of Peace, and Piet Buwalda and Dmitriĭ Trenin, A Strategy for Stable Peace: Toward a Euroatlantic Security Community, p. 27-29)

A decade after the Cold War was solemnly buried, there is still no stable peace between Russia and the Western countries. Moreover, from the late 1990s the dynamic of the relationship has taken a negative direc­tion. NATO's expansion to the east, the Kosovo crisis, and the second Chechen war stand out as milestones of the gradual slide toward something alternately described as a "cold peace" and a "new cold war." Frustration is steadily building on both sides. Mutual expecta­tions have been drastically lowered. In the Western world, and in North America in particular, public expectations for Russia and its affairs have plummeted. "Russia fatigue" is widespread in Europe as well. In Russia itself, Western, especially U.S., policies are often described as being aimed at keeping Russia weak and fragmented, with a purpose of subjugating it. It would appear, then, that today is anything but a pro­pitious starting point for an effort to chart the road toward a security community centered on Europe that would include Russia. But such an effort is necessary and should not be delayed. At worst, a Russia that is not properly anchored in a common institu­tional framework with the West can turn into a loose nuclear cannon. If conflicts arise between Russia and its smaller neighbors, the West will not be able to sit them out. And a progressive alienation between Russia and the Western world would have a very negative impact on domestic developments in Russia. Now that the German problem has been solved, the Russian problem looms as potentially Europe's largest. The United States will not be able to ignore Russia's strategic nuclear arsenal, and the European Union can hardly envisage a modi­cum of stability along its eastern periphery unless it finds a formula to co-opt Russia as Europe's reliable associate. RUSSIAN DEMOCRATIZATION In the decade since the demise of the Soviet Union and the commu­nist system, Russia has evolved into a genuinely pluralist society, al­though it is still a very incomplete democracy. To its credit, Russia has a constitution that proclaims separation of powers; it has a work­ing parliament, an executive president, and a nominally independent judiciary. Between 1993 and 2000, three parliamentary and two presi­dential elections were held; for the first time in Russia's long history, transfer of power at the very top occurred peacefully and in accor­dance with a democratic constitution. This is already becoming a pat­tern. Power has been decentralized vertically as well as horizontally. Power monopoly is a thing of the past. Russia's regions have started to form distinct identities. The regional governors, or presidents of re­publics, within Russia are popularly elected, as are city mayors and regional legislatures. The national economy has been largely priva­tized. The media, though not genuinely independent either of the au­thorities or of the various vested interests, are free in principle. There is a large degree of religious freedom, and ideological oppression is nonexistent. Finally, Russians are free to travel abroad. These achievements are significant, and most of them are irre­versible. Yet, Russia's development is handicapped by major hurdles to speedier societal transformation, as is occurring in Poland or Es­tonia. One hurdle is poor governance, stemming from the irresponsi­bility of the elites as much as from sheer incompetence. Toward the end of the Yeltsin era, the state itself appeared privatized, with parts of it serving the interests of various groups or strongmen. Corruption and crime are pervasive. Accustomed to living in an authoritarian state, many Russians began to associate democracy with chaos and thug­gery. Another major problem is widespread poverty and the collapse of the social infrastructure, including health care. Too many Russians believe they have gained little or nothing from the economic and social changes of the past decade. Taken together, these factors work toward the restoration of some form of authoritarian and paternalistic rule.

#### It’s reverse casual – aligning the war on terror with due process builds support for US leadership on human rights – the impact is warming and legitimacy

Schulz 8 (William F., Senior Fellow – Center for American Progress, Adjunct Professor of International Relations – The New School, Former Executive Direction – Amnesty International, “Introduction,” *The Future of Human Rights: U.S. Policy for a New Era*, p. 11-14)

Which leads to the second general principle the United States must reaffirm: a commitment to global cooperation and respect for international protocols and institutions, imperfect as they are. Of Francis Fukuyama's four bedrock characteristics of neoconservatism, it is the final one" skepticism about the legitimacy and effectiveness of international law and institutions to achieve either security or justice"38-that most dramatically divides normative human rights practice from neoconservative.

Sophisticated advocates of human rights are not naive about the failures of the United Nations, the shortcomings of the UN Human Rights Council, the unproven value of the International Criminal Court, or the weakness of unenforceable international law. But to ignore international regimens, much less undermine them, is to sacrifice the best resource the United States has available for convincing the world that we do not suffer from solipsism, immune to the needs and opinions of others; that our intent is benign; and that the most powerful nation on earth is prepared to use its power fairly and wisely. Mighty as we are, we do not live in a cocoon; we cannot solve our problems by ourselves, be they Iraq or terrorism or global warming.

Respect for human rights and the processes by which they are fashioned is one of the best ways to win global friends and influence the passions of people. And whether we think the source of human rights is God, natural law, or consensualism, an international imprimatur lends legitimacy to our pursuit of them. As a study by the Princeton Project on National Security noted recently, "Liberty under law within nations is inextricably linked with a stable system of liberty under law among them. " 40 Surely even Condoleezza Rice who, during the 2000 presidential campaign, wrote that "foreign policy in a Republican administration ... will proceed from the firm ground of the national interest, not the interests of an illusory international community [emphasis added] " 41 has come to rue the day she thought the world community no more than a chimera.

Repairing the Damage

The damaging effect of neoconservative policies on human rights goes well beyond reinforcement of the suspicion that American advocacy of human rights is a mere cover for an imperialist agenda. Those policies have undermined the notion that spreading human rights and democracy around the globe are viable goals of U.S. foreign policy. They have weakened international institutions upon which human rights depend. And they have increased a certain natural reticence on the part of the American people to commit U.S. troops to humanitarian and peace keeping missions, even when they are justified, as they are, for example, in Darfur. Coupled with America's human rights practices as part of its prosecution of the war on terror-secret incommunicado detentions, denial of habeas corpus, winking acceptance of torture-the nation's ability to hold others to account for their own abuses has been severely weakened.

A new administration will certainly have its hands full repairing this damage. It will need to find a variety of ways to signal renewed US. support for the international system. RatifYing one or more international human rights treaties would help do that. Perhaps the Convention on the Rights of the Child, which all countries except the United States and Somalia have ratified, would be a place to start now that the U.S. Supreme Court has removed one of the major objections to the treaty by declaring the execution of juveniles unconstitutional. Or closing Guantanamo Bay. Or removing the reservations to various human rights treaties that declare them nonenforceable in domestic law. Or standing for election to the UN Human Rights Council, flawed though it is, and using that forum to articulate a renewed commitment to a comprehensive human rights agenda. Or revisiting U.S. concerns about the International Criminal Court with an eye toward eventually ratifYing the Rome statutes establishing the court, or at least suspending the penalties we have leveraged against those countries that have refused to immunize Americans from prosecution by the court. If Iraq has taught us anything, it ought to have demonstrated that finding ways to deal with tyrants short of military force is to the advantage of all parties.

It will need to adopt a more sophisticated, less ham-handed approach to the promotion of democracy around the globe. It ought to go without saying that human rights are served by an increase in the number of stable democracies in the world. But the key word is "stable," since we know that newly formed, unstable democratic states lacking robust civil societies and strong democratic institutions are especially prone to be breeding grounds for all sorts of mischief, not least the production of terrorists. The tragedy of the Iraq War will only be compounded if the lesson drawn from it is that, because force- . feeding democracy proved so destructive, the only alternative is quiescence. While democracy is no magic bullet, tyranny guarantees bullets aplenty. Not every nation is ready to leap into full-blown democracy on a moment's notice. But if, indeed, as worldwide surveys have found, more than 90 percent of Muslims endorse democ- Introduction 13 racy as the best form of government, what is required of us is neither perfectionism nor passivity.42 What is required of us is patience.

It will need to codify the positive obligations of the United States under the

newly minted doctrine of the "responsibility to protect. "Just as the Iraq War ought not sour us on promoting democracy, so we must not allow it to impose an unfitting shyness upon us about using military power for humanitarian ends. In 2005 the UN General Assembly endorsed the worldwide responsibility to protect civilian populations at risk from mass atrocities.43 That does not imply that the United States will have to be the proverbial "world's policeman," committing its troops willy-nilly to the far corners of the globe. But it does mean that the United States will need to take mass atrocities seriously, adopting an early warning system for populations in danger, shoring up weak and failing states, and providing leadership and support for intervention when necessary, even when it itself stays far away from battle. The American people can distinguish between unwise military posturing and morally justified humanitarian interventions. In January 2007, after more than three years and 3,000 U.S. deaths in Iraq, 63 percent of Americans, quite understandably, said that the world has grown more afraid of U.S. military force and that such fear undermines U.S. security by prompting other nations to seek means to protect themselves.44 Yet, even so, in a poll taken six months later, a plurality of Americans favored deploying U.S. troops as part of a multinational force in Darfur.45 If the American people can tell the difference between legitimate and illegitimate use of force, the American government ought to be able to also.

It will need to conform US. practices to international standards on fundamental human rights issues. The United States will never reclaim its reputation for human rights leadership as long as its own policies on such issues as **due process** for prisoners taken into custody in the course of the war on terror remain at such radical odds with international law and practice. There is considerable room for debate as to how cases of terror suspects should be adjudicated, especially when highly classified intelligence is involved-whether, for example, the United States should establish special national security courts or integrate such defendants into the regular criminal justice system46- but what is beyond doubt is that the current system in which suspects are cast into legal netherworlds of secret detentions and coercive interrogations cannot continue. And in a broader sense, the United States would do well in the eyes of the world to be less defensive about its own domestic practices that may fall short of international standards. Our credibility in criticizing others waxes and wanes in direct proportion to our willingness to acknowledge our own shortcomings. We should, for example, welcome to this country any UN special rapporteur who seeks an invitation to investigate; we should encourage the solicitor general of the United States to draw upon international law to buttress the government's arguments before the Supreme Court, thereby lending encouragement to those members of the court who are beginning to look to such law to inform their opinions;47 and we should issue an annual report on U.S. human rights practices to complement the State Department's reports on other countries. Mter all, since the Chinese publish such a report on us each year, it could not hurt to publish a more accurate version of our own.

#### Warming causes extinction

Don Flournoy 12, Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center and Don is a PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for University/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 ).

### Plan

#### The United States Federal Government should grant limited jurisdiction to a new federal court that prohibits remote aerial vehicle targeted killings of individual United States’ citizens when, after being afforded notice and opportunity as well as defense from an independent public advocate, it is proven that the target is not a senior member of Al Qaeda or associated force.

### Solvency

#### SOLVENCY!

#### Only Congress can establish a clear oversight mechanism to protect due process

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

VI.THE RESPONSIBLE WAY FORWARD: CONGRESS SHOULD EITHER PROHIBIT THE TARGETED KILLING OF AMERICANS OR ESTABLISH OVERSIGHT The targeted killing of Americans, as demonstrated by the Aulaqi case, presents complex questions of constitutional law that are not easily answered or resolved.199 This is more than an academic debate; the stakes are high, as targeted killing in its current form provides the Executive Branch with a power over American lives that is chillingly broad in scope.200 It is concerning that the President’s grounds for claiming this extraordinary authority are tenuous and subject to compelling challenges.201 Furthermore, the absence of basic due process protection in Aulaqi appears unconstitutional after Hamdi. 202 But the Aulaqi case shows that the constitutional objections to targeted killing cannot be resolved in federal court.203 For these reasons, Congress should intervene by passing legislation with the goal of establishing clear principles that safeguard fundamental due process liberties from potential executive overreach. A. Option One: Congress Could Pass Legislation to Establish Screening and Oversight of Targeted Killing As the Aulaqi case demonstrates, any resolution to the problem of targeted killing would require a delicate balance between due process protections and executive power.204 In order to accomplish this delicate balance, Congress can pass legislation modeled on the Foreign Intelligence Surveillance Act (FISA) that establishes a federal court with jurisdiction over targeted killing orders, similar to the wiretapping court established by FISA.205 There are several advantages to a legislative solution. First, FISA provides a working model for the judicial oversight of real-time intelligence and national security decisions that have the potential to violate civil liberties.206 FISA also effectively balances the legitimate but competing claims at issue in Aulaqi: the sensitive nature of classified intelligence and national security decisions versus the civil liberties protections of the Constitution.207 A legislative solution can provide judicial enforcement of due processwhile also respecting the seriousness and sensitivity of executive counterterrorism duties.208 In this way, congress can alleviate fears over the abuse of targeted killing without interfering with executive duties and authority. Perhaps most importantly, a legislative solution would provide the branches of government and the American public with a clear articulation of the law of targeted killing.209 The court in Aulaqi began its opinion by explaining that the existence of a targeted killing program is no more than media speculation, as the government has neither confirmed nor denied the existence of the program.210 Congress can acknowledge targeted killing in the light of day while ensuring that it is only used against Americans out of absolute necessity.211 Independent oversight would promote the use of all peaceful measures before lethal force is pursued.212

#### Prior, judicial oversight is key – informed and non-biased decision-making is vital to due process

Adelsberg 12 (Samuel, J.D. – Yale Law School, “Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens,” Harvard Law & Policy Review, Summer, 6 Harv. L. & Pol'y Rev. 437, Lexis)

The relevance of these precedents to the targeting of citizens is clear: the constitutional right to due process is alive and well--regardless of geographic location. We now turn to what type of process is due.

III. BRING IN THE COURTS: BRINGING JUDICIAL LEGITIMACY TO TARGETED KILLINGS

The function of this Article is not to argue that targeted killing should be removed from the toolbox of American military options. Targeted killing as a military tactic is here to stay. n34 Targeting strikes have robust bipartisan political support and have become an increasingly relied upon weapon as the United States decreases its presence in Iraq and Afghanistan. n35 The argument being asserted here, therefore, is that in light of the protections the Constitution affords U.S. citizens, there must be a degree of inter-branch process when the government targets such individuals.

The current intra-executive process afforded to U.S. citizens is not only unlawful, but also dangerous. n36 Justice O'Connor acknowledged the danger inherent in exclusively intra-branch process in Hamdi when she asserted that an interrogator is not a neutral decision-maker as the "even purportedly fair adjudicators are disqualified by their interest in the controversy." n37 In rejecting the government's argument that a "separation of powers" analysis mandates a heavily circumscribed role for the courts in these circumstances, Justice O'Connor contended that, in times of conflict, the Constitution "most assuredly envisions a role for all three branches when individual liberties are at stake." n38 Similarly, Justice Kennedy was unequivocal in Boumediene about the right of courts to enforce the Constitution even in times of war. Quoting Chief Justice Marshall in Marbury v. Madison, n39 Kennedy argued that holding "that the political branches may switch the constitution on or off at will would lead to a regime in which they, not this Court, say 'what the law is.'" n40 This sentiment is very relevant to our targeted killing analysis: in the realm of targeted killing, where the deprivation is of one's life, the absence of any "neutral decision-maker" outside the executive branch is a clear violation of due process guaranteed by the Constitution.

Justices O'Connor and Kennedy are pointing to a dangerous institutional tension inherent in any intra-executive process regime. Targeting decisions are no different; indeed, the goal of those charged with targeting citizens like al-Awlaki is not to strike a delicate balance between security [\*444] and liberty but rather, quite single-mindedly, to prevent attacks on the United States. n41 In describing the precarious nature of covert actions, James Baker, a distinguished military judge, noted, "the twin necessities of secrecy and speed may pull as they do against the competing interests of deliberate review, dissent, and informed accountable decision-making." n42 While Judge Baker concluded that these risks "magnify the importance of a meaningful process of ongoing executive appraisal," he overlooked the institutional tension, seized upon by Justices O'Connor and Kennedy, which would preclude the type of process that he was advocating. n43

Although there may be a role for Congress in such instances, a legislative warrant for specific cases would likely be cumbersome, carry significant security risks, and may violate the spirit of the Bill of Attainder Clause, which prohibits the legislature from performing judicial or executive functions. The current inter-branch process for covert actions, in which the President must make a finding and notify the leaders of Congress and the intelligence committees, **is entirely ex post** and also has not been proven to provide a meaningful check on executive power. n44 Moreover, most politicians are unqualified to make the necessary legal judgments that these situations require.

Solutions calling for the expatriation of citizens deemed to be terrorists are fraught with judicial complications and set very dangerous precedents for citizenship revocation. n45 Any post-deprivation process, such as a Bivens-style action, for a targeted attack would also be problematic. n46 Government officials charged with carrying out these attacks might be hesitant to do so if there were a threat of prosecution. Moreover, post-deprivation process for a target would be effectively meaningless in the wake of a successful attack.

[\*445] Rather, as recognized by the Founders in the Fourth Amendment, balancing the needs of security against the imperatives of liberty is a traditional role for judges to play. Two scholars of national security law recently highlighted the value of judicial inclusion in targeting decisions: "Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place." n47 Judges are both knowledgeable in the law and accustomed to dealing with sensitive security considerations. These qualifications make them ideal candidates to ensure that the executive exercises constitutional restraint when targeting citizens.

Reforming the decision-making process for executing American citizens to allow for judicial oversight would restore the separation of powers framework envisioned by the Founders and increase democratic legitimacy by placing these determinations on steadier constitutional ground. For those fearful of judicial encroachment on executive war-making powers, there is a strong argument that this will actually strengthen the President and empower him to take decisive action without worrying about the judicial consequences. As Justice Kennedy put it, "the exercise of [executive] powers is vindicated, not eroded, when confirmed by the Judicial Branch." n48 Now, we will turn to what this judicial involvement would look like.