# 1nc

## off

### Off

#### Interpretation---the plan should specify the newly-restricted legal threshold and accountability mechanism it establishes for targeted killings

#### Legal specificity’s a pre-requisite to productive debates over targeted killing

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Discussing and analyzing the notion of accountability and the practice of targeted killings raises problems at the empirical and theoretical levels. Theoretically, accountability is a protean concept,11 with scholars using ill-defined definitions with multiple, oftentimes competing meanings. At times the term accountability is a stand-in for mechanisms with instrumental value, important for what it can achieve as a tool. At others, it is a proxy for various intrinsic values within the political environment—valued for their own sake, rather than for what they can accomplish. When commentators critique targeted killings on the basis of accountability (or its lack thereof), they frequently refer to targeted killings as “unaccountable” while failing to specify what they mean by accountability.12

The literature is far from clear. Commentators might be focusing on instrumental concerns, and finding that accountability mechanisms are insufficient—that is to say, that accountability mechanisms may be failing because they cannot control actors, induce appropriate behavior, or bring about the results that critics desire. Or perhaps commentators are directing their criticism at the failure of accountability mechanisms on a more intrinsic level, as represented by values such as democratic legitimacy or just and equitable treatment. Deeper still, commentators may be expressing a general dissatisfaction with the state of the world itself. In this way, their criticism may be understood as highlighting dissatisfaction with broader notions of executive power or unconstrained American hegemony. That state of the world, in their view, may have led to targeted killing as the means to an unjust end. Frequently, critics will raise all of these concerns in a rather haphazard fashion, criticizing targeted killings on both instrumental and intrinsic grounds, and mixing between the two critiques. With such blurred definitions of accountability, it is difficult to engage in an analysis of targeted killings without specifying what one means by accountability.

Overcoming the problem of theory specification is a necessary precondition for any analysis that claims to critique targeted killings on the basis of accountability. This problem of theory specification is not insurmountable; it has merely been neglected in prior writing about targeted killings. Accordingly, this article will address this challenge by specifying a theoretical framework for analyzing the accountability issues associated with targeted killings, focusing on four mechanisms of accountability: bureaucratic, legal, professional and political. I do not claim that this accountability framework is all encompassing, but it does provide clarity in definitions, ease of replicability, and grounding in the social science and governance literature.

#### Vote neg:

#### Ground---precise legal standards for killings determine the scope of the plan---we can’t read disad links or generate competition without textual commitment in the 1AC to defend a particular legal standard.

#### Precision---legal education’s the point of forced topic rotation---they undermine it.

### Off

#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

**Mack 91** – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

The threat of nuclear annihilation has stimulated us to try to understand what it is about (hu)mankind that has led to such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was no scientific basis for regarding (hu)man(s) as an innately aggressive animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to explore the psychological roots of enmity are frequently met with responses on the following lines: "I can accept psychological explanations of things, but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of military and political power, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but we have not learned to understand how we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and we are not taught to think critically about how our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations historical accuracy is the first victim.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to surrender personal responsibility to the leaders of large groups. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the morality or consequences of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. It enables people en masse to participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### Our response is to interrogate the epistemological failures of the 1ac---this is the only way to solve inevitable extinction

Ahmed 12 Dr. Nafeez Mosaddeq Ahmed is Executive Director of the Institute for Policy Research and Development (IPRD), an independent think tank focused on the study of violent conflict, he has taught at the Department of International Relations, University of Sussex "The international relations of crisis and the crisis of international relations: from the securitisation of scarcity to the militarisation of society" Global Change, Peace & Security Volume 23, Issue 3, 2011 Taylor Francis

While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad.

The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question.

As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves.

There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them.

Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation.

Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

### Off

#### Congress will ultimately compromise to avert shutdown

Tom Cohen, 9-20-2013, “Congress: will it be a government shutdown or budget compromise?” CNN, http://www.cnn.com/2013/09/19/politics/congress-shutdown-scenarios/index.html?utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed%3A+rss%2Fcnn\_allpolitics+(RSS%3A+Politics)

There hasn't been a government shutdown in more than 17 years, since the 28 days of budget stalemate in the Clinton administration that cost more than $1 billion. Now we hear dire warnings and sharpening rhetoric that another shutdown is possible and perhaps likely in less than two weeks when the current fiscal year ends. Despite an escalating political imbroglio, the combination of how Congress works and what politicians want makes the chances of a shutdown at the end of the month uncertain at best. In particular, a rift between Republicans over how to proceed has heightened concerns of a shutdown in the short run, but remains a major reason why one is unlikely in the end. A more probable scenario is a last-minute compromise on a short-term spending plan to fund the government when the current fiscal year ends on September 30. After that, the debate would shift to broader deficit reduction issues tied to the need to raise the federal debt ceiling sometime in October. "There's going to be a lot of draconian talk from both sides, but the likelihood of their being an extended shutdown is not high," said Darrell West, the vice president and director of governance studies at the Brookings Institution. Government shutdown: Again? Seriously? Conservatives tie Obamacare to budget talks While the main issue is keeping the government funded when the new fiscal year begins October 1, a conservative GOP wing in the House and Senate has made its crusade against Obamacare the focus of the debate. They demand a halt to funding for the signature program from President Barack Obama's first term, and they seem indifferent about forcing a government shutdown if that doesn't happen. "I will do everything necessary and anything possible to defund Obamacare," Republican Sen. Ted Cruz of Texas said Thursday, threatening a filibuster and "any procedural means necessary." The GOP split was demonstrated later Thursday by Sen. John McCain, who told CNN that "we will not repeal or defund Obamacare" in the Senate. "We will not, and to think we can is not rational," McCain said. A compromise sought by House Speaker John Boehner and fellow GOP leaders would have allowed a symbolic vote on the defunding provision that the Senate would then strip out. The result would have been what legislators call a "clean" final version that simply extended current levels of government spending for about two months of the new fiscal year, allowing time for further negotiations on the debt ceiling. However, conservative opposition to the compromise made Boehner agree to a tougher version that made overall government funding contingent on eliminating money for Obamacare. Moderate Republicans question the strategy, but fear a right-wing backlash in the 2014 primaries if they go against the conservative wing. In reference to the divisions in the House, McCain said it was "pretty obvious that (Boehner) has great difficulties within his own conference." The House passed the tea party inspired plan on an almost strictly party line vote on Friday, setting in motion what is certain to be 10 days or so of legislative wrangling and political machinations. The measure now goes to the Democratic-led Senate, where Majority Leader Harry Reid made clear on Thursday that any plan to defund Obamacare would be dead on arrival. Instead, the Senate was expected to strip the measure of all provisions defunding Obamacare and send it back to the House. "They're simply postponing an inevitable choice they must face," Reid said of House Republicans. Here is a look at the two most-discussed potential outcomes -- a government shutdown or a short-term deal that keeps the government funded for a few months while further debate ensues. House GOP: defund Obamacare or shut government down Shutdown scenario According to West, the ultimate pressure on whether there is a shutdown will rest with Boehner. With the Republican majority in the House passing the spending measure that defunds Obamacare, Senate Democrats say they will stand united in opposing it. "Don't make it part of your strategy that eventually we'll cave," Sen. Chuck Schumer of New York warned Republicans on Thursday. "We won't. We're unified, we're together. You're not." That means the Senate would remove any provisions to defund Obamacare and send the stripped-down spending proposal back to the House. Boehner would then have to decide whether to put it to a vote, even though that could undermine his already weakened leadership by having the measure pass with only a few dozen moderate Republicans joining Democrats in support. If he refuses to bring the Senate version to the floor for a vote, a shutdown would ensue. "The key player is really Boehner," West said. Polls showing a decrease in public support for the health care reforms embolden the Republican stance. Meanwhile, surveys showing most people oppose a government shutdown and that more would blame Republicans if it happens bolster Democratic resolve. Compromise scenario Voices across the political spectrum warn against a shutdown, including Congressional Budget Office Director Douglas Elmendorf, Federal Reserve Chairman Ben Bernanke, the U.S. Chamber of Commerce and Republican strategist Karl Rove. "Even the defund strategy's authors say they don't want a government shutdown. But their approach means we'll get one," Rove argued in an op-ed published Thursday by the Wall Street Journal. He noted the Democratic-controlled Senate won't support any House measure that eliminates funding for Obamacare, and the White House said Thursday that Obama would veto such a spending resolution. "Republicans would need 54 House Democrats and 21 Senate Democrats to vote to override the president's veto," Rove noted, adding that "no sentient being believes that will happen." West concurred, telling CNN that "you can't expect a president to offer his first born to solve a political problem for the other party." "It's the House split that's causing this to happen," he noted. "People now equate compromise with surrender. It's hard to do anything under those circumstances." Under the compromise scenario, the Senate would remove provisions defunding Obamacare from what the House passes while perhaps making other relatively minor changes to provide Boehner and House Republicans with political cover to back it.

#### The plan would trade off with Congress’s ability to avert the shutdown---GOP has momentum and will, but they need literally every hour to get it done

Frank James, 9-13-2013, “Congress Searches For A Shutdown-Free Future,” NPR, http://www.npr.org/blogs/itsallpolitics/2013/09/13/221809062/congress-searches-for-a-shutdown-free-future

The only thing found Thursday seemed to be more time for negotiations and vote-wrangling. Republican leaders recall how their party was blamed for the shutdowns of the mid-1990s and earnestly want to avoid a repeat, especially heading into a midterm election year. Cantor alerted members Thursday that during the last week of September, when they are supposed to be on recess, they will now most likely find themselves in Washington voting on a continuing resolution to fund the government into October. It looks like lawmakers will need every hour of that additional time. While talking to reporters Thursday, Boehner strongly suggested that House Republicans weren't exactly coalescing around any one legislative strategy. "There are a lot of discussions going on about how — about how to deal with the [continuing resolution] and the issue of 'Obamacare,' and so we're continuing to work with our members," Boehner said. "There are a million options that are being discussed by a lot of people. When we have something to report, we'll let you know."

#### Shutdown wrecks the economy

Yi Wu, 8-27-2013, “Government Shutdown 2013: Still a Terrible Idea,” PolicyMic, http://www.policymic.com/articles/60837/government-shutdown-2013-still-a-terrible-idea

Around a third of House Republicans, many Tea Party-backed, sent a letter last week calling on Speaker John Boehner to reject any spending bills that include implementation of the Affordable Care Act, otherwise known as Obamacare. Some Senate Republicans echo their House colleagues in pondering this extreme tactic, which is nothing other than a threat of government shutdown as neither congressional Democrats nor President Obama would ever agree on a budget that abolishes the new health care law. Unleashing this threat would amount to holding a large number of of the federal government's functions, including processing Social Security checks and running the Centers for Disease Control, hostage in order to score partisan points. It would be an irresponsible move inflicting enormous damage to the U.S. economy while providing no benefit whatsoever for the country, and Boehner is rightly disinclined to pursue it. Government shutdowns are deleterious to the economy. Two years ago in February 2011, a similar government shutdown was looming due to a budget impasse, and a research firm estimated that quater's GDP growth would be reduced by 0.2 percentage points if the shutdown lasted a week. After the budget is restored from the hypothetical shutdown, growth would only be "partially recouped," and a longer shutdown would result in deeper slowdowns. Further, the uncertainties resulting from a shutdown would also discourage business. A shutdown was avoided last-minute that year, unlike in 1995 during the Clinton administration where it actually took place for four weeks and resulted in a 0.5 percentage-point dent in GDP growth. Billions of dollars were cut from the budget, but neither Boehner nor the Republicans at the time were reckless enough to demand cancellation of the entire health care reform enacted a year before.

#### Global nuclear war

Harris & Burrows 9 Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the **harmful effects on fledgling democracies** and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which **the potential for** greater **conflict could grow** would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. **Terrorism**’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any **economically-induced drawdown** of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, **acquire additional weapons**, and consider pursuing their own **nuclear ambitions**. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an **unintended escalation** and **broader conflict** if clear red lines between those states involved are not well established. The close proximity of potential **nuclear rivals** combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on **preemption** rather than defense, potentially leading to **escalating crises**. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in **interstate conflicts** if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### Off

#### Targeted killing’s vital to counterterrorism---disrupts leadership and makes carrying out attacks impossible

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities -- but much of the drone's contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.

Nonetheless, in conjunction with high-quality intelligence, drone warfare offers an unparalleled means to strike directly at terrorist organizations without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone. Drone warfare offers a raiding strategy directly against the terrorists and their leadership.

If one believes, as many of the critics of drone warfare do, that the proper strategies of counterterrorism are essentially defensive -- including those that eschew the paradigm of armed conflict in favor of law enforcement and criminal law -- then the strategic virtue of an offensive capability against the terrorists themselves will seem small. But that has not been American policy since 9/11, not under the Bush administration, not under the Obama administration -- and not by the Congress of the United States, which has authorized hundreds of billions of dollars to fight the war on terror aggressively. The United States has used many offensive methods in the past dozen years: Regime change of states offering safe havens, counter-insurgency war, special operations, military and intelligence assistance to regimes battling our common enemies are examples of the methods that are just of military nature.

Drone warfare today is integrated with a much larger strategic counterterrorism target -- one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

#### Constraining targeted killing’s role in the war on terror causes extinction

Louis Rene Beres 11, Professor of Political Science and International Law at Purdue, 2011, “After Osama bin Laden: Assassination, Terrorism, War, and International Law,” Case Western Reserve Journal of International Law, 44 Case W. Res. J. Int'l L. 93

Even after the U.S. assassination of Osama bin Laden, we are still left with the problem of demonstrating that assassination can be construed, at least under certain very limited circumstances, as an appropriate instance of anticipatory self-defense. Arguably, the enhanced permissibility of anticipatory self-defense that follows generally from the growing destructiveness of current weapons technologies in rogue hands may be paralleled by the enhanced permissibility of assassination as a particular strategy of preemption. Indeed, where assassination as anticipatory self-defense may actually prevent a nuclear or other highly destructive form of warfare, reasonableness dictates that it could represent distinctly, even especially, law-enforcing behavior.

For this to be the case, a number of particular conditions would need to be satisfied. First, the assassination itself would have to be limited to the greatest extent possible to those authoritative persons in the prospective attacking state. Second, the assassination would have to conform to all of the settled rules of warfare as they concern discrimination, proportionality, and military necessity. Third, the assassination would need to follow intelligence assessments that point, beyond a reasonable doubt, to preparations for unconventional or other forms of highly destructive warfare within the intended victim's state. Fourth, the assassination would need to be founded upon carefully calculated judgments that it would, in fact, prevent the intended aggression, and that it would do so with substantially less harm [\*114] to civilian populations than would all of the alternative forms of anticipatory self-defense.

Such an argument may appear manipulative and dangerous; permitting states to engage in what is normally illegal behavior under the convenient pretext of anticipatory self-defense. Yet, any blanket prohibition of assassination under international law could produce even greater harm, compelling threatened states to resort to large-scale warfare that could otherwise be avoided. Although it would surely be the best of all possible worlds if international legal norms could always be upheld without resort to assassination as anticipatory self-defense, the persisting dynamics of a decentralized system of international law may sometimes still require extraordinary methods of law-enforcement. n71

Let us suppose, for example, that a particular state determines that another state is planning a nuclear or chemical surprise attack upon its population centers. We may suppose, also, that carefully constructed intelligence assessments reveal that the assassination of selected key figures (or, perhaps, just one leadership figure) could prevent such an attack altogether. Balancing the expected harms of the principal alternative courses of action (assassination/no surprise attack v. no assassination/surprise attack), the selection of preemptive assassination could prove reasonable, life-saving, and cost-effective.

What of another, more common form of anticipatory self-defense? Might a conventional military strike against the prospective attacker's nuclear, biological or chemical weapons launchers and/or storage sites prove even more reasonable and cost-effective? A persuasive answer inevitably depends upon the particular tactical and strategic circumstances of the moment, and on the precise way in which these particular circumstances are configured.

But it is entirely conceivable that conventional military forms of preemption would generate tangibly greater harms than assassination, and possibly with no greater defensive benefit. This suggests that assassination should not be dismissed out of hand in all circumstances as a permissible form of anticipatory self-defense under international law. [\*115]

What of those circumstances in which the threat to particular states would not involve higher-order (WMD) n72 military attacks? Could assassination also represent a permissible form of anticipatory self-defense under these circumstances? Subject to the above-stated conditions, the answer might still be "yes." The threat of chemical, biological or nuclear attack may surely enhance the legality of assassination as preemption, but it is by no means an essential precondition. A conventional military attack might still, after all, be enormously, even existentially, destructive. n73 Moreover, it could be followed, in certain circumstances, by unconventional attacks.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Extinction---equivalent to full-scale nuclear war

Owen B. Toon 7, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

### Off

#### The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

#### The CP’s the best middle ground---preserves the vital counter-terror role of targeted killings while resolving all their downsides

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

Despite President Barack Obama's recent call to reduce the United States' reliance on drones, they will likely remain his administration's weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused.

Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage.

So drone warfare is here to stay, and it is likely to expand in the years to come as other countries' capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid.

## Drone Wars

### 1NC No Drone Wars

#### No risk of drone wars

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.

Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.

Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.

What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.

Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.

Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.

Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

### AT: Indo-Pak War

#### No Indo-Pak war

Mutti 9— Master’s degree in International Studies with a focus on South Asia, U Washington. BA in History, Knox College. over a decade of expertise covering on South Asia geopolitics, Contributing Editor to Demockracy journal (James, 1/5, Mumbai Misperceptions: War is Not Imminent, http://demockracy.com/four-reasons-why-the-mumbai-attacks-wont-result-in-a-nuclear-war/)

Fearful of imminent war, the media has indulged in frantic hand wringing about Indian and Pakistani nuclear arsenals and renewed fears about the Indian subcontinent being “the most dangerous place on earth.” As an observer of the subcontinent for over a decade, I am optimistic that war will not be the end result of this event. As horrifying as the Mumbai attacks were, they are not likely to drive India and Pakistan into an armed international conflict. The media frenzy over an imminent nuclear war seems the result of the media being superficially knowledgeable about the history of Indian-Pakistani relations, of feeling compelled to follow the most sensationalistic story, and being recently brainwashed into thinking that the only way to respond to a major terrorist attack was the American way – a war. Here are four reasons why the Mumbai attacks will not result in a war: 1. For both countries, a war would be a disaster. India has been successfully building stronger relations with the rest of the world over the last decade. It has occasionally engaged in military muscle-flexing (abetted by a Bush administration eager to promote India as a counterweight to China and Pakistan), but it has much more aggressively promoted itself as an emerging economic powerhouse and a moral, democratic alternative to less savory authoritarian regimes. Attacking a fledgling democratic Pakistan would not improve India’s reputation in anybody’s eyes. The restraint Manmohan Singh’s government has exercised following the attacks indicates a desire to avoid rash and potentially regrettable actions. It is also perhaps a recognition that military attacks will never end terrorism. Pakistan, on the other hand, couldn’t possibly win a war against India, and Pakistan’s military defeat would surely lead to the downfall of the new democratic government. The military would regain control, and Islamic militants would surely make a grab for power – an outcome neither India nor Pakistan want. Pakistani president Asif Ali Zardari has shown that this is not the path he wants his country to go down. He has forcefully spoken out against terrorist groups operating in Pakistan and has ordered military attacks against LeT camps. Key members of LeT and other terrorist groups have been arrested. One can hope that this is only the beginning, despite the unenviable military and political difficulties in doing so. 2. Since the last major India-Pakistan clash in 1999, both countries have made concrete efforts to create people-to-people connections and to improve economic relations. Bus and train services between the countries have resumed for the first time in decades along with an easing of the issuing of visas to cross the border. India-Pakistan cricket matches have resumed, and India has granted Pakistan “most favored nation” trading status. The Mumbai attacks will undoubtedly strain relations, yet it is hard to believe that both sides would throw away this recent progress. With the removal of Pervez Musharraf and the election of a democratic government (though a shaky, relatively weak one), both the Indian government and the Pakistani government have political motivations to ease tensions and to proceed with efforts to improve relations. There are also growing efforts to recognize and build upon the many cultural ties between the populations of India and Pakistan and a decreasing sense of animosity between the countries. 3. Both countries also face difficult internal problems that present more of a threat to their stability and security than does the opposite country. If they are wise, the governments of both countries will work more towards addressing these internal threats than the less dangerous external ones. The most significant problems facing Pakistan today do not revolve around the unresolved situation in Kashmir or a military threat posed by India. The more significant threat to Pakistan comes from within. While LeT has focused its firepower on India instead of the Pakistani state, other militant Islamic outfits have not. Groups based in the tribal regions bordering Afghanistan have orchestrated frequent deadly suicide bombings and clashes with the Pakistani military, including the attack that killed ex-Prime Minister Benazir Bhutto in 2007. The battle that the Pakistani government faces now is not against its traditional enemy India, but against militants bent on destroying the Pakistani state and creating a Taliban-style regime in Pakistan. In order to deal with this threat, it must strengthen the structures of a democratic, inclusive political system that can also address domestic problems and inequalities. On the other hand, the threat of Pakistani based terrorists to India is significant. However, suicide bombings and attacks are also carried out by Indian Islamic militants, and vast swaths of rural India are under the de facto control of the Maoist guerrillas known as the Naxalites. Hindu fundamentalists pose a serious threat to the safety of many Muslim and Christian Indians and to the idea of India as a diverse, secular, democratic society. Separatist insurgencies in Kashmir and in parts of the northeast have dragged on for years. And like Pakistan, India faces significant challenges in addressing sharp social and economic inequalities. Additionally, Indian political parties, especially the ruling Congress Party and others that rely on the support of India’s massive Muslim population to win elections, are certainly wary about inflaming public opinion against Pakistan (and Muslims). This fear could lead the investigation into the Mumbai attacks to fizzle out with no resolution, as many other such inquiries have. 4. The international attention to this attack – somewhat difficult to explain in my opinion given the general complacency and utter apathy in much of the western world about previous terrorist attacks in places like India, Pakistan, and Indonesia – is a final obstacle to an armed conflict. Not only does it put both countries under a microscope in terms of how they respond to the terrible events, it also means that they will feel international pressure to resolve the situation without resorting to war. India and Pakistan have been warned by the US, Russia, and others not to let the situation end in war. India has been actively recruiting Pakistan’s closest allies – China and Saudi Arabia – to pressure Pakistan to act against militants, and the US has been in the forefront of pressing Pakistan for action. Iran too has expressed solidarity with India in the face of the attacks and is using its regional influence to bring more diplomatic pressure on Pakistan.

#### War won’t go nuclear

Enders 2 (Jan 30, David, Michigan Daily, “Experts say nuclear war still unlikely,” http://www.michigandaily.com/content/experts-say-nuclear-war-still-unlikely)

**\* Ashutosh Varshney – Professor of Political Science and South Asia expert at the University of Michigan**

**\* Paul Huth – Professor of International Conflict and Security Affairs at the University of Maryland**

**\* Kenneth Lieberthal – Professor of Political Science at the University of Michigan. Former special assistant to President Clinton at the National Security Council**

University political science Prof. Ashutosh Varshney becomes animated when asked about the likelihood of nuclear war between India and Pakistan.¶ "Odds are close to zero," Varshney said forcefully, standing up to pace a little bit in his office. "The assumption that India and Pakistan cannot manage their nuclear arsenals as well as the U.S.S.R. and U.S. or Russia and China concedes less to the intellect of leaders in both India and Pakistan than would be warranted."¶ The worlds two youngest nuclear powers first tested weapons in 1998, sparking fear of subcontinental nuclear war a fear Varshney finds ridiculous.¶ "The decision makers are aware of what nuclear weapons are, even if the masses are not," he said.¶ "Watching the evening news, CNN, I think they have vastly overstated the threat of nuclear war," political science Prof. Paul Huth said.¶ Varshney added that there are numerous factors working against the possibility of nuclear war.¶ "India is committed to a no-first-strike policy," Varshney said. "It is virtually impossible for Pakistan to go for a first strike, because the retaliation would be gravely dangerous."¶ Political science Prof. Kenneth Lieberthal, a former special assistant to President Clinton at the National Security Council, agreed. "Usually a country that is in the position that Pakistan is in would not shift to a level that would ensure their total destruction," Lieberthal said, making note of India"s considerably larger nuclear arsenal.¶ "American intervention is another reason not to expect nuclear war," Varshney said. "If anything has happened since September 11, it is that the command control system has strengthened. The trigger is in very safe hands."

#### Not even close to extinction

Khan 9 [Shamsur Rabb, Newstrack India, Price of an Indo-Pak War, Newstrack India, 1/20, http://www.newstrackindia.com/newsdetails/62680]

Let us turn to unprecedented casualty in case of a nuclear conflict: Natural Resources Defence Council (NRDC), the New York based global think tank, in its report, “The Consequences of Nuclear Conflict between India and Pakistan” has calculated the human costs of an Indo-Pak nuclear conflict. As per NRDC estimates, both countries have a total of 50 to 75 nuclear weapons. Depicting a nuclear war Scenario (10 bombs on 10 South Asian cities), it says that attack on 10 major cities – 5 each in India and Pakistan – would result in a combined death toll of 2,862,581, with 1,506,859 severely injured and 3,382,978 slightly injured. On Indian side, death toll is estimated at 1,690,702, while 892,459 and 2,021,106 would be severely and slightly injured respectively. On Pakistan side, a total of 1,171,879 people would die, while, 614,400 and 1,361,872 are to be severely and slightly injured. In another scenario (24 Ground Bursts), NRDC calculated the consequences of 24 nuclear explosions detonated on the ground – unlike the Hiroshima airburst – resulting in significant amounts of lethal radioactive fallout, which is far more severe nuclear exchange between India and Pakistan. The report was first appeared in the January 14, 2002, issue of Newsweek (A Face-Off with Nuclear Stakes). Contrary to ground burst, exploding a nuclear bomb above the ground does not produce fallout. For example, can we imagine the consequences of ground burst if the “Little Boy” detonated by the US above Hiroshima at an altitude of 1,900 feet could kill 70,000 people in the immediate effect with some 200,000 died up to 1950? NRDC calculated that 22.1 million people in India and Pakistan would be exposed to lethal radiation doses of 600 roentgen equivalents in man or REM (a large amount of radiation) or more in the first two days of the attack. In addition, about 8 million people would receive a radiation dose of 100 to 600 REM causing severe radiation sickness and potentially death. In all, as many as 30 million people of both countries would be eliminated by nuclear war. Besides fallout, blast and fire would cause substantial destruction within roughly a mile-and-a-half of the bomb craters. However, even after such a devastating annihilation of population, about 99 percent of the population in India and 93 percent of the population in Pakistan would survive the second scenario and their respective military forces would still be intact to continue the conflict. In short, there is nothing to gain from a war, just plenty to lose. Albeit loss of human life would be immense it would not be large enough to result in extinction of Indo-Pak populations or even prevent continuation of a military conflict. Thus, the consequences, though horrific, are not strong enough to rule out Indo-Pak conflict in future. Had size of the Indo-Pak nuclear arsenals equal to those of the US and Russia, a complete annihilation of entire population of the Indian sub-continent would have been possible.

### 1NC Precedent Answers

#### No US precedent---not causal

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

## Legitimacy

### Drone Court Doesn’t Solve

#### A drone court wouldn’t solve U.S. credibility

Jeh Johnson 13, former Pentagon General Counsel, 3/18/13, “Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons,” <http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/>

The problem is that the American public is suspicious of executive power shrouded in secrecy.

In the absence of an official picture of what our government is doing, and by what authority, many in the public fill the void by envisioning the worst. They see dark images of civilian and military national security personnel in the basement of the White House – acting, as Senator Angus King put it, as “prosecutor, judge, jury and executioner” — going down a list of Americans, deciding for themselves who shall live and who shall die, pursuant to a process and by standards no one understands.

Our government, in speeches given by the Attorney General,[2] John Brennan,[3] Harold Koh,[4] and myself,[5] makes official disclosures of large amounts of information about its efforts, and the legal basis for those efforts, but it is never enough, because the public doesn’t know what it doesn’t know, but knows there are things their government is still withholding from them.

The revelation 11 days ago that the executive branch does not claim the authority to kill an American non-combatant – something that was not, is not, and should never be an issue – is big news, and trumpeted as a major victory for congressional oversight.

A senator who filibusters the government’s secrecy is compared in iconic terms to Jimmy Stewart.

At the same time, through continual unauthorized leaks of sensitive information, our government looks to the American public as undisciplined and hypocritical. One federal court has characterized the government’s position in FOIA litigation as “Alice in Wonderland,”[6] while another, this past Friday, referred to it as “neither logical nor plausible.”[7]

An anonymous, unclassified white paper leaked to NBC News prompts more questions than it answers.

Our government finds itself in a lose-lose proposition: it fails to officially confirm many of its counterterrorism successes, and fails to officially confirm, deny or clarify unsubstantiated reports of civilian casualties.

Our government’s good efforts for the safety of the people risks an erosion of support by the people.

It is in this atmosphere that the idea of a national security court as a solution to the problem — an idea that for a long time existed only on the margins of the debate about U.S. counterterrorism policy but is now entertained by more mainstream thinkers such as Senator Diane Feinstein and a man I respect greatly, my former client Robert Gates – has gained momentum.

To be sure, a national security court composed of a bipartisan group of federal judges with life tenure, to approve targeted lethal force, would bring some added levels of credibility, independence and rigor to the process, and those are worthy goals.

In the eyes of the American public, judges are for the most part respected for their independence.

In the eyes of the international community, a practice that is becoming increasingly controversial would be placed on a more credible footing.

A national security court would also help answer the question many are asking: what do we say to other nations who acquire this capability? A group of judges to approve targeted lethal force would set a standard and an example.

Further, as so-called “targeted killings” become more controversial with time, I believe there are some decision-makers within the Executive Branch who actually wouldn’t mind the added comfort of judicial imprimatur on their decisions.

But, we must be realistic about the degree of added credibility such a court can provide. Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government’s applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a “rubber stamp” because it almost never rejects an application.[8] How long before a “drone court” operating in secret is criticized in the same way?

### Credibility---1NC

#### Alternatives to drones are worse for cred---and plan’s not enough to solve

Amitai Etzioni 12, senior advisor to the Carter White House; taught at Columbia University, Harvard and The University of California at Berkeley; and is a university professor and professor of international relations at The George Washington University, 4/2/12, “In Defense of Drones,” http://nationalinterest.org/commentary/defense-drones-6715

Rohde acknowledges that we are dealing with people who make and plant bombs and train suicide bombers, and people who otherwise could not be reached. He reminds us that those we are going after, in the case of Pakistan, are in "the remote tribal areas, which is basically this Taliban safe haven, where they retreat from Afghanistan, and rest and train and recoup. So the only way the United States can sort of pressure the Taliban once they cross the border into Pakistan are these drone strikes.” Well put, but hardly a reason we should not order more drones rather than stand them down.

Why are drones so bad? Mr. Rohde, who was kidnapped by the Taliban and held by them for seven months, a period during which drones were buzzing above his head, tells us that the drones are "haunting.” He found that once the drones were widely used, "the Taliban did not gather in large groups for trainings. . . . And so they're very nervous. . . . They don't move in large convoys. So it definitely slows them down.” I can understand those who argue that we must find a political solution to the conflicts and that military means alone will not suppress the Taliban nor prevent the area from serving as a staging ground for the next 9/11. But as long as fight we must, what exactly is wrong with slowing down our adversaries, making them nervous and preventing them from training in large groups?

In addition, Rohde argues that drones are bad for public relations. He says that "in every country that they're carried out, they are seen as this sort of oppressive American weapon. They attract tremendous public attention and they also fuel tremendous resentment." True enough, but in nations in which the United States uses no drones, it is much resented—in Egypt, for instance. Muslims have many reasons to resent Washington, including its support of Israel and of autocrats in the Middle East, torture of prisoners in Abu Ghraib, the burning of Korans, the collateral damage of bombers other than drones—and above all, American attempts to much change their ways of life.

Moreover, few things agitate Muslims around the world, polls show, more than the presence of American troops—which would have to be used if drones were parked. This was recently highlighted when the Libyan rebels welcomed American and other NATO forces’ bombardment of the Qaddafi forces, even after, in some cases, the rebels suffered casualties as a result of friendly fire—but they strongly opposed any foreign boots on their ground. Drones are alienating, but not more so, and often less, than other things we must do if we are going to fight terrorists and those who harbor them.

#### There’s no impact to anti-drones backlash

Stephen Holmes 13, the Walter E. Meyer Professor of Law, New York University School of Law, July 2013, “What’s in it for Obama?,” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>

This is the crux of the problem. We stand at the beginning of the Drone Age and the genie is not going to climb back into the bottle. The chances that this way of war will, over time, reduce the amount of random violence in the world are essentially nil. Obama’s drone policy has set an ominous precedent, and not only for future residents of the White House. It promises, over the long term, to engender more violence than it prevents because it excites no public backlash. That, for the permanent national security apparatus that has deftly moulded the worldview of a novice president, is its irresistible allure. It doesn’t provoke significant protest even on the part of people who condemn hit-jobs done with sticky bombs, radioactive isotopes or a bullet between the eyes – in the style of Mossad or Putin’s FSB. That America appears to be laidback about drones has made it possible for the CIA to resume the assassination programme it was compelled to shut down in the 1970s without, this time, awakening any politically significant outrage. It has also allowed the Pentagon to wage a war against which antiwar forces are apparently unable to rally even modest public support.

### 1NC — Middle East

#### American hypocrisy in the Middle East destroys credibility

Neil Macdonald 9/5/13, Senior Washington Correspondent for CBC News, “Obama's indecision on Syria strains U.S. credibility: Neil Macdonald,” http://www.cbc.ca/news/world/story/2013/09/04/f-vp-obama-congress-syria-missile-strike-neil-macdonald.html

In fact, “red lines” are old hat in the Middle East. They are constantly being set, violated and moved. The term was popular there before it ever entered the American lexicon.¶ But in a region where people remember the betrayal of the Sykes-Picot agreement as though it was yesterday (Great Britain and France secretly carved up the Middle East between them after World War One), and regard the Crusades as though they happened last week, it is the long history of American and other Western actions that burdens the U.S.¶ Americans might move on after a week or so; the rest of the world doesn’t.¶ Take chemical weapons. Obama and Kerry are boiling righteously about their use in Syria, but Washington was considerably less outraged just a few decades ago.¶ There is ample evidence America supplied Saddam Hussein with the precursors for the chemical weapons he used in battle against Iran in the 1980s. Even when he turned them on his own citizens, and the U.S. Senate was finally persuaded to pass economic sanctions, the House of Representatives stopped them dead.¶ The Reagan administration, which propped up tyrants throughout the region, opposed taking any action.¶ “I always found it ironic,” Rep. Chris Van Hollen said last week, “that the United States went to war on false pretenses that Saddam Hussein had chemical weapons and weapons of mass destruction in 2003, when he did not have them, but failed to take any action in 1988 when he actually used them.”¶ One suspects Iraqis felt that irony, too. Certainly they remember George H.W. Bush telling them to rise up after the first Gulf War, before leaving them to Saddam’s tender mercies.¶ Going back much further, there is still debate over whether British colonial authorities deployed chemical weapons as part of the wholesale slaughter its air force carried out to suppress Iraqi uprisings after the First World War.¶ Certainly Winston Churchill was keen. "I am strongly in favour of using poisoned gas against uncivilised tribes . . . [to] spread a lively terror,” wrote the great man.¶ Empty declarations¶ In any event, does anyone think the average Syrian distinguishes between the rape and torture and bombs and bullets Assad’s executioners have used to dispatch their wives and husbands and children, and the sarin gas he’s alleged to have dropped in the suburbs of Damascus last month?¶ It’s just as likely they recall George W. Bush’s empty inaugural declarations in 2005 about protecting the oppressed of the world from dictators. And of course, Barack Obama’s words as he went to war against Muammar Ghaddafi two and a half years ago: “As President, I refused to wait for the images of slaughter and mass graves before taking action.”¶ More than 100,000 Syrian corpses later, Obama has done nothing.¶ Yes, the White House did announce in June that as a result of earlier chemical weapons attacks by Assad, it was authorizing the CIA to arm the Syrian rebels. But as of today, those arms remain undelivered.¶ More than two years ago, Obama and his officials began declaring that Assad must go. Now, fearing who might come next, “regime change” in Syria is out, and “containment” is in. Any military strikes will somehow be limited to deterring use of chemical weapons without influencing the outcome of the civil war — as though such a thing is possible.¶ In Egypt, the United States is now backing and financially supporting the military junta that removed a democratically elected president from office and massacred his supporters. Because American law forbids the provision of financial aid to any government installed by a coup, Obama has simply chosen not to call it a coup.¶ The list goes on. And on.

### 1NC — PRISM

#### PRISM destroys legitimacy

Migranyan 7/5 (Andranik is the director of the Institute for Democracy and Cooperation in New York. He is also a professor at the Institute of International Relations in Moscow, a former member of the Public Chamber and a former member of the Russian Presidential Council. “Scandals Harm U.S. Soft Power,” 2013, http://nationalinterest.org/commentary/scandals-harm-us-soft-power-8695)

For the past few months, the United States has been rocked by a series of scandals. It all started with the events in Benghazi, when Al Qaeda-affiliated terrorists attacked the General Consulate there and murdered four diplomats, including the U.S. ambassador to Libya. Then there was the scandal exposed when it was revealed that the Justice Department was monitoring the calls of the Associated Press. The Internal Revenue Service seems to have targeted certain political groups. Finally, there was the vast National Security Agency apparatus for monitoring online activity revealed by Edward Snowden. Together, these events provoke a number of questions about the path taken by contemporary Western societies, and especially the one taken by America.¶ Large and powerful institutions, especially those in the security sphere, have become unaccountable to the public, even to representatives of the people themselves. Have George Orwell’s cautionary tales of total government control over society been realized?¶ At the end of the 1960s and the beginning of the 1970s, my fellow students and I read Orwell’s 1984 and other dystopian stories and believed them to portray fascist Germany or the Soviet Union—two totalitarian regimes—but today it has become increasingly apparent that Orwell, Huxley and other dystopian authors had seen in their own countries (Britain and the United States) certain trends, especially as technological capabilities grew, that would ultimately allow governments to exert total control over their societies. The potential for this type of all-knowing regime is what Edward Snowden revealed, confirming the worst fears that the dystopias are already being realized.¶ On a practical geopolitical level, the spying scandals have **seriously tarnished the reputation of the United States**. They have circumscribed its ability to exert soft power; the same influence that made the U.S. model very attractive to the rest of the world. This former lustre is now diminished. The blatant everyday intrusions into the private lives of Americans, and violations of individual rights and liberties by runaway, unaccountable U.S. government agencies, have deprived the United States of its authority to dictate how others must live and what others must do. Washington can no longer lecture others when its very foundational institutions and values are being discredited—or at a minimum, when all is not well “in the state of Denmark.”¶ Perhaps precisely because not all is well, many American politicians seem unable to adequately address the current situation. Instead of asking what isn’t working in the government and how to ensure accountability and transparency in their institutions, they try, in their annoyance, to blame the messenger—as they are doing in Snowden’s case. Some Senators hurried to blame Russia and Ecuador for anti-American behavior, and threatened to punish them should they offer asylum to Snowden.¶ These threats could only cause confusion in sober minds, as every sovereign country retains the right to issue or deny asylum to whomever it pleases. In addition, the United States itself has a tradition of always offering political asylum to deserters of the secret services of other countries, especially in the case of the former Soviet Union and other ex-socialist countries. In those situations, the United States never gave any consideration to how those other countries might react—it considered the deserters sources of valuable information. As long as deserters have not had a criminal and murderous past, they can receive political asylum in any country that considers itself sovereign and can stand up to any pressure and blackmail.¶ Meanwhile, the hysteria of some politicians, if the State Department or other institutions of the executive branch join it, can only accelerate the process of Snowden’s asylum. For any country he might ask will only be more willing to demonstrate its own sovereignty and dignity by standing up to a bully that tries to dictate conditions to it. In our particular case, **political pressure on Russia and President Putin could turn out to be utterly counterproductive.** I believe that Washington has enough levelheaded people to understand that fact, and correctly advise the White House. The administration will need sound advice, as many people in Congress fail to understand the consequences of their calls for punishment of sovereign countries or foreign political leaders that don’t dance to Washington’s tune.¶ Judging by the latest exchange between Moscow and Washington, it appears that the executive branches of both countries will find adequate solutions to the Snowden situation without attacks on each other’s dignity and self-esteem. Russia and the United States are both Security Council members, and much hinges on their decisions, including a slew of common problems that make cooperation necessary.¶ Yet **the recent series of scandals has caused irreparable damage to the image and soft power of the United States.** I do not know how soon this damage can be repaired. But gone are the days when Orwell was seen as a relic of the Cold War, as the all-powerful Leviathan of the security services has run away from all accountability to state and society. Today the world is looking at America—and its model for governance—with a more critical eye.

### 1NC — Credibility Theory Wrong

#### Zero data supports the credibility thesis

Jonathan Mercer 13, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics, 5/13/13, “Bad Reputation,” <http://www.foreignaffairs.com/articles/136577/jonathan-mercer/bad-reputation>

Since then, the debate about what to do in Syria has been sidetracked by discussions of how central reputation is to deterrence, and whether protecting it is worth going to war.

There are two ways to answer those questions: through evidence and through logic. The first approach is easy. Do leaders assume that other leaders who have been irresolute in the past will be irresolute in the future and that, therefore, their threats are not credible? No; broad and deep evidence dispels that notion. In studies of the various political crises leading up to World War I and of those before and during the Korean War, I found that leaders did indeed worry about their reputations. But their worries were often mistaken.

For example, when North Korea attacked South Korea in 1950, U.S. Secretary of State Dean Acheson was certain that America’s credibility was on the line. He believed that the United States’ allies in the West were in a state of “near-panic, as they watched to see whether the United States would act.” He was wrong. When one British cabinet secretary remarked to British Prime Minister Clement Attlee that Korea was “a rather distant obligation,” Attlee responded, “Distant -- yes, but nonetheless an obligation.” For their part, the French were indeed worried, but not because they doubted U.S. credibility. Instead, they feared that American resolve would lead to a major war over a strategically inconsequential piece of territory. Later, once the war was underway, Acheson feared that Chinese leaders thought the United States was “too feeble or hesitant to make a genuine stand,” as the CIA put it, and could therefore “be bullied or bluffed into backing down before Communist might.” In fact, Mao thought no such thing. He believed that the Americans intended to destroy his revolution, perhaps with nuclear weapons.

Similarly, Ted Hopf, a professor of political science at the National University of Singapore, has found that the Soviet Union did not think the United States was irresolute for abandoning Vietnam; instead, Soviet officials were surprised that Americans would sacrifice so much for something the Soviets viewed as tangential to U.S. interests. And, in his study of Cold War showdowns, Dartmouth College professor Daryl Press found reputation to have been unimportant. During the Cuban Missile Crisis, the Soviets threatened to attack Berlin in response to any American use of force against Cuba; despite a long record of Soviet bluff and bluster over Berlin, policymakers in the United States took these threats seriously. As the record shows, reputations do not matter.

### AT: Heg Solves War

#### No heg impact

Preble 10 – Former prof, history, Temple U. PhD, history, Temple (Christopher, U.S. Military Power: Preeminence for What Purpose?, 3 August, http://www.cato-at-liberty.org/u-s-military-power-preeminence-for-what-purpose/)

Goure and the Hadley-Perry commissioners who produced the alternate QDR argue that the purpose of American military power is to provide global public goods, to defend other countries so that they don’t have to defend themselves, and otherwise shape the international order to suit our ends. In other words, the same justifications offered for American military dominance since the end of the Cold War. Most in Washington still embraces the notion that America is, and forever will be, the world’s indispensable nation. Some scholars, however, questioned the logic of hegemonic stability theory from the very beginning. A number continue to do so today. They advance arguments diametrically at odds with the primacist consensus. Trade routes need not be policed by a single dominant power; the international economy is complex and resilient. Supply disruptions are likely to be temporary, and the costs of mitigating their effects should be borne by those who stand to lose --- or gain --- the most. Islamic extremists are scary, but hardly comparable to the threat posed by a globe-straddling Soviet Union armed with thousands of nuclear weapons. It is frankly absurd that we spend more today to fight Osama bin Laden and his tiny band of murderous thugs than we spent to face down Joseph Stalin and Chairman Mao. Many factors have contributed to the dramatic decline in the number of wars between nation-states; it is unrealistic to expect that a new spasm of global conflict would erupt if the United States were to modestly refocus its efforts, draw down its military power, and call on other countries to play a larger role in their own defense, and in the security of their respective regions. But while there are credible alternatives to the United States serving in its current dual role as world policeman / armed social worker, the foreign policy establishment in Washington has no interest in exploring them. The people here have grown accustomed to living at the center of the earth, and indeed, of the universe. The tangible benefits of all this military spending flow disproportionately to this tiny corner of the United States while the schlubs in fly-over country pick up the tab.

### AT: Multilat

#### Multilat fails —gridlock

David Held 13, Professor of Politics and International Relations, at the University of Durham AND Thomas Hale, Postdoctoral Research Fellow at the Blavatnik School of Government, Oxford University AND Kevin Young, Assistant Professor in the Department of Political Science at the University of Massachusetts Amherst, 5/24/13, “Gridlock: the growing breakdown of global cooperation,” http://www.opendemocracy.net/thomas-hale-david-held-kevin-young/gridlock-growing-breakdown-of-global-cooperation

The Doha round of trade negotiations is deadlocked, despite eight successful multilateral trade rounds before it. Climate negotiators have met for two decades without finding a way to stem global emissions. The UN is paralyzed in the face of growing insecurities across the world, the latest dramatic example being Syria. Each of these phenomena could be treated as if it was independent, and an explanation sought for the peculiarities of its causes. Yet, such a perspective would fail to show what they, along with numerous other instances of breakdown in international negotiations, have in common.¶ Global cooperation is gridlocked across a range of issue areas. The reasons for this are not the result of any single underlying causal structure, but rather of several underlying dynamics that work together. Global cooperation today is failing not simply because it is very difficult to solve many global problems – indeed it is – but because previous phases of global cooperation have been incredibly successful, producing unintended consequences that have overwhelmed the problem-solving capacities of the very institutions that created them. It is hard to see how this situation can be unravelled, given failures of contemporary global leadership, the weaknesses of NGOs in converting popular campaigns into institutional change and reform, and the domestic political landscapes of the most powerful countries.

### 1NC — Soft Power Frontline

#### Soft power resilient

Brooks and Wohlforth 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

#### Soft power fails

Singh 8 (Robert, professor in the School of Politics in Birkbeck College at University of London, “The exceptional empire,” Vol. 45, Iss. 5, ProQuest)

Like many theoretical constructs in social science, 'soft power' has its appeal and adherents. But it is not unproblematic . Realists typically have had little time for such ephemeral notions as the popularity of nations as being especially consequential in international relations. In addition, there exists a paucity of empirical evidence that substantiates the premises and prescriptions of soft power. Soft power is not a commodity that governments can actively deploy in pursuit of discrete foreign policy goals, unlike hardmilitary or economic resources. Moreover, to the extent that America is attractive, most of this soft resource is supplied not by the state but the private sector -- Hollywood, television and the music industry to universities , research institutes and businesses. The influence of government on whether, where and how these resources are deployed is limited, uneven and indirect (probably for the good).Moreover, in historical terms, the literature on anti-Americanisms makes plain that long before the US had a global roleto play, the nation and its people were already objects of contempt , ridicule and bafflement, especially in Europe (Singh, 2005).Anti-Americanism predated encounters with the American 'Other'. During periods of international tension in which relatively weak interlocutorsconfront a powerful US, it is unsurprising that animus is often vented towards Washington. As one Newsweek poll recorded the sorry figuresunderpinning America's 'tarnished global image.'

### AT: Warming

#### No warming impact

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

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

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

### AT: Disease

#### No disease extinction

Posner 5—Senior Lecturer, U Chicago Law. Judge on the US Court of Appeals 7th Circuit. AB from Yale and LLB from Harvard. (Richard, Catastrophe, http://goliath.ecnext.com/coms2/gi\_0199-4150331/Catastrophe-the-dozen-most-significant.html)

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

# Block

## DA

### Turns Case

#### Limiting targeted killings in Pakistan causes a shift to ground assaults---turns the case and collapses the Pakistani government

Richard Weitz 11, Senior Fellow and Director of the Center for Political-Military Analysis at the Hudson Institute, 1/2/11, “WHY UAVS HAVE BECOME THE ANTI-TERROR WEAPON OF CHOICE IN THE AFGHAN-PAK BORDER,” http://www.sldinfo.com/why-uavs-have-become-the-anti-terror-weapon-of-choice-in-the-afghan-pak-border/

Perhaps the most important argument in favor of using UAV strikes in northwest Pakistan and other terrorist havens is that alternative options are typically worse.

The Pakistani military has made clear that it is neither willing nor capable of repressing the terrorists in the tribal regions. Although the controversial ceasefire accords Islamabad earlier negotiated with tribal leaders have formally collapsed, the Pakistani Army has repeatedly postponed announced plans to occupy North Waziristan, which is where the Afghan insurgents and the foreign fighters supporting them and al-Qaeda are concentrated.

Such a move that would meet fierce resistance from the region’s population, which has traditionally enjoyed extensive autonomy. The recent massive floods have also forced the military to divert its assets to humanitarian purposes, especially helping the more than ten million displaced people driven from their homes.

But the main reason for their not attacking the Afghan Taliban or its foreign allies based in Pakistan’s tribal areas is that doing so would result in their joining the Pakistani Taliban in its vicious fight with the Islamabad government.

Yet, sending in U.S. combat troops on recurring raids or a protracted occupation of Pakistani territory would provoke widespread outrage in Pakistan and perhaps in other countries as well since the UN Security Council mandate for the NATO-led International Security Assistance Force (ISAF) in Afghanistan only authorizes military operations in Pakistan.

On the one known occasion when U.S. Special Forces actually conducted a ground assault in the tribal areas in 2008, the Pakistanis reacted furiously. On September 3, 2008, a U.S. Special Forces team attacked a suspected terrorist base in Pakistan’s South Waziristan region, killing over a dozen people. These actions evoked strong Pakistani protests. Army Chief of Staff Gen. Ashfaq Kayani, who before November 2007 had led Pakistan’s Inter-Services Intelligence (ISI), issued a written statement denying that “any agreement or understanding [existed] with the coalition forces” [in Afghanistan] allowing them to strike inside Pakistan.” The general pledged to defend Pakistan’s sovereignty and territorial integrity “at all cost.” Prime Minister Yousaf Raza Gilani and President Asif Ali Zardari also criticized the U.S. ground operation on Pakistani territory. On September 16, 2008, the Pakistani army announced it would shoot any U.S. forces attempting to cross the Afghan-Pakistan border.

On several occasions since then, Pakistani troops and militia have fired at what they believed to be American helicopters flying from Afghanistan to deploy Special Forces on their territory, though there is no conclusive evidence that the U.S. military has ever attempted another large-scale commando raid in Pakistan after the September 2008 incident.

Further large-scale U.S. military operations into Pakistan could easily rally popular support behind the Taliban and al-Qaeda. It might even precipitate the collapse of the Islambad government and its replacement by a regime in nuclear-armed Pakistan that is less friendly to Washington.

Given these alternatives, continuing the drone strikes appears to be the best of the limited options available to deal with a core problem, giving sanctuary to terrorists striking US and coalition forces in Afghanistan and beyond.

#### Aggressive targeted killing policy’s key to stability in Yemen

Alan W. Dowd 13, writes on national defense, foreign policy, and international security in multiple publications including Parameters, Policy Review, The Journal of Diplomacy and International Relations, World Politics Review, American Outlook, The Baltimore Sun, The Washington Times, The National Post, The Wall Street Journal Europe, The Jerusalem Post, and The Financial Times Deutschland, Winter-Spring 2013, “Drone Wars: Risks and Warnings,” Parameters, Vol. 42.4/43.1

At the beginning of President Hadi’s May offensive he, therefore, had a fractured army and a dysfunctional air force. Army leaders from competing factions were often disinclined to support one another in any way including facilitating the movement of needed supplies. Conversely, the air force labor strike had been a major setback to the efficiency of the organization, which was only beginning to operate as normal in May 2012. Even before the mutiny, the Yemen Air Force had only limited capabilities to conduct ongoing combat operations, and it did not have much experience providing close air support to advancing troops. Hadi attempted to make up for the deficiencies of his attacking force by obtaining aid from Saudi Arabia to hire a number of tribal militia fighters to support the regular military. These types of fighters have been effective in previous examples of Yemeni combat, but they could also melt away in the face of military setbacks.

Adding to his problems, President Hadi had only recently taken office after a long and painful set of international and domestic negotiations to end the 33-year rule of President Saleh. If the Yemeni military was allowed to be defeated in the confrontation with AQAP, that outcome could have led to the collapse of the Yemeni reform government and the emergence of anarchy throughout the country. Under these circumstances, Hadi needed every military edge that he could obtain, and drones would have been a valuable asset to aid his forces as they moved into combat. As planning for the campaign moved forward, it was clear that AQAP was not going to be driven from its southern strongholds easily. The fighting against AQAP forces was expected to be intense, and Yemeni officers indicated that they respected the fighting ability of their enemies.16

Shortly before the ground offensive, drones were widely reported in the US and international media as helping to enable the Yemeni government victory which eventually resulted from this campaign.17 Such support would have included providing intelligence to combatant forces and eliminating key leaders and groups of individuals prior to and then during the battles for southern towns and cities. In one particularly important incident, Fahd al Qusa, who may have been functioning as an AQAP field commander, was killed by a missile when he stepped out of his vehicle to consult with another AQAP leader in southern Shabwa province.18 It is also likely that drones were used against AQAP fighters preparing to ambush or attack government forces in the offensive.19 Consequently, drone warfare appears to have played a significant role in winning the campaign, which ended when the last AQAP-controlled towns were recaptured in June, revealing a shocking story of the abuse of the population while it was under occupation.20 Later, on October 11, 2012, US Secretary of Defense Leon Panetta noted that drones played a “vital role” in government victories over AQAP in Yemen, although he did not offer specifics.21 AQAP, for its part, remained a serious threat and conducted a number of deadly actions against the government, although it no longer ruled any urban centers in the south.

### Link UQ

#### Status quo target vetting is carefully calibrated to avoid every aff impact in balance with CT--- there’s only a risk that restrictions destroy it

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Target vetting is the process by which the government integrates the opinions of subject matter experts from throughout the intelligence community.180 The United States has developed a formal voting process which allows members of agencies from across the government to comment on the validity of the target intelligence and any concerns related to targeting an individual. At a minimum, the vetting considers the following factors: target identification, significance, collateral damage estimates, location issues, impact on the enemy, environmental concerns, and intelligence gain/loss concerns.181 An important part of the analysis also includes assessing the impact of not conducting operations against the target.182 Vetting occurs at multiple points in the kill-list creation process, as targets are progressively refined within particular agencies and at interagency meetings.

A validation step follows the vetting step. It is intended to ensure that all proposed targets meet the objectives and criteria outlined in strategic guidance.183 The term strategic is a reference to national level objectives—the assessment is not just whether the strike will succeed tactically (i.e. will it eliminate the targeted individual) but also whether it advances broader national policy goals.184 Accordingly, at this stage there is also a reassessment of whether the killing will comport with domestic legal authorities such as the AUMF or a particular covert action finding.185 At this stage, participants will also resolve whether the agency that will be tasked with the strike has the authority to do so.186 Individuals participating at this stage analyze the mix of military, political, diplomatic, informational, and economic consequences that flow from killing an individual. Other questions addressed at this stage are whether killing an individual will comply with the law of armed conflict, and rules of engagement (including theater specific rules of engagement). Further bolstering the evidence that these are the key questions that the U.S. government asks is the clearly articulated target validation considerations found in military doctrine (and there is little evidence to suggest they are not considered in current operations). Some of the questions asked are:

• Is attacking the target lawful? What are the law of war and rules of engagement considerations?

• Does the target contribute to the adversary's capability and will to wage war?

• Is the target (still) operational? Is it (still) a viable element of a target system? Where is the target located?

• Will striking the target arouse political or cultural “sensitivities”?

• How will striking the target affect public opinion? (Enemy, friendly, and neutral)?

• What is the relative potential for collateral damage or collateral effects, to include casualties?

• What psychological impact will operations against the target have on the adversary, friendly forces, or multinational partners?

• What would be the impact of not conducting operations against the target?187

As the preceding criteria highlight, many of the concerns that critics say should be weighed in the targeted killing process are considered prior to nominating a target for inclusion on a kill-list.188 For example, bureaucrats in the kill-list development process will weigh whether striking a particular individual will improve world standing and whether the strike is worth it in terms of weakening the adversary's power.189 They will analyze the possibility that a strike will adversely affect diplomatic relations, and they will consider whether there would be an intelligence loss that outweighs the value of the target.190 During this process, the intelligence community may also make an estimate regarding the likely success of achieving objectives (e.g. degraded enemy leadership, diminished capacity to conduct certain types of attacks, etc.) associated with the strike. Importantly, they will also consider the risk of blowback (e.g. creating more terrorists as a result of the killing).191

### AT: Recruiting

#### Targeted killings destroy operational effectiveness of terror groups---they can’t recruit new operatives fast enough to keep pace with losses

Alex Young 13, Associate Staff, Harvard International Review, 2/25/13, “A Defense of Drones,” Harvard International Review, http://hir.harvard.edu/a-defense-of-drones

Moreover, drone strikes have disrupted al Qaeda’s system for training new recruits. The Times of London reports that in 2009, Al Qaeda leaders decided to abandon their traditional training camps because bringing new members to a central location offered too easy a target for drone strikes. Foreign Policy emphasized this trend on November 2nd, 2012, arguing that, “destroying communication centers, training camps and vehicles undermines the operational effectiveness of al-Qaeda and the Taliban, and quotes from operatives of the Pakistan-based Haqqani Network reveal that drones have forced them into a ‘jungle existence’ where they fear for the lives on a daily basis.” The threat of death from the skies has forced extremist organizations to become more scattered.

More importantly, though, drone strikes do not only kill top leaders; they target their militant followers as well. The New America Foundation, a think tank that maintains a database of statistics on drone strikes, reports that between 2004 and 2012, drones killed between 1,489 and 2,605 enemy combatants in Pakistan. Given that Al Qaeda, the Pakistani Taliban, and the various other organizations operating in the region combined do not possibly have more than 1,500 senior leaders, it follows that many, if not most, of those killed were low-level or mid-level members – in many cases, individuals who would have carried out attacks. The Los Angeles Times explains that, “the Predator campaign has depleted [Al Qaeda’s] operational tier. Many of the dead are longtime loyalists who had worked alongside Bin Laden […] They are being replaced by less experienced recruits.” Drones decimate terrorist organizations at all levels; the idea that these strikes only kill senior officials is a myth.

#### Drones destroy terror groups’ ability to train new recruits

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

Drones have also undercut terrorists' ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to "maintain complete silence of all wireless contacts" and "avoid gathering in open areas." Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda's command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

### Drones Key---General---2NC

#### Prefer our evidence---critics are wrong---drones are highly effective at CT, and don’t cause high civilian casualties or blowback

Alex Young 13, Associate Staff, Harvard International Review, 2/25/13, “A Defense of Drones,” Harvard International Review, http://hir.harvard.edu/a-defense-of-drones

The War on Terror is no longer a traditional conflict. The diffuse, decentralized nature of terrorist organizations had already made this an unconventional war; now, the use of unmanned aircraft has added another non-traditional layer. Conventional military strategies have failed in Iraq and Afghanistan: the United States has, in many cases, stopped sending people into combat, opting instead for airstrikes by unmanned aerial vehicles. Over the past decade, US military and intelligence agencies have expanded their use of unmanned Predator and Reaper drones; these robotic aircraft are generally used to carry out targeted strikes against known members of terrorist groups. US reliance on drones in Afghanistan, Pakistan, Yemen, and other countries has changed the nature of the war on terror.

This strategy is not without controversy. The Obama administration’s heavy use of unmanned drones in the War on Terror has come under fire from a variety of opponents, including human rights groups, think tanks, and even foreign governments. Critics claim that drone strikes cause civilian casualties, incorrectly target only the most prominent leaders of terrorist groups, and create backlash against the US. To hear some tell it, the use of drones exacerbates, rather than solves, the problem of terrorism.

The reality is not so bleak: drones are very good at what they do. Unmanned attacks are highly effective when it comes to eliminating specific members of terrorist organizations, disrupting terrorist networks without creating too much collateral damage. Their effectiveness makes drone strikes a vital part of US counterterrorism strategy.

Predator and Reaper drones are not the indiscriminate civilian-killers that some make them out to be: strikes are targeted and selective. This has become increasingly true as drone technology has improved, and as the military has learned how best to use them. A confluence of factors has made drone strikes much better at eliminating enemy militants while avoiding civilians: drones now carry warheads that produce smaller blast radiuses, and the missiles carrying those warheads are guided using laser, millimeter-wave, and infrared seekers. The result has been less destructive drone strikes that reach their intended target more reliably. A number of non-technological shifts have also made drones a more useful tool: Peter Bergen, a national security analyst for CNN, summarized on July 13th, 2012 that more careful oversight, a deeper network of local informants, and better coordination between the US and Pakistani intelligence communities have also contributed to better accuracy. Data gathered by the Long War Journal indicates that the civilian casualty rate for 2012 and the beginning of 2013 is only 4.5 percent. Even Pakistani Major General Ghayur Mehmood acknowledges that, “most of the targets [of drone strikes] are hard-core militants.” Imprecise drone strikes that cause many civilian casualties are now a thing of the past. This improved accuracy may also help to mitigate anti-American sentiment that stems from civilian casualties.

#### Targeted killings play several irreplaceable functions in CT:

#### 1) Leadership decapitation

#### a) Drones are key---militants can’t replace senior leaders

Patrick B. Johnston 13, Associate Political Scientist, RAND Corporation, and Anoop Sarbahi, postdoctoral scholar in the Department of Political Science at the University of California, Los Angeles, July 2013, “The Impact of U.S. Drone Strikes on Terrorism in Pakistan and Afghanistan,” <http://patrickjohnston.info/materials/drones.pdf>

We expect drone strikes that kill terrorist leaders will be associated with reductions in terrorist attacks. Previous research convincingly demonstrates that conducting effective terrorist attacks requires skilled individuals, many of whom are well-educated and come from upper middle- class backgrounds. 21 Indeed, captured documents containing detailed biographical data on foreign al Qa’ida militants in Iraq illustrate that among the foreign terrorists—who are conventionally known to be more sophisticated than local fighters—their most commonly listed “occupation” prior to arriving in Iraq was that of “student.” For militants for whom information on “experience” was available, “computers” was the most commonly listed experience type, just ahead of “weapons.”22

In the context of northwest Pakistan, where militant freedom of movement is limited by the threat of drone strikes, we expect that militant groups will be unable to replace senior leaders killed in drone strikes because recruiting and deploying them, perhaps from a foreign country with a Salafi jihadist base, will be costly and difficult. This is not to say that leaders killed in drone strikes are irreplaceable. On the contrary, other militants are likely to be elevated within their organization to replace them. But we also anticipate that those elevated to replace killed leaders will be, on average, of lower quality to the organization than their predecessors. Thus, we predict that the loss of leaders will be associated with the degradation of terrorists’ ability to produce violence. This logic implies Hypothesis 3:

H3: All else equal, drone strikes that kill one or mor e terrorist leader(s) will lead to a decrease in terrorist violence.

### General

#### Judicial review would result in limiting AUMF drone strikes to declared zones of armed conflict---that functionally bans drones

Milena Sterio 12, Associate Professor of Law, Cleveland-Marshall College of Law, Fall 2012, “Presidential Powers and Foreign Affairs: Rendition and Targeted Killings of Americans: The United States' Use of Drones in the War on Terror: The (Il)legality of Targeted Killings Under International Law,” Case Western Reserve Journal of International Law, 45 Case W. Res. J. Int'l L. 197

After the terrorist attacks of 9/11, President George W. Bush, in his capacity as Commander-in-Chief, authorized the use of drones against leaders of al-Qaeda forces, pursuant to Congress' Authorization for Use of Military Force (AUMF). n1 Pursuant to AUMF, drones could be utilized against al-Qaeda forces to target or to kill enemies. It has been reported that the United States possesses two types of drones: smaller ones, which predominantly carry out surveillance missions, and larger ones, which can carry hellfire missiles and have been used to conduct strikes and targeted killings. n2 Drone strikes have been carried out by both the military as well as the CIA. As Jane Mayer famously noted in her article:

The U.S. government runs two drone programs. The military's version, which is publicly acknowledged, operates in the recognized war zones of Afghanistan and Iraq, and targets enemies of U.S. troops stationed there. As such, it is an extension of conventional warfare. The C.I.A.'s program is aimed at terror suspects around the world, including in countries where U.S. troops are not based. n3

[\*199]

Moreover, although the President had designated Afghanistan and its airspace as a combat zone, the United States has used drones in other areas of the world, such as Yemen, where al-Qaeda forces have been targeted and killed. n4 In fact, the U.S. approach for the use of drones is that members of al-Qaeda forces may be targeted anywhere in the world: that the battlefield follows those individuals who have been designated as enemies due to their affiliation with al-Qaeda. n5 While many in the international community have criticized the United States' expansive geographical use of drones against al-Qaeda forces, n6 officials in the Bush Administration have defended the drone program as consistent and conforming to international law. n7 President Obama has continued this approach and has expanded the use of drones in the war on terror. n8 Moreover, high-level officials in the Obama Administration have offered detailed legal justifications for the legality of the American drone program.

Harold Koh, State Department Legal Advisor, justified the use of drones at the American Society of International Law Annual Meeting on March 25, 2010, arguing "it is the considered view of this Administration . . . that U.S. targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law, including the laws of war." n9 In his speech, Koh cited both domestic law (AUMF) and international law as proof that the United States is engaged in armed conflict with al-Qaeda, the Taliban, and "associated forces." n10 Targeted killings, according to Koh, are justified because they are performed in [\*200] accordance with the laws of war. n11 In other words, the United States conducts targeted strikes consistent with the well-known principles of distinction and proportionality to ensure that the targets are legitimate and collateral damage minimized. n12

Koh offered four reasons supporting the legality of targeted drone killings. First, enemy leaders are legitimate targets because they are belligerent members of an enemy group in a war with the United States. n13 Second, drones can constitute appropriate instruments for such missions, so long as their use conforms to the laws of war. n14 Third, enemy targets are selected through "robust" procedures; as such, they require no legal process and are not "unlawful extrajudicial" killings. n15 Finally, Koh argued that using drones to target "high level belligerent leaders" does not violate domestic law banning assassinations. n16

The Obama Administration has continued to use drones in Pakistan, as well as in Yemen. Increasingly, however, the American drone program has been run by the CIA. n17 Leon Panetta, the CIA Director, has praised the drone program stating that drones were "the only game in town." n18 On September 30, 2011, a CIA-operated drone targeted and killed an American citizen in Yemen, Anwar al-Awlaki. n19 Al-Awlaki had been accused of holding prominent roles within the ranks of al-Qaeda and had been placed on a hit list, authorized by President Obama. n20 His assassination marked the first time in history an American citizen had been targeted abroad without any judicial involvement or proceedings to determine guilt of any crime.

In a subsequent speech, Attorney General Eric Holder confirmed the Obama Administration's view on the legality of targeted killings, including killings of American citizens. On March 5, 2012, in a speech at Northwestern University, Holder claimed targeted killings of American citizens are legal if the targeted citizen is located abroad, a [\*201] senior operational leader of al-Qaeda or associated forces, actively engaged in planning to kill Americans, poses an imminent threat of violent attack against the United States (as determined by the U.S. government), and cannot be captured; such operations must be conducted in a manner consistent with applicable law of war principles. n21

Despite Koh's and Holder's justifications, many have questioned the legality of the American use of drones to perform targeted killings of al-Qaeda members and of U.S. citizens. Philip Alston, UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, has famously stated his concerns that drones "are being operated in a framework which may well violate international humanitarian law and international human rights law." n22 This article highlights some of the most relevant issues surrounding the (il)legality of targeted killings under the current approach of the Obama Administration. This article concludes that most targeted killings are illegal under international law; only a very small number of such killings, performed under carefully crafted circumstances, could potentially comply with the relevant rules of jus ad bellum and jus in bello, and only if one accepts the premise that the United States is engaged in an armed conflict against al-Qaeda. This article discusses the following issues related to the use of drones to perform targeted killings: the definition of the battlefield and the applicability of the law of armed conflict (Part II); the identity of targetable individuals and their status as combatants or civilians under international law (Part III); the legality of targeted killings under international humanitarian law (Part IV); and the location and status of drone operators (Part V).

II. What and Where is the Battlefield? Which Laws Apply?

Under the Bush Administration approach, the United States post 9/11 was engaged in a global war against terrorists. Under this expansive approach, the war had no geographic constraints, and the battlefield was of a global nature. n23 In other words, the war followed [\*202] the terrorist enemies, and wherever they were located was where the battlefield could be temporarily situated. According to the Bush Administration, as well as the U.S. Supreme Court case Hamdan v. Rumsfeld, the United States was at war against al-Qaeda and Taliban forces, and the applicable laws were the laws of war. n24 Thus, military force, including the use of drones, could be used if consistent with the laws of war.

Under the Obama Administration, the rhetoric has slightly changed: the United States is no longer engaged in a global war on terror but rather, in a war against al-Qaeda, the Taliban, and associated forces. n25 However, the Obama Administration, by conducting drone strikes in a variety of locations, including Pakistan and Yemen, has followed the Bush Administration view of the global battlefield. The Obama Administration believes, like the Bush Administration, that the laws of war apply to the use of drone strikes because the United States is engaged in an armed conflict. n26 Moreover, the Obama Administration has claimed drones can be used in countries that harbor terrorist enemies and are unwilling or unable to control territory where such enemies are located. n27 This rationale would likely exclude places like England and France from the possible definition and localization of the battlefield, but would purport to justify the use of drones in places like Pakistan and Yemen, where remote territories are hard to control and where central governments cannot claim to possess effective control. n28 [\*203]

The above described terminology ("global war on terror" and "war against al-Qaeda, the Taliban, and associated forces") is vastly important, as it designates the applicable legal framework surrounding targeted killings and drone strikes. If one accepts the premise that the United States is engaged in armed conflict against al-Qaeda terrorists, then one has to conclude that laws of war apply. n29 If laws of war apply, then the rules of jus ad bellum determine whether military force is utilized in a lawful way. In fact, laws of war permit targeted killings if two particular requirements of jus ad bellum are satisfied: the use of force is necessary and the use of force is proportionate.

First, a state resorting to force must prove its decision to resort to force was a result of an armed attack and necessary to respond to such attack. n30 It is possible to argue that al-Qaeda's campaign of terrorist attacks against the United States, including 9/11, corresponded to an armed attack. However, it is also possible to argue that "al Qaeda's campaign against the United States does not trigger the right of self-defensive force . . . because al Qaeda has not launched a full scale military offensive." n31 Another difficulty in this context is that al-Qaeda is not a state, and under traditional international law, only states could initiate armed attack against states, thus triggering the right to self-defense. n32 While some commentators have argued that the use of force in self-defense against a non-state actor should be [\*204] permissible, "in an era where non-state groups project military-scale power," n33 this view remains controversial. n34

Second, a state resorting to the use of force must prove its use of force was proportionate to the military campaign's objective. n35 The proportionality test of jus ad bellum should "be applied contextually, to determine whether the overall goal of a use of force . . . is a proportionate objective." n36 Because the CIA operates the drone program in Pakistan in secrecy, it is impossible to determine conclusively whether the program meets the proportionality requirement of jus ad bellum. It is possible to argue the resort to targeted killings through the use of drones is at least sometimes necessary and proportionate (for example, when a U.S. military commander possesses information that a high-value al-Qaeda operative, engaged in planning armed attacks against Americans, is located in a specific location which is relatively easily reachable via drones, and the commander decides that neutralization of the al-Qaeda target is necessary to prevent attacks against Americans). It is probable that many drone strikes do not meet the requirements of jus ad bellum, but it is nonetheless difficult to conclude, under this approach, that the entire drone program is per se illegal. Should the U.S. government--specifically the CIA--release more facts regarding the drone program, it may become plausible to assess the lawfulness of this type of force through the jus ad bellum prism.

If, however, one rejects the conclusion that the United States is engaged in armed conflict, then the legality of the entire drone program becomes questionable. One could logically conclude the United States is not fighting a true war, but chasing terrorists. Under this view, the law of armed conflict would no longer apply, and the United States could use force against such terrorists only under a law enforcement paradigm--only when the use of force is absolutely necessary. Moreover, if the laws of war do not apply, then international human rights law dictates that targeted killings are legal only if a threat imminent and the reaction necessary, because under human rights law, "it is never permissible for killing to be the sole [\*205] objective of an operation." n37 "A killing is only legal to prevent a concrete and imminent threat to life, and, additionally, if there is no other non-lethal means of preventing that threat to life." n38 The International Covenant on Civil and Political Rights (ICCPR) prohibits "arbitrary" killing, as well as punitive or deterrent killings of terrorists. n39 The very nature of the American drone program, where targeted killings are utilized to neutralize al-Qaeda operatives, even though such killings are not absolutely necessary, is contrary to international human rights law. Under this paradigm, one must conclude that the drone program is illegal.

#### Turns yemen/Pakistan --- Judicial review would eliminate targeted killing authority outside of declared war zones and drastically narrow the standard of combatants’ participation in hostilities---it’s unique because the executive hasn’t been forced to litigate the policy in any court

Lisa Hajjar 12, professor of sociology at the University of California -- Santa Barbara, 8/9/12, “Litigating the New Frontier in the War on Terror,” http://www.jadaliyya.com/pages/index/6801/litigating-the-new-frontier-in-the-war-on-terror

Now CCR and the ACLU are pioneering into the new frontier, the US targeted killing policy, which has escalated dramatically since Barack Obama took office in 2009. In July, the two organizations filed a lawsuit against Defense Secretary Leon Panetta, CIA Director David Petraeus, and two commanders of the Joint Special Operations Command (JSOC). Although thousands have been killed by drones and targeted raids, the grease that opens the courtroom door in this case is the American citizenship status of three of the dead: Anwar al-Awlaki, Samir Khan, and Abdulrahman al-Awlaki.

This lawsuit is pioneering because it is the first challenge in a US court to the legality of the consequences of the targeted killing policy. It is not the first case, however. After the Washington Post reported in January 2010 that Anwar al-Awlaki had been put on the Obama administration’s “kill list,” his father Nasser, with the ACLU and CCR, brought a lawsuit challenging the legality of executive authorization for extrajudicial execution of a citizen. That case was dismissed when the court ruled that the senior al-Awlaki lacked standing because the government had no plans to kill him.

Now that Anwar al-Awlaki, his 16-year-old son Abdulrahman and Khan are dead, there is a different kind of case to be made. The plaintiffs are Nasser al-Awlaki and Sarah Khan, mother of Samir. The complaint charges the defendants with violating the Fourth and Fifth Amendments of the Constitution by authorizing attacks that killed three citizens. Everyone in the US, regardless of citizenship status, is covered by the Constitution. But beyond the shores, only citizens have constitutional rights not to be deprived of life without due process of law. Or at least that is a right the lawsuit aims to demonstrate by pursuing consequences for those responsible for its violation.

Of the three dead citizens, only Anwar al-Awlaki was targeted on purpose. Khan had the misfortune of being with him on 30 September 2011 when the jointly operated CIA-JSOC drone struck. Why Abdulrahman was killed in an attack two weeks later remains shrouded in secrecy, like the policy in general.

Anwar al-Awlaki was accused by the government of being a leader of al-Qaeda in the Arabian Peninsula and waging war on the US. The authorization to kill him had been varnished with a legal opinion written in 2010 by lawyers in the Justice Department’s Office of Legal Counsel, the same office that, under the previous administration, had provided legal cover for the use of torture. Although the Obama administration has resolutely refused to declassify that opinion, thus depriving the public of a fuller understanding of the legal rationales for the targeted killing of citizens, its contents were leaked to the New York Times in October of last year. (In a separate case, the ACLU along with the New York Times is suing the government under FOIA to release that document and other information about the targeting of citizens.)

The ACLU and CCR are making a case with broad implications for executive discretion and the legality and limits of the use of lethal force. Citing the killing of Anwar al-Awlaki specifically, the complaint challenges the drone war in Yemen more broadly on the grounds that the US “was not engaged in an armed conflict with or within” that country. That charge has shadowed the targeted killing policy since the first operation—also in Yemen—in 2002, and would have implications for drone warfare in Pakistan, East Africa and other areas where the US is not officially “at war.” But the killing of a citizen on purpose outside a war zone provided the opening to challenge it. The Obama administration, like the Bush administration, relies on the Authorization To Use Military Force, passed by Congress days after the 9/11 terrorist attacks, to assert the prerogative to attack perceived threats wherever they may be. This case would put the powers granted to the president under the AUMF into judicial play in a new way.

The complaint also challenges the government’s interpretation of “direct participation in hostilities.” The blurry and contested meaning of direct participation has gotten a lot of judicial play via habeas challenges to the detention of people in Guantánamo and in the context of charges prosecuted through the military commissions. But this case, in which the allegation of direct participation is coupled with the use of lethal force, elevates the issue to a new level.

The killing of Khan and Abdulrahman, who were not alleged to be participating in hostilities, would bring the issue of “collateral damage” into the courtroom. If the case is goes forward, the government will be forced to answer questions about decision making and operational compliance with international humanitarian law rules on proportionality and distinction. Did the government kill them—and, by implication, other untargeted civilians—by “mistake”? And if so, is the whole clandestine kill process mistake-prone?

So far, the government has not had to answer such questions, at least not in a court of law. To the extent that any answers have been provided about targeted killing in general and the killing of citizens in particular, they have come mostly in the form of leaks from unnamed sources and carefully scripted public remarks by top officials.

The targeted killing policy is the latest incarnation of unfettered executive superpower discretion. The policy has been criticized for violating international law, including from European allies and the UN Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions. Popular opinion in the US, however, runs strongly in favor of this policy; target killing is one of the very few things the Obama administration does that enjoys strong bipartisan support. For this reason, litigation is so important because it is the only available means of challenging the policy, and the killing of three citizens provided the opportunity to do so.

If this case is not dismissed on state secrets grounds, as the government is likely to argue in its response to the complaint which is due in the fall, it will expose a new horizon for litigating the conduct of war. Even if the case is dismissed, CCR and the ACLU deserve commendation for once again pioneering into the murky landscape of the “war on terror” to press for governmental transparency, accountability and adherence to the law.

#### Judicial review would result in all targeted killings being ruled unconstitutional---courts would conclude they don’t satisfy the requirement of imminence for use of force in self-defense

Benjamin McKelvey 11, J.D., Vanderbilt University Law School, November 2011, “NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, 44 Vand. J. Transnat'l L. 1353

In the alternative, and far more broadly, the DOJ argued that executive authority to conduct targeted killings is constitutionally committed power. n101 Under this interpretation, the President has the authority to defend the nation against imminent threats of attack. n102 This argument is not limited by statutory parameters or congressional authorization, such as that under the AUMF. n103 Rather, the duty to defend the nation is inherent in the President's constitutional powers and is not subject to judicial interference or review. n104

The DOJ is correct in arguing that the President is constitutionally empowered to use military force to protect the nation from imminent attack. n105 As the DOJ noted in its brief in response, the Supreme Court has held that the president has the authority to protect the nation from "imminent attack" and to decide the level of necessary force. n106 The same is true in the international context. Even though Yemen is not a warzone and al-Qaeda is not a state actor, international law accepts the position that countries may respond to specific, imminent threats of harm with lethal force. n107 [\*1367] Under these doctrines of domestic and international law, the use of lethal force against Aulaqi was valid if he presented a concrete, specific, and imminent threat of harm to the United States. n108

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the "imminence" standard. n109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority. n110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force. n111 Moreover, the overview of the CIA's targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval. n112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define "imminence" as a legal standard. n113 These [\*1368] are general concepts of law, not political questions, and they are subject to judicial review. n114

Under judicial review, a court would likely determine that targeted killing does not satisfy the imminence standard for the president's authority to use force in defense of the nation. Targeted killing is a premeditated assassination and the culmination of months of intelligence gathering, planning, and coordination. n115 "Imminence" would have no meaning as a standard if it were stretched to encompass such an elaborate and exhaustive process. n116 Similarly, the concept of "defensive" force is eviscerated and useless if it includes entirely premeditated and offensive forms of military action against a perceived threat. n117 Under judicial review, a court could easily and properly determine that targeted killing does not satisfy the imminence standard for the constitutional use of defensive force. n118

### Ex Ante Review

#### Ex ante judicial review makes effective drone ops impossible---even limiting the court to vetting names in advance compromises the timelines of operations

James Oliphant 13, Deputy Editor, the National Journal, J.D. from the Ohio State University Morrill College of Law, 5/30/13, “Vetting the Kill List,” National Journal, http://www.nationaljournal.com/magazine/vetting-the-kill-list-20130404

Civil libertarians and even hawks such as former Rep. Jane Harman of California, who served on the House Intelligence Committee, have suggested creating a court modeled on the one that signs off on federal wiretaps of suspected foreign agents. The Foreign Intelligence Surveillance Court in Washington operates in secret and requires the government to make a case before approving a tap. Harman and other proponents say such a body could review names on the “kill list” and weigh in on whether they merit inclusion based on the White House’s criteria for targeting potential threats. Robert Gates, the former Defense secretary, also favors such an approach.

But even among supporters, no consensus exists on what questions a drone court would actually review or even whether its scrutiny would come before or after a strike. The most problematic scenario involves any sort of preoperational clearance. Possible windows for action open and shut in a matter of hours. The kill lists are constantly being revised and updated. Even many of those who argue for some sort of oversight mechanism, such as University of Texas law professor Robert Chesney, don’t believe a judge should be involved when it comes to “pulling the trigger.”

Still, Chesney says such a court could still vet the names on the list in advance to ensure the administration is following its own guidelines for a strike: the target is connected to al-Qaida; he poses some threat of “imminent” harm; and the government is operating within its legal authority. “Whether and when to fire is a totally separate question,” Chesney says. (He notes that there’s a range of disagreement over how the administration classifies an “imminent” threat and whether a judge would be qualified to make that determination.)

But even that small degree of oversight, warns Gregory McNeal, a counterterrorism expert at Pepperdine University, risks throwing sand in the gears by extending the timeline of an op. And to McNeal, this point leads directly to the larger issue of accountability—or, to use the Washington synonym, blame. Judges, he says, simply aren’t ever going to be equipped to identify and navigate the variables involved in a drone strike.

Jeh Johnson, formerly the Obama administration’s top lawyer at the Pentagon, expressed his discomfort with court-based oversight in a speech last month at Fordham University. Questions of feasibility and imminence, he said, “are up-to-the-minute, real-time assessments.” More important, Johnson emphasized, “we want military and national security officials to continually assess and reassess these two questions up until the last minute of the operation.”

Given that reality, shifting the responsibility of a sign-off to a set of federal judges, who are unelected and serve for life, would allow the White House to escape the consequences of its actions, or more crucially, perhaps its failure to act if a target slips out of harm’s way and then masterminds an attack. Military decisions are, at heart, political ones, McNeal says, and they are rightly made by the branch of government whose top official, the president, faces voters. (A case in point: Republicans suffered at the ballot box in 2006 and 2008 as a result of the public’s displeasure with the Iraq war.) “If you’re a politician,” McNeal says of a drone court, “this is great. Because you aren’t on the hook for anything.”

By and large, federal judges don’t want to be in this position. They worry about damaging the integrity of the bench. Retired Judge James Robertson, who served on the U.S. Appeals Court in Washington, argued in The Washington Post that the Constitution forbids the judiciary from issuing advisory opinions. “Federal courts rule on specific disputes between adversary parties,” he wrote. “They do not make or approve policy; that job is reserved to Congress and the executive.” The FISA court is a different animal, because approving surveillance is related to Fourth Amendment protections on search warrants.

### AT: Intel Losses from Not Capturing

#### Shifting to capture missions is impossible---every alternative to drones is worse for CT

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

Critics of drone strikes often fail to take into account the fact that the alternatives are either too risky or unrealistic. To be sure, in an ideal world, militants would be captured alive, allowing authorities to question them and search their compounds for useful information. Raids, arrests, and interrogations can produce vital intelligence and can be less controversial than lethal operations. That is why they should be, and indeed already are, used in stable countries where the United States enjoys the support of the host government. But in war zones or unstable countries, such as Pakistan, Yemen, and Somalia, arresting militants is highly dangerous and, even if successful, often inefficient. In those three countries, the government exerts little or no control over remote areas, which means that it is highly dangerous to go after militants hiding out there. Worse yet, in Pakistan and Yemen, the governments have at times cooperated with militants. If the United States regularly sent in special operations forces to hunt down terrorists there, sympathetic officials could easily tip off the jihadists, likely leading to firefights, U.S. casualties, and possibly the deaths of the suspects and innocent civilians.

### AT: Yemen/Pakistan Blowback

#### No public backlash in Pakistan or Yemen---just as many people love them as hate them

Max Boot 13, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 2/6/13, “Obama Drone Memo is a Careful, Responsible Document,” http://www.commentarymagazine.com/2013/02/06/obama-drone-memo-is-a-careful-responsible-document/

Drone strikes are by no means risk free, the biggest risk being that by killing innocent civilians they will cause a backlash and thereby create more enemies for the U.S. than they eliminate. There is no doubt that some of these strikes have killed the wrong people–as the New York Times account highlights in one incident in Yemen. There is also little doubt, moreover, that drone strikes are no substitute for a comprehensive counterinsurgency and state-building policy designed to permanently safeguard vulnerable countries such as Pakistan, Yemen, Somalia, Libya, and Mali from the incursions of radical jihadists. But drone strikes have been effective in disrupting al-Qaeda operations and they have been conducted with less collateral damage and more precision than in the past.

It is hard to assess what impact they have had on public opinion in countries such as Yemen and Pakistan, but there is at least as much evidence that these strikes are applauded by locals who are terrorized by al-Qaeda thugs as there is evidence that the strikes are reviled for killing fellow clansmen. As the Times notes: “Although most Yemenis are reluctant to admit it publicly, there does appear to be widespread support for the American drone strikes that hit substantial Qaeda figures like Mr. Shihri, a Saudi and the affiliate’s deputy leader, who died in January of wounds received in a drone strike late last year.”

#### Casualties are way down and drones are far more precise than alternatives---our ev uses the best data

Michael Cohen 13, Fellow at the Century Foundation, 5/23/13, “Give President Obama a chance: there is a role for drones,” The Guardian, http://www.theguardian.com/commentisfree/2013/may/23/obama-drone-speech-use-justified

Drone critics have a much different take. They are passionate in their conviction that US drones are indiscriminately killing and terrorizing civilians. The Guardian's own Glenn Greenwald argued recently that no "minimally rational person" can defend "Obama's drone kills on the ground that they are killing The Terrorists or that civilian deaths are rare". Conor Friedersdorf, an editor at the Atlantic and a vocal drone critic, wrote last year that liberals should not vote for President Obama's re-election because of the drone campaign, which he claimed "kills hundreds of innocents, including children," "terrorizes innocent Pakistanis on an almost daily basis" and "makes their lives into a nightmare worthy of dystopian novels". ¶ I disagree. Increasingly it appears that arguments like Friedersdorf makes are no longer sustainable (and there's real question if they ever were). Not only have drone strikes decreased, but so too have the number of civilians killed – and dramatically so. ¶ This conclusion comes not from Obama administration apologists but rather, Chris Woods, whose research has served as the empirical basis for the harshest attacks on the Obama Administration's drone policy. ¶ Woods heads the covert war program for the Bureau of Investigative Journalism (TBIJ), which maintains one of three major databases tabulating civilian casualties from US drone strikes. The others are the Long War Journal and the New America Foundation (full disclosure: I used to be a fellow there). While LWJ and NAJ estimate that drone strikes in Pakistan have killed somewhere between 140 and 300 civilians, TBIJ utilizes a far broader classification for civilians killed, resulting in estimates of somewhere between 411-884 civilians killed by drones in Pakistan. The wide range of numbers here speaks to the extraordinary challenge in tabulating civilian death rates. ¶ There is little local reporting done on the ground in northwest Pakistan, which is the epicenter of the US drone program. As a result data collection is reliant on Pakistani news reporting, which is also dependent on Pakistani intelligence, which has a vested interest in playing up the negative consequences of US drones. ¶ When I spoke with Woods last month, he said that a fairly clear pattern has emerged over the past year – far fewer civilians are dying from drones. "For those who are opposed to drone strikes," says Woods there is historical merit to the charge of significant civilian deaths, "but from a contemporary standpoint the numbers just aren't there." ¶ While Woods makes clear that one has to be "cautious" on any estimates of casualties, it's not just a numeric decline that is being seen, but rather it's a "proportionate decline". In other words, the percentage of civilians dying in drone strikes is also falling, which suggests to Woods that US drone operators are showing far greater care in trying to limit collateral damage. ¶ Woods estimates are supported by the aforementioned databases. In Pakistan, New America Foundation claims there have been no civilian deaths this year and only five last year; Long War Journal reported four deaths in 2012 and 11 so far in 2013; and TBIJ reports a range of 7-42 in 2012 and 0-4 in 2013. In addition, the drop in casualty figures is occurring not just in Pakistan but also in Yemen. ¶ These numbers are broadly consistent with what has been an under-reported decline in drone use overall. According to TBIJ, the number of drone strikes went from 128 in 2010 to 48 in 2012 and only 12 have occurred this year. These statistics are broadly consistent with LWJ and NAF's reporting. In Yemen, while drone attacks picked up in 2012, they have slowed dramatically this year. And in Somalia there has been no strike reported for more than a year. ¶ Ironically, these numbers are in line with the public statements of CIA director Brennan, and even more so with Senator Dianne Feinstein of California, chairman of the Select Intelligence Committee, who claimed in February that the numbers she has received from the Obama administration suggest that the typical number of victims per year from drone attacks is in "the single digits".¶ Part of the reason for these low counts is that the Obama administration has sought to minimize the number of civilian casualties through what can best be described as "creative bookkeeping". The administration counts all military-age males as possible combatants unless they have information (posthumously provided) that proves them innocent. Few have taken the White House's side on this issue (and for good reason) though some outside researchers concur with the administration's estimates.¶ Christine Fair, a professor at Georgetown University has long maintained that civilian deaths from drones in Pakistan are dramatically overstated. She argues that considering the alternatives of sending in the Pakistani military or using manned aircraft to flush out jihadists, drone strikes are a far more humane method of war-fighting.

### AT: States won’t support

#### States will support terror- a means to undermine superpowers without fear of repercussions

Nathan Myhrvold '13, Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>

Proxy fighting has taken a new form in the 21st century. Instead of proxy fighting by barefoot guerrillas against ¶ remote “U.S. interests,” direct frontal assault on the citizens’ ¶ and military forces of the United States and other powerful countries is possible. Indeed, multiple examples of the ¶ success of this strategy exist. If a nation-state really wants ¶ to hurt the United States, why risk reprisal? Why not inflict ¶ damage by giving encouragement, resources, and direction ¶ to a group such as al Qaeda?¶ Eventually, the world will figure out that stateless ¶ groups are more powerful than nation-states because ¶ terrorists can wield weapons and mount assaults that no ¶ nation-state would dare to attempt. Although this conclusion is only dimly perceived at present, the rising arc of ¶ terrorists’ strategic advantage is clear and inexorable. Bin ¶ laden, Abu Musab al-Zarqawi, and the Chechen terrorists, ¶ as well as their surviving followers, represent the vanguard. ¶ So far, they have limited themselves to dramatic and gory ¶ tactical terrorism: events such as 9/11, the butchering of ¶ Russian schoolchildren, decapitations broadcast over the ¶ internet, and bombings in Madrid, London, and Boston. ¶ Strategic objectives cannot be far behind. Once stateless ¶ groups and their sponsors realize that they have unmatched ¶ power to threaten the mighty, incidents of terrorism will ¶ multiply in the same way that the guerrilla movements did ¶ during the Cold War.

Note: in the AT Lieber and Press block

#### States don’t have to support for successful nuke terror

Sam Kane 8/3/13, intern for the Center for Arms Control and Non-Proliferation and Georgetown senior, 8/3/13, "New Study Downplays Threat of 'Nuclear Handoff,' But Nuclear Terrorism Threat Remains," <http://nukesofhazardblog.com/story/2013/8/2/161042/0978>

Over the past few weeks, several blogs have spotlighted a recent article by scholars Keir Lieber and Daryl Press that analyzes the threat of a nuclear weapons state transferring nuclear weapons to a terrorist organization. The article – “Why States Won’t Give Nuclear Weapons to Terrorists” -- asserts that a state has little incentive to deliberately transfer nuclear weapons to a terrorist group, because if that group were to carry out a nuclear attack with said weapons, neither party would remain anonymous, and retribution from the attacked state would undoubtedly ensue.¶ The article’s quantitative focus makes it something of a novelty in the field of nuclear weapons studies, and while it is worth reading in full (according to The Monkey Cage, MIT Press is making it freely available through mid-August), the authors’ use of statistical analysis merits a brief exploration.¶ Essentially, Lieber and Press argue that, once a nuclear terrorist attack could be attributed to a specific terrorist organization, connecting that group to a sponsor state would be relatively easy. The key challenge, then, would be making the link between the attack and its terrorist perpetrator. Drawing upon the Global Terrorism Database (GTD), a dataset compiled by the National Consortium for the Study of Terrorism and Responses to Terrorism (START), Lieber and Press found that the attribution rate of terrorist attacks is closely correlated to the number of fatalities caused by an attack – according to their analysis, the attribution rate for attacks causing 0-4 deaths was 40%, but for attacks causing more than 100 deaths (a threshold that a nuclear attack would surely clear), that number jumped to 73%. Moreover, for attacks that took place on the soil of the US and it allies, and killed more than 10 people, the attribution rate spiked even higher, to an imposing 97%. Clearly, then, the odds of an act of nuclear terrorism going unattributed are quite steep, particularly if the attack is carried out on the territory of the US or its allies.¶ In light of the quantitative evidence that they present, I can certainly get on board with the Lieber/Press assertion that a nuclear weapons state is highly unlikely to deliberately transfer a nuclear weapon to a terrorist organization. The chief problem with this article, however, is that it focuses on a fairly far-fetched nuclear terrorism scenario. Simply put, on a conceptual level, it is exceedingly difficult to imagine any sane government putting nuclear weapons in the hands of a terrorist group that, in the end, it has no direct authority over. The notion of a rational government willingly exposing itself to such a massive risk simply does not pass the smell-test. So, while Lieber and Press’s quantitative approach does lend the article a certain novelty, one can’t help but feel that the statistics presented merely confirm something that was fairly obvious to begin with.¶ For this reason, it would be unwise to take Lieber and Press’s findings and conclude that concerns about the threat of nuclear terrorism, as a whole, are alarmist (as Hegemonic Obsessions’s Matt Fay argues here, and Foreign Policy’s Stephen Walt seems to imply here).¶ Keep in mind, Lieber and Press focus specifically on the possibility of the “nuclear handoff” (to borrow Walt’s phrasing), and find that particular scenario to be implausible. However, this sort of government-authorized transfer is just one potential route to an act of nuclear terror, and probably not the most realistic one. I would argue that a much more viable threat is that of a terrorist group stealing a sufficient amount of fissile material, and then constructing the actual nuclear device themselves. Fissile material is far from a rare commodity – the size of the current global stockpile of highly-enriched uranium, for instance, sits at roughly 1.39 million kilograms, meaning that, as Lieber and Press put it, “the material needed for a single crude weapon could be found within the rounding error of the rounding error of global stocks [of HEU].” Of course, not all of this HEU would be equally accessible to an aspiring nuclear terrorist, but the nuclear security problems of certain states (Russia and Pakistan, in particular) are well-documented, and provide an avenue through which a terrorist group could potentially acquire the raw materials for a nuclear weapon. With those materials in hand, the construction of a simple nuclear device would not be out of reach for a group of technically proficient terrorists.¶ Ultimately, if an act of nuclear terrorism were to occur, a state would have to be involved to some degree, as producing fissile material lies well beyond the capabilities of even the most sophisticated terrorist organization. However, that “involvement” is very unlikely to come in the form of a government-authorized, deliberate transfer of nuclear weapons or materials – this is something that Lieber and Press’s study makes clear, and quite reasonably so. And yet, we must be careful not to broaden the implications of Lieber and Press’s study beyond the scope of the authors’ actual argument. They question the risk of a specific route to nuclear terrorism – the “nuclear handoff” – but the broader threat of nuclear terrorism remains.

### Afghanistan---1NC

#### Targeted killings are key to Afghan stability post-withdrawal

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

In places where terrorists are actively plotting against the United States, however, drones give Washington the ability to limit its military commitments abroad while keeping Americans safe. Afghanistan, for example, could again become a Taliban-run haven for terrorists after U.S. forces depart next year. Drones can greatly reduce the risk of this happening. Hovering in the skies above, they can keep Taliban leaders on the run and hinder al Qaeda's ability to plot another 9/11.

#### Extinction

James Jay Carafano 10 is a senior research fellow for national security at The Heritage Foundation and directs its Allison Center for Foreign Policy Studies, “Con: Obama must win fast in Afghanistan or risk new wars across the globe,” Jan 2 http://gazettextra.com/news/2010/jan/02/con-obama-must-win-fast-afghanistan-or-risk-new-wa/

We can expect similar results if Obama’s Afghan strategy fails and he opts to cut and run. Most forget that throwing South Vietnam to the wolves made the world a far more dangerous place. The Soviets saw it as an unmistakable sign that America was in decline. They abetted military incursions in Africa, the Middle East, southern Asia and Latin America. They went on a conventional- and **nuclear-arms spending spree**. They stockpiled enough smallpox and anthrax to **kill the world several times over**. State-sponsorship of terrorism came into fashion. Osama bin Laden called America a “paper tiger.” If we live down to that moniker in Afghanistan, odds are the world will get a lot less safe. Al-Qaida would be back in the game. Regional terrorists would go after both Pakistan and India—potentially **triggering a nuclear war** between the two countries. Sensing a Washington in retreat, Iran and North Korea could shift their nuclear programs into overdrive, hoping to save their failing economies by selling their nuclear weapons and technologies to all comers. Their nervous neighbors would want nuclear arms of their own. The resulting nuclear arms race could be far more dangerous than the Cold War’s two-bloc standoff. With multiple, independent, nuclear powers cautiously eyeing one another, the world would look a lot more like Europe in 1914, when precarious shifting alliances **snowballed into a very big, tragic war**. The list goes on. There is no question that countries such as Russia, China and Venezuela would rethink their strategic calculus as well. That could produce all kinds of serious regional challenges for the United States. Our allies might rethink things as well. Australia has already hiked its defense spending because it can’t be sure the United States will remain a responsible security partner. NATO might well fall apart. Europe could be left with only a puny EU military force incapable of defending the interests of its nations.

## Case

### Alt Causes---1ac ev

#### Unrestrained drone use collapses global stability – harms US legitimacy

Kennedy, 13 [“Drones: Legitimacy and Anti-Americanism”, Greg Kennedy is a Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, based at the Joint Services Command and Staff College, Defence Academy of the United Kingdom, in Shrivenham, Parameters 42(4)/43(1) Winter-Spring 2013]

The exponential rise in the use of drone technology in a variety of military and non-military contexts represents a real challenge to the framework of established international law and it is both right as a matter of principle, and inevitable as a matter of political reality, that the international community should now be focusing attention on the standards applicable to this technological development, particularly its deployment in counterterrorism and counter-insurgency initiatives, and attempt to reach a consensus on the legality of its use, and the standards and safeguards which should apply to it.4 deliver deadly force is taking place in both public and official domains in the United States and many other countries.5 The four key features at the heart of the debate revolve around: who is controlling the weapon system; does the system of control and oversight violate international law governing the use of force; are the drone strikes proportionate acts that provide military effectiveness given the circumstances of the conflict they are being used in; and does their use violate the sovereignty of other nations and allow the United States to disregard formal national boundaries? Unless these four questions are dealt with in the near future the impact of the unresolved legitimacy issues will have a number of repercussions for American foreign and military policies: “Without a new doctrine for the use of drones that is understandable to friends and foes, the United States risks achieving near-term tactical benefits in killing terrorists while incurring potentially significant longer-term costs to its alliances, global public opinion, the war on terrorism and international stability.”6 This article will address only the first three critical questions. The question of who controls the drones during their missions is attracting a great deal of attention. The use of drones by the Central Intelligence Agency (CIA) to conduct “signature strikes” is the most problematic factor in this matter. Between 2004 and 2013, CIA drone attacks in Pakistan killed up to 3,461—up to 891 of them civilians.7 Not only is the use of drones by the CIA the issue, but subcontracting operational control of drones to other civilian agencies is also causing great concern.8 Questions remain as to whether subcontractors were controlling drones during actual strike missions, as opposed to surveillance and reconnaissance activities. Nevertheless, the intense questioning of John O. Brennan, President Obama’s nominee for director of the CIA in February 2013, over drone usage, the secrecy of their controllers and orders, and the legality of their missions confirmed the level of concern America’s elected officials have regarding the legitimacy of drone use. Furthermore, perceptions and suspicions of illegal clandestine intelligence agency operations, already a part of the public and official psyche due to experiences from Vietnam, Iran-Contra, and Iraq II and the weapons of mass destruction debacle, have been reinforced by CIA management of drone capability. Recent revelations about the use of secret Saudi Arabian facilities for staging American drone strikes into Yemen did nothing to dissipate such suspicions of the CIA’s lack of legitimacy in its use of drones.9 The fact that the secret facility was the launching site for drones used to kill American citizens Anwar al-Awlaki and his son in September 2011, both classified by the CIA as al-Qaeda-linked threats to US security, only deepened such suspicions. Despite the fact that Gulf State observers and officials knew about American drones operating from the Arabian peninsula for years, the existence of the CIA base was not openly admitted in case such knowledge should “ . . . damage counter-terrorism collaboration with Saudi Arabia.”10 The fallout from CIA involvement and management of drone strikes prompted Senator Dianne Feinstein, Chairwoman of the Senate Intelligence Committee, to suggest the need for a court to oversee targeted killings. Such a body, she said, would replicate the Foreign Intelligence Surveillance Court, which oversees eavesdropping on American soil.11 Most importantly, such oversight would go a long way towards allaying fears of the drone usage lacking true political accountability and legitimacy. In addition, as with any use of force, drone strikes in overseas contingency operations can lead to increased attacks on already weak governments partnered with the United States. They can lead to retaliatory attacks on local governments and may contribute to local instability. Those actions occur as a result of desires for revenge and frustrations caused by the strikes. Feelings of hostility are often visited on the most immediate structures of authority—local government officials, government buildings, police, and the military.12 It can thus be argued that, at the strategic level, drone strikes are fuelling anti-American resentment among enemies and allies alike. Those reactions are often based on questions regarding the legality, ethicality, and operational legitimacy of those acts to deter opponents. Therefore, specifically related to the reaction of allies, the military legitimacy question arises if the use of drones endangers vital strategic relationships.13 One of the strategic relationships being affected by the drone legitimacy issue is that of the United States and the United Kingdom. Targeted killing, by drone strike or otherwise, is not the sole preserve of the United States. Those actions, however, attract more negative attention to the United States due to its prominence on the world’s stage, its declarations of support for human rights and democratic freedoms, and rule-of-law issues, all which appear violated by such strikes. This complexity and visibility make such targeted killings important for Anglo-American strategic relations because of the closeness of that relationship and the perception that Great Britain, therefore, condones such American activities. Because the intelligence used in such operations is seen by other nations as a shared Anglo-American asset, the use of such intelligence to identify and conduct such killings, in the opinion those operations.14 Finally, the apparent gap between stated core policies and values and the ability to practice targeted killings appears to be a starkly hypocritical and deceitful position internationally, a condition that once again makes British policymakers uncomfortable with being tarred by such a brush.15 The divide between US policy and action is exacerbated by drone technology, which makes the once covert practice of targeted killing commonplace and undeniable. It may also cause deep-rooted distrust due to a spectrum of legitimacy issues. Such questions will, therefore, undermine the US desire to export liberal democratic principles. Indeed, it may be beneficial for Western democracies to achieve adequate rather than decisive victories, thereby setting an example of restraint for the international order.16 The United States must be willing to engage and deal with drone-legitimacy issues across the entire spectrum of tactical, operational, strategic, and political levels to ensure its strategic aims are not derailed by operational and tactical expediency.

#### That bolsters legitimacy

Epstein, 11 [Michael, Michigan State University College of Law “Targeted Killing Court: Why The United States Needs To Adopt International Legal Standards For Targeted Killings And How To Do So In A Domestic Court”, SSRN]

Overall, I believe that the TKR Court provides for a rigid system of Article III judicial review; comports with standards of applicable domestic and international law; and provides a mechanism for both domestic and international accountability. VII. CONCLUSION One of the nicknames for U.S. drone strikes that have been adopted by tribesmen in Pakistan is “bangana” – the Pashto word for “thunderclap.”384 The civilians living in Pakistani tribal areas have every reason for equating Predator Drone strikes to thunder; the strikes come out of nowhere, and many of the tribesmen have no idea why they occur. Drone strikes in Pakistan alone have been estimated to have killed over 1,800 people; while these strikes are likely necessary and proportionate to the grave threat they pose, these attacks cannot continue without some measure of accountability. While military strikes resulting in civilian casualties in the past have been justified due to a lack of knowledge, drone technology has advanced to a point where the U.S. government can gather the exact numbers and identities of possible civilian casualties. When Betullah Mehsud was killed, the C.I.A. agents had been observing him for two hours, and were able to gather information about whose home he was staying at (his father-in-law’s); who was at the home with him (his wife, in-laws, and eight Taliban fighters); and his current state of health (he was receiving an intravenous drip to treat a kidney disease.) Such prior knowledge could surely have been properly scrutinized by a judge to determine whether or not a strike is proportionate or not within the two hours that that the Predator drone hung over Mehsud and observed him. In the context of all of the known facts and circumstances about Mehsud’s prior acts and threat to national security he likely posed, some sort of judicial review could help salvage our reputation abroad and at home.

#### External court based oversight maintains legitimacy – key internal link to global stability

Knowles, 09 [Robert, Assistant Professor, NYU Law, “Article: American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, p. lexis]

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they **can rely on** those **interpretations** and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424 The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429 In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n430 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy. PRISM / DETENTION The Supreme Court's response to the detainee policy enabled the U.S. government as a whole to hew more closely to established procedures and norms, and to regularize the process for departing from them. After Hamdi, n432 the Department of Defense established a process, the CSRTs, for making an individual determination about the enemy combatant status of all detainees at Guantanamo. After the Court recognized habeas jurisdiction at Guantanamo, Congress passed the DTA, n433 establishing direct judicial review of CSRT determinations in lieu of habeas. Similarly, after the Court declared the military commissions unlawful in Hamdan, n434 this forced the Administration to seek congressional approval for commissions that restored some of the rights afforded at courts martial. n435 In Boumediene, the Court rejected the executive branch's foreign policy arguments, and bucked Congress as well, to restore the norm of habeas review. n436 Throughout this enemy combatant litigation, it has been the courts' relative insulation from politics that has enabled them to take the long view. In contrast, the President's (and Congress's) responsiveness to political concerns in the wake of 9/11 has encouraged them to depart from established norms for the nation's perceived short-term advantage, even at the expense of the nation's long-term interests. n437 As Derek Jinks and Neal Katyal have observed, "treaties are part of [a] system of time-tested standards, and this feature makes the wisdom of their judicial interpretation manifest." n438 At the same time, the enemy combatant cases make allowances for the executive branch's superior speed. The care that the Court took to limit the issues it decided in each case gave the executive branch plenty of time to [\*157] arrive at an effective detainee policy. n439 Hamdi, Rasul, and Boumediene recognized that the availability of habeas would depend on the distance from the battlefield and the length of detention. n440 The enemy combatant litigation also underscores the extent to which the classic realist assumptions about courts' legitimacy in foreign affairs have been turned on their head. In an anarchic world, legitimacy derives largely from brute force. The courts have no armies at their disposal and look weak when they issue decisions that cannot be enforced. n441 But in a hegemonic system, where governance depends on voluntary acquiesnce, the courts have a greater role to play. Rather than hobbling the exercise of foreign policy, the courts are a key form of "soft power." n442 As Justice Kennedy's majority opinion observed in Boumediene, courts can bestow external legitimacy on the acts of the political branches. n443 Acts having a basis in law are almost universally regarded as more legitimate than merely political acts. Most foreign policy experts believe that the Bush Administration's detention scheme "hurt America's image and standing in the world." n444 The restoration of habeas corpus in Boumediene may help begin to counteract this loss of prestige. Finally, the enemy combatant cases are striking in that they embrace a role for representation-reinforcement in the international realm. n445 Although defenders of special deference acknowledge that courts' strengths lie in protecting the rights of minorities, it has been very difficult for courts to protect these rights in the face of exigencies asserted by the executive branch in foreign affairs matters. This is especially difficult when the minorities are alleged enemy aliens being held outside the sovereign territory of the United States in wartime. In the infamous Korematsu decision, another World War II-era case, the Court bowed to the President's factual assessment of the emergency justifying detention of U.S. citizens of Japanese ancestry living in the United States. n446 In Boumediene, the Court [\*158] pointedly declined to defer to the executive branch's factual assessments of military necessity. n447 The court may have recognized that a more aggressive role in protecting the rights of non-citizens was required by American hegemony. In fact, the arguments for deference with respect to the rights of non-citizens are even weaker because aliens lack a political constituency in the United States. n448 This outward-looking form of representation-reinforcement serves important functions. It strengthens the legitimacy of U.S. hegemony by establishing equality as a benchmark and reinforces the sense that our constitutional values reflect universal human rights. n449 Conclusion When it comes to the constitutional regime of foreign affairs, geopolitics has always mattered. Understandings about America's role in the world have shaped foreign affairs doctrines. But the classic realist assumptions that support special deference do not reflect the world as it is today. A better, more realist, approach looks to the ways that the courts can reinforce and legitimize America's leadership role. The Supreme Court's rejection of the government's claimed exigencies in the enemy combatant cases strongly indicates that the Judiciary is becoming reconciled to the current world order and is asserting its prerogatives in response to the fewer constraints imposed on the executive branch. In other words, the courts are moving toward the hegemonic model. In the great dismal swamp that is the judicial treatment of foreign affairs, this transformation offers hope for clarity: the positive reality of the international system, despite terrorism and other serious challenges, permits the courts to reduce the "deference gap" between foreign and domestic cases.

### Read This fool

#### Their internal link can’t affect the structural reasons why heg solves war

Maher 11---adjunct prof of pol sci, Brown. PhD expected in 2011 in pol sci, Brown (Richard, The Paradox of American Unipolarity: Why the United States May Be Better Off in a Post-Unipolar World, Orbis 55;1)

The United States should start planning now for the inevitable decline of its preeminent position in world politics. By taking steps now, the United States will be able to position itself to exercise maximum influence beyond its era of preponderance. This will be America’s fourth attempt at world order. The first, following World War I and the creation of the League of Nations, was a disaster. The second and third, coming in 1945 and 1989-1991, respectively, should be considered significant achievements of U.S. foreign policy and of creating world order. This fourth attempt at world order will go a long way in determining the basic shape and character of world politics and international history for the twenty-first century. The most fundamental necessity for the United States is to create a stable political order that is likely to endure, and that provides for stable relations among the great powers. The United States and other global stakeholders must prevent a return to the 1930s, an era defined by open trade conflict, power competition, and intense nationalism. Fortunately, the United States is in a good position to do this. The global political order that now exists is largely of American creation. Moreover, its forward presence in Europe and East Asia will likely persist for decades to come, ensuring that the United States will remain a major player in these regions. The disparity in military power between the United States and the rest of the world is profound, and this gap will not close in the next several decades at least. In creating a new global political order for twenty-first century world politics, the United States will have to rely on both the realist and liberal traditions of American foreign policy, which will include deterrence and power balancing, but also using international institutions to shape other countries’ preferences and interests. Adapt International Institutions for a New Era of World Politics. The United States should seek to ensure that the global rules, institutions, and norms that it took the lead in creating---which reflect basic American preferences and interests, thus constituting an important element of American power---outlive American preeminence. We know that institutions acquire a certain ‘‘stickiness’’ that allow them to exist long after the features or forces at the time of their creation give way to a new landscape of global politics. The transaction costs of creating a whole new international---or even regional--- institutional architecture that would compete with the American post-World War II vintage would be enormous. Institutions such as the International Monetary Fund (IMF), World Bank, and World Trade Organization (WTO), all reflect basic American preferences for an open trading system and, with a few exceptions, have near-universal membership and overwhelming legitimacy. Even states with which the United States has significant political, economic, or diplomatic disagreement---China, Russia, and Iran---have strongly desired membership in these ‘‘Made in USA’’ institutions. Shifts in the global balance of power will be reflected in these institutions---such as the decision at the September 2009 Pittsburgh G-20 summit to increase China’s voting weight in the IMF by five percentage points, largely at the expense of European countries such as Britain and France. Yet these institutions, if their evolution is managed with deftness and skill, will disproportionately benefit the United States long after the demise of its unparalleled position in world politics. In this sense, the United States will be able to ‘‘lock in’’ a durable international order that will continue to reflect its own basic interests and values. Importantly, the United States should seek to use its vast power in the broad interest of the world, not simply for its own narrow or parochial interests. During the second half of the twentieth century the United States pursued its own interests but also served the interests of the world more broadly. And there was intense global demand for the collective goods and services the United States provided. The United States, along with Great Britain, are history’s only two examples of liberal empires. Rather than an act of altruism, this will improve America’s strategic position. States and societies that are prosperous and stable are less likely to display aggressive or antagonistic behavior in their foreign policies. There are things the United States can do that would hasten the end of American preeminence, and acting in a seemingly arbitrary, capricious, and unilateral manner is one of them. The more the rest of the world views the American-made world as legitimate, and as serving their own interests, the less likely they will be to seek to challenge or even transform it.19 Cultivate Balance of Power Relationships in Other Regions. The United States enjoys better relations with most states than these states do with their regional neighbors. South and East Asia are regions in which distrust, resentment, and outright hostility abound. The United States enjoys relatively strong (if far from perfect) strategic relationships with most of the major states in Asia, including Japan, India, Pakistan, and South Korea. The United States and China have their differences, and a more intense strategic rivalry could develop between the two. However, right now the relationship is generally stable. With the possible exception of China (but perhaps even Beijing views the American military presence in East Asia as an assurance against Japanese revanchism), these countries prefer a U.S. presence in Asia, and in fact view good relations with the United States as indispensable for their own security.

## CP

### AT: Perm Do Both

#### Links to the NB or severs

#### The counterplan aloneis key to effective drone operations---the permutation sends the signal that the rest of the government sides with critics of drones over the executive---that delegitimizes drones and collapses the program

Kenneth Anderson 10, Professor of International Law at American University, 3/8/10, “Predators Over Pakistan,” The Weekly Standard, <http://www.weeklystandard.com/print/articles/predators-over-pakistan>

Obama deserves support and praise for this program from across the political spectrum. More than that, though, the drone strikes need an aggressive defense against increasingly vocal critics who are moving to create around drone warfare a narrative of American wickedness and cowardice and of CIA perfidy.

Here the administration has dropped the ball. It has so far failed to provide a robust affirmation of the propositions that underwrite Predator drone warfare. Namely:

n Targeted killings of terrorists, including by Predators and even when the targets are American citizens, are a lawful practice;

n Use of force is justified against terrorists anywhere they set up safe havens, including in states that cannot or will not prevent them;

n These operations may be covert—and they are as justifiable when the CIA is tasked to carry them out secretly as when the military does so in open armed conflict.

n All of the above fall within the traditional American legal view of “self-defense” in international law, and “vital national security interests” in U.S. domestic law.

There are good reasons for Republicans and centrist Democrats to make common cause in defending these propositions. On the one hand, they should want to aggressively protect the administration against its external critics—the domestic and international left—who are eager to prosecute Americans for their actions in the war on terror. They should also want to make clear that in defending drone strikes, they are defending the American (and not just the Obama) legal and strategic position. Moreover, it will be the American view of domestic and international law for future administrations, Democratic and Republican.

At the same time, congressional Republicans and centrist Democrats need to put Obama’s senior legal officials on the record and invite them to defend their own administration, defend it to the full extent that the Obama administration’s actions require. Which is to say, Congress needs to hear publicly from senior administration lawyers and officials who might be personally less-than-enthused about targeted killings of terrorists and not eager to endorse them publicly, or to do so only with hedged and narrow legal rationales from which they can later walk away.

Consider, for instance, the diffidence of Harold Koh, the legal adviser of the Department of State. In an informal public discussion with his predecessor, John Bellinger, aired on C-SPAN on February 17, he was asked about drones and targeted killings and declined to say that the practice was lawful. (Granted, it was in an unscripted setting, which cannot be taken as anyone’s last word and on which it would be unfair to place too much weight.) All he said was that if he concluded that it was unlawful, he would, if he thought it appropriate, resign his position. He added that he remained at his post. The statement falls far short of the defense one might hope for from such a high-ranking administration lawyer. More than a year into the new administration, that ought surely to strike the general counsels of the CIA, the Pentagon, the Director of National Intelligence, the NSC, and other agencies directly conducting these activities as somewhat less than reassuring.

In fact, the administration’s top lawyers should offer a public legal defense of its policies, and congressional Republicans and Democrats should insist on such a defense. This is partly to protect the full use-of-force tools of national security for future administrations, by affirming the traditional U.S. view of their legality. But it is also to protect and reassure the personnel of the CIA, NSC, and intelligence and military agencies who carry out these policies that they are not just effective but lawful policies of the U.S. government and will be publicly defended as such by their superiors.

Even as the Obama administration increasingly relies on Predator strikes for its counterterrorism strategy, the international legal basis of drone warfare (more precisely, its perceived international legal legitimacy) is eroding from under the administration’s feet—largely through the U.S. government’s inattention and unwillingness to defend its legal grounds, and require its own senior lawyers to step up and defend it as a matter of law, legal policy, and legal diplomacy. On the one hand, the president takes credit for the policy—as frankly he should—as taking the fight to the enemy. His vice president positively beams with pride over the administration’s flock of Predator goslings. On the other hand, the Obama administration appears remarkably sanguine about the campaign gearing up in the “international law community” aimed at undermining the legal basis of targeted killing as well as its broad political legitimacy, and ultimately at stigmatizing the use of Predators as both illegal and a coward’s weapon.

Stigmatizing the technology and the practice of targeted killing is only half of it, though. The other half is to undermine the idea that the CIA may use force and has the authority to act covertly under orders from the president and disclosure to Congress, as long provided in U.S. law. The aim is to create a legal and political perception that, under international law, all uses of force must be overt—either as law enforcement or as armed conflict conducted by uniformed military.

The Obama administration is complacent about this emerging “international soft law” campaign. But Obama’s opponents in this country, for their part, likewise underestimate and ignore the threat such a campaign presents to national security. That’s apparently because many on the right find it hard to imagine that mere congeries of NGOs, academics, activists, U.N. officials, and their allies could ever overcome “hard” American national security interests, particularly when covered by the magic of the Obama administration. Both liberal and conservative national security hands, looking at the long history of accepted lawfulness of targeted killings under American law, think, “Come on, there’s obvious sense to this, legal and political. These arguments in domestic and international law have long been settled, at least as far as the U.S. government is concerned.” But if there’s a sense to it, there’s a sensibility as well, one that goes to the overall political and legal “legitimacy” of the practice within a vague, diaphanous, but quite real thing called “global public opinion,” the which is woven and spun by the interlocking international “soft law” community and global media.

It’s a mistake to remain oblivious to either the sense or the sensibility. Outside of government, the oblivious include hard-realist conservatives. Inside government, some important political-legal actors are struggling impressively both to overcome bureaucratic inertia and get in front of this issue, and to overcome factions within government unpersuaded by, if not overtly opposed to, this program—particularly as conducted by the CIA. Those actors deserve political support from congressional Republicans and Democrats. Because obliviousness to the sensibility of lawfulness and legitimacy—well, we should all know better by now. Does anyone still believe that the international legal-media-academic-NGO-international organization-global opinion complex cannot set terms of debate over targeted killing or covert action? Or that it cannot overcome “hard” American security interests? Or that this is merely another fringe advocacy campaign of no real consequence, whether in the United States, or abroad in Europe, or at the United Nations?

The Obama administration assumes that it uniquely sets the terms of legal legitimacy and has the final word on political sensibility. This is not so—certainly not on this issue. The international soft-law campaign looks to the long-term if necessary, and will seek the political death of targeted killings, Predator drones, and their progeny, and even perhaps to CIA covert action, by a hundred thousand tiny paper cuts. The campaign has already moved to the media. Starting with Jane Mayer’s narrative of Predator drone targeted killing in the New Yorker last October, and followed by many imitators, the ideological framework of the story has shifted. In the space of a year—Obama’s year, no less—it has moved from Candidate Obama’s brave articulation of a bold new strategy for attacking terrorists to the NGOs’ preferred narrative of a cowardly, secretive American CIA dealing collateral damage from the skies. Here’s the thumbnail version of drone warfare, as portrayed in the media.

### CP Solves – Top Shelf

#### Disclosing target criteria builds credibility, enacts domestic accountability, and doesn’t link to the terror disad

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Related to defending the process, and using performance data is the possibility that the U.S. government could publish the targeting criteria it follows. That criteria need not be comprehensive, but it could be sufficiently detailed as to give outside observers an idea about who the individuals singled out for killing are and what they are alleged to have done to merit their killing. As Bobby Chesney has noted, "Congress could specify a statutory standard which the executive branch could then bring to bear in light of the latest intelligence, with frequent reporting to Congress as to the results of its determinations."521 What might the published standards entail? First, Congress could clarify the meaning of associated forces, described in Part I and II. In the alternative, it could do away with the associated forces criteria altogether, and instead name each organization against which force is being authorized,522 such an approach would be similar to the one followed by the Office of Foreign Assets Control when it designates financial supporters of terrorism for sanctions.523¶ The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible (at least ex ante) under current targeting practices.¶ As was discussed above, the U.S. government and outside observers may simply be using different benchmarks to measure success. Some observers are looking to short term gains from a killing while others look to the long term consequences of the targeted killing policy. Should all of these metrics and criteria be revealed? Hardly. However, the U.S. should articulate what strategic level goals it is hoping to achieve through its targeted killing program. Those goals certainly include disrupting specified networks. Articulating those goals, and the specific networks the U.S. is targeting may place the U.S. on better diplomatic footing, and would certainly engender mechanisms of domestic political accountability.

#### Strongly err neg---their authors don’t understand how thorough and effective inter-executive mechanisms are---adding transparency’s clearly sufficient

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

To date scholars have lacked a thorough understanding of the U.S. government’s targeted killing practices. As such, their commentary is oftentimes premised on easily describable issues, and fails to grapple with the multiple levels of intergovernmental accountability present in current practice. When dealing with the theoretical and normative issues associated with targeted killings, scholars have failed to specify what they mean when they aver that targeted killings are unaccountable. Both trends have impeded legal theory, and constrained scholarly discourse on a matter of public import.

This article is a necessary corrective to the public and scholarly debate. It has presented the complex web of bureaucratic, legal, professional, and political accountability mechanisms that exert influence over the targeted killing process. It has demonstrated that many of the critiques of targeted killings rest upon poorly conceived understandings of the process, unclear definitions, and unsubstantiated speculation. The article’s reform recommendations, grounded in a deep understanding of the actual process, reflect an assumption that transparency, performance criteria, and politically grounded independent review can enhance the already robust accountability mechanisms embedded in current practice.

### CP Solves---Norms/Precedent/Drone Prolif

#### Executive-branch transparency and bringing U.S. practice in line with policy builds the international diplomatic capital to press for drone norms

Kristin Roberts 13, News Editor, National Journal, 3/22/13, “When the Whole World Has Drones,” <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.

A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs.

Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists.

The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

#### Legal transparency solves global drone prolif---allows the U.S. to successfully shape international norms

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

The fact remains that by using drones so much, Washington risks setting a troublesome precedent with regard to extrajudicial and extraterritorial killings. Zeke Johnson of Amnesty International contends that "when the U.S. government violates international law, that sets a precedent and provides an excuse for the rest of the world to do the same." And it is alarming to think what leaders such as Syrian President Bashar al-Assad, who has used deadly force against peaceful pro-democracy demonstrators he has deemed terrorists, would do with drones of their own. Similarly, Iran could mockingly cite the U.S. precedent to justify sending drones after rebels in Syria. Even Brennan has conceded that the administration is "establishing precedents that other nations may follow."

Controlling the spread of drone technology will prove impossible; that horse left the barn years ago. Drones are highly capable weapons that are easy to produce, and so there is no chance that Washington can stop other militaries from acquiring and using them. Nearly 90 other countries already have surveillance drones in their arsenals, and China is producing several inexpensive models for export. Armed drones are more difficult to produce and deploy, but they, too, will likely spread rapidly. Beijing even recently announced (although later denied) that it had considered sending a drone to Myanmar (also called Burma) to kill a wanted drug trafficker hiding there.

The spread of drones cannot be stopped, but the United States can still influence how they are used. The coming proliferation means that Washington needs to set forth a clear policy now on extrajudicial and extraterritorial killings of terrorists -- and stick to it. Fortunately, Obama has begun to discuss what constitutes a legitimate drone strike. But the definition remains murky, and this murkiness will undermine the president's ability to denounce other countries' behavior should they start using drones or other means to hunt down enemies. By keeping its policy secret, Washington also makes it easier for critics to claim that the United States is wantonly slaughtering innocents. More transparency would make it harder for countries such as Pakistan to make outlandish claims about what the United States is doing. Drones actually protect many Pakistanis, and Washington should emphasize this fact. By being more open, the administration could also show that it carefully considers the law and the risks to civilians before ordering a strike.

Washington needs to be especially open about its use of signature strikes. According to the Obama administration, signature strikes have eliminated not only low-level al Qaeda and Taliban figures but also a surprising number of higher-level officials whose presence at the scenes of the strikes was unexpected. Signature strikes are in keeping with traditional military practice; for the most part, U.S. soldiers have been trained to strike enemies at large, such as German soldiers or Vietcong guerrillas, and not specific individuals. The rise of unconventional warfare, however, has made this usual strategy more difficult because the battlefield is no longer clearly defined and enemies no longer wear identifiable uniforms, making combatants harder to distinguish from civilians. In the case of drones, where there is little on-the-ground knowledge of who is who, signature strikes raise legitimate concerns, especially because the Obama administration has not made clear what its rules and procedures for such strikes are.

Washington should exercise particular care with regard to signature strikes because mistakes risk tarnishing the entire drone program. In the absence of other information, the argument that drones are wantonly killing innocents is gaining traction in the United States and abroad. More transparency could help calm these fears that Washington is acting recklessly.

### AT: Doesn’t Solve Groupthink

#### No groupthink---there are several different checkpoints on the way to a targeting decision and objection at any point stops the entire op

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Based on this information, we can sketch a general picture of the kill-list approval process.210 First, military and intelligence officials from various agencies compile data and make recommendations based on internal vetting and validation standards.211 Second, those recommendations go through the NCTC, which further vets and validates rosters of names and other variables that are further tailored to meet White House standards for lethal targeting.212 Third, the president’s designee (currently the counterterrorism adviser) convenes a NSC deputies meeting to get input from senior officials, including top lawyers from the appropriate agencies and departments (i.e. CIA, FBI, DOD, State Department, NCTC, etc.).213 At this step is where the State Department’s Legal Adviser (previously Harold Koh) and the Department of Defense General Counsel (previously Jeh Johnson) along with other top lawyers would have an opportunity to weigh in with their legal opinions on behalf of their respective departments.214 Objections to a strike from top lawyers might prevent the decision from climbing further up the ladder absent more deliberation.215 In practice, an objection from one of these key attorneys almost certainly causes the president’s designee in the NSC process to hesitate before seeking final approval from the president. Finally, if the NSC gives approval, the president’s counterterrorism advisor shapes the product of the NSC’s deliberations and seeks final approval from the president.216 At this stage, targets are evaluated again to ensure that target information is complete and accurate, targets relate to objectives, the selection rationale is clear and detailed, and collateral damage concerns are highlighted.217 By this point in the bureaucratic process, just as in prior conflicts like Kosovo,218 there will be few targeting proposals that will reach the approval authority (the president) that will prompt absolute prohibitions under the law of armed conflict. Rather most decisions at this point will be judgment calls regarding the application of law to facts, or intelligence and analytic judgments regarding facts and expected outcomes.219

### Solves---Legitimacy

#### The CP alone is the best way to boost U.S. legitimacy---bargaining theory proves that making concessions to critics of our drone policy encourages them to move the goalposts and never be satisfied---informing them of the rationale behind targeted killings with a “take it or leave it” stance encourages bandwagoning. Reject their ev by activists and academics---they always call for the most restrictive measures but their perspective’s irrelevant to actual inter-state relations

Kenneth Anderson 11, Professor of International Law at American University, 10/3/11, “Public Legitimacy for Targeted Killing Using Drones,” <http://www.volokh.com/2011/10/03/public-legitimacy-for-targeted-killing-using-drones/>

Jack Goldsmith, writing at Lawfare, urges the Obama administration to release a redacted version of the Justice Department’s memo concluding that the targeting of Al-Awlaki was lawful – if not a redacted version, then some reasonably complete and authoritative statement of its legal reasoning. I agree. The nature of these operations abroad is that they will almost certainly remain beyond judicial review and, as a consequence, OLC opinions will serve as the practical mechanism of the rule of law. ¶ The best argument against disclosure is that it would reveal classified information or, relatedly, acknowledge a covert action. This concern is often a legitimate bar to publishing secret executive branch legal opinions. But the administration has (in unattributed statements) acknowledged and touted the U.S. role in the al-Aulaqi killing, and even President Obama said that the killing was in part “a tribute to our intelligence community.” I understand the reasons the government needs to preserve official deniability for a covert action, but I think that a legal analysis of the U.S. ability to target and kill enemy combatants (including U.S. citizens) outside Afghanistan can be disclosed without revealing means or methods of intelligence-gathering or jeopardizing technical covertness. The public legal explanation need not say anything about the means of fire (e.g. drones or something else), or particular countries, or which agencies of the U.S. government are involved, or the intelligence basis for the attacks. (Whether the administration should release more information about the intelligence supporting al-Aulaqi’s operational role is a separate issue that raises separate classified information concerns.) We know the government can provide a public legal analysis of this sort because presidential counterterrorism advisor John Brennan and State Department Legal Advisor Harold Koh have given such legal explanations in speeches, albeit in limited and conclusory terms. These speeches show that there is no bar in principle to a public disclosure of a more robust legal analysis of targeted killings like al-Aulaqi’s. So too do the administration’s many leaks of legal conclusions (and operational details) about the al-Aulaqi killing. ¶ The public accountability and legitimacy of these vital national security operations is strengthened to the extent that the public is informed and, through the political branches, part of the debate on the law of targeted killing. That cannot be operational discussion, for obvious reasons. But there is still a good deal that could be said about the underlying legal rationales, without compromising security. I myself favor revisions, either as internal executive branch policy or, in a better world, as formal legal revisions to Title 50 (CIA, covert action, etc.) and the oversight and reporting processes. One of those revisions would be to get beyond the not just silly, but in some deeper way, de-legitimizing insistence that these operations cannot be acknowledged even as a program; I would establish a distinct category of “deniable” rather than “covert,” and a category of programs that can be acknowledged as existing even without comment on particular operations. ¶ John Bellinger, the former State Department Legal Adviser in the last years of the Bush administration, raises concerns in the Washington Post today about the best way to defend the international legitimacy of these operations. He notes the deep hostility of the international advocacy groups, UN special raporteurs, numbers of foreign governments, and the studied silence of US allies (even as NATO, I’d add, has relied upon drones as an essential element of its Libyan air war). ¶ [T]he U.S. legal position may not satisfy the rest of the world. No other government has said publicly that it agrees with the U.S. policy or legal rationale for drones. European allies, who vigorously criticized the Bush administration for asserting the unilateral right to use force against terrorists in countries outside Afghanistan, have neither supported nor criticized reported U.S. drone strikes in Pakistan, Yemen and Somalia. Instead, they have largely looked the other way, as they did with the killing of Osama bin Laden. ¶ Human rights advocates, on the other hand, while quiet for several years (perhaps to avoid criticizing the new administration), have grown increasingly uncomfortable with drone attacks. Last year, the U.N. rapporteur for summary executions and extrajudicial killings said that drone strikes may violate international humanitarian and human rights law and could constitute war crimes. U.S. human rights groups, which stirred up international opposition to Bush administration counterterrorism policies, have been quick to condemn the Awlaki killing. ¶ Even if Obama administration officials are satisfied that drone strikes comply with domestic and international law, they would still be wise to try to build a broader international consensus. The administration should provide more information about the strict limits it applies to targeting and about who has been targeted. One of the mistakes the Bush administration made in its first term was adopting novel counterterrorism policies without attempting to explain and secure international support for them. ¶ The problem of international legitimacy is always tricky, as Bellinger knows better than anyone. I look at it this way. Tell the international community that we care about legitimacy – which is to say, that we care about their opinion in relation to our practices – and all of sudden we have handed other folks a rhetorical hold-up, to a greater or lesser degree. Unsurprisingly, the price of their good opinion and their desire to exercise control over our actions goes up. This is nothing special to this; it’s just standard bargaining theory. ¶ On the other hand, ignore them altogether, and they – particularly, note, our allies, those who say that they are acting roughly within our shared sphere of values discourse, not the Chinese or the Russians – develop a set of norms that they then apply in such a way as to mark us as the outlier and the deviant. Again, this is just drawn from any standard account of norm-negotiation; it’s not a statement of nefarious intent; it’s an acknowledgment that both we and our allies are invested in norms, and that we are not merely societies of narrow interests. At its worst, developing a quite separate norm regime and then characterizing us as genuinely deviant from it might lead to arrest warrants issued for current or former US officials, and much distrust between sides. It might also lead to places where even our allies might not want to go – putting themselves outside of the US security umbrella in particular matters that turn out to concern them a lot, such has having access to drones in Libya. ¶ If the norm envelope is pushed hard enough, however, then our allies wind up depriving themselves of access to the weapon, which clearly they don’t want to do. So they have reasons not to push too hard – both for fear of us simply ignoring them altogether (in effect withdrawing the acceptance that their opinion matters to the legitimacy of the activity) and because they want at least “parts” of it. ¶ The best place to be, then, for both sides, is roughly in the middle that Bellinger stakes out. (Note that nothing I’ve said here should be attributed to him; these are my views on the negotiation stakes.) Meaning that we have reasons to talk with our allies at length and in detail, in private and public, to try and persuade them to our views, and to persuade them that genuflecting to their advocacy and NGO groups will be worse for them than accepting our space to act, insofar as we can give a plausible interpretation of law. Plausibility is the central touchstone for international law in relations among states, finally; we and they don’t have to agree, only to agree that our several interpretations are within the ballpark of acceptability. It might involve alterations of our practice; it might not. ¶ This will never satisfy the non-governmental advocates or the academics, of course. They have no skin in the game and hence can always hold out for the most extreme position with only an indirect cost in credibility. In the case of drones, in which even some of the advocates are belatedly realizing that the weapon is indeed more precise and sparing of civilians, ignoring the NGO advocates as profoundly mistaken has spared a human tragedy in collateral damage over the long run. But the striking thing about the interstate negotiations among allies is that they don’t have to reach a conclusion – an agreement – and probably won’t. An acceptance of the plausibility of each side’s position and an agreement to continue discussion around alternatives that are considered plausible is sufficient.

### Solves---vs. Drone Court

#### Disclosing targeting standards leads to public scrutiny and reform---solves better than a drone court

Gabor Rona 13, International Legal Director, Human Rights First, 2/27/13, “The pro-rule of law argument against a 'drone court',” http://thehill.com/blogs/congress-blog/judicial/285041-the-pro-rule-of-law-argument-against-a-drone-court#ixzz2dlSUsFz1

So if a drone court isn’t the answer, what is?

Congress should require the executive to disclose the targeting standards it’s adopted so as to expose its rationale to scrutiny. The leaking of a single document — a “white paper” laying out the administration’s legal case for killing U.S. citizens — has triggered unprecedented criticism and pushback from Congress and the media. Scrutiny begets scrutiny and can lead to meaningful reform. That’s surely one of the reasons the White House has refused to release most information about the targeted killing program.

Congress should also ensure that victims of unlawful targeting — or their survivors — have the right to claim compensation, creating a deterrent to government abuse. That right already exists in theory but time and again courts have prohibited such cases from moving forward, buying without question the government’s claim that allowing them would threaten national security. Congress should limit the executive’s ability to hide unlawful killings behind this claim.

These are just a few of the steps Congress could take to rein in the unbridled power of this administration any future ones to clandestinely kill individuals suspected of participating in terrorism. Creating a new secret court to secretly review secretly planned killings is not the way to go.

## Case

### Squo Solves---Internal/External Oversight

#### Internal and external accountability mechanisms are effective now---and they’ll stay that way as drone missions increase

Jack Goldsmith 12, Harvard Law professor and a member of the Hoover Task Force on National Security and Law, 3/19/12, “Fire When Ready,” http://www.foreignpolicy.com/articles/2012/03/19/fire\_when\_ready

In this new age of drone warfare, probing the constitutional legitimacy of targeted killings has never been more vital. The Obama administration has carried out well over 200 drone strikes in its first three years, and the practice promises to ramp up even more in the next few years as the United States decreases its footprint in Afghanistan and relies even more heavily on special operations and covert actions centered around the use of drones. There are contested legal issues surrounding drone strikes, and -- in contrast to issues like military detention and military commissions -- courts have not pushed back against the presidency on this issue. But judicial review is not the only constitutional check on the presidency, especially during war. Awlaki's killing and others like it have solid legal support and are embedded in an unprecedentedly robust system of legal and political accountability that includes courts but also includes other institutions and actors as well.

When the Obama administration made the decision to kill Awlaki, it did not rely on the president's constitutional authority as commander in chief. Rather, it relied on authority that Congress gave it, and on guidance from the courts. In September 2001, Congress authorized the president "to use all necessary and appropriate force against those nations, organizations, or persons he determines" were responsible for 9/11. Whatever else the term "force" may mean, it clearly includes authorization from Congress to kill enemy soldiers who fall within the statute. Unlike some prior authorizations of force in American history, the 2001 authorization contains no geographical limitation. Moreover, the Supreme Court, in the detention context, has ruled that the "force" authorized by Congress in the 2001 law could be applied against a U.S. citizen. Lower courts have interpreted the same law to include within its scope co-belligerent enemy forces "associated" with al Qaeda who are "engaged in hostilities against the United States."

International law is also relevant to targeting decisions. Targeted killings are lawful under the international laws of war only if they comply with basic requirements like distinguishing enemy soldiers from civilians and avoiding excessive collateral damage. And they are consistent with the U.N. Charter's ban on using force "against the territorial integrity or political independence of any state" only if the targeted nation consents or the United States properly acts in self-defense. There are reports that Yemen consented to the strike on Awlaki. But even if it did not, the strike would still have been consistent with the Charter to the extent that Yemen was "unwilling or unable" to suppress the threat he posed. This standard is not settled in international law, but it is sufficiently grounded in law and practice that no American president charged with keeping the country safe could refuse to exercise international self-defense rights when presented with a concrete security threat in this situation. The "unwilling or unable" standard was almost certainly the one the United States relied on in the Osama bin Laden raid inside Pakistan.

These legal principles are backed by a system of internal and external checks and balances that, in this context, are without equal in American wartime history. Until a few decades ago, targeting decisions were not subject to meaningful legal scrutiny. Presidents or commanders typically ordered a strike based on effectiveness and, sometimes, moral or political considerations. President Harry Truman, for example, received a great deal of advice about whether and how to drop the atomic bomb on Hiroshima and Nagasaki, but it didn't come from lawyers advising him on the laws of war. Today, all major military targets are vetted by a bevy of executive branch lawyers who can and do rule out operations and targets on legal grounds, and by commanders who are more sensitive than ever to legal considerations and collateral damage. Decisions to kill high-level terrorists outside of Afghanistan (like Awlaki) are considered and approved by lawyers and policymakers at the highest levels of the government.

# 2nr

#### Throw out ev from the “Living Under Drones” report---sample size wasn’t representative and was selection-biased by partisan researchers

Joshua Foust 12, Fellow at the American Security Project, 9/26/12, “Targeted Killing, Pro and Con: What to Make of U.S. Drone Strikes in Pakistan,” The Atlantic, http://www.theatlantic.com/international/archive/2012/09/targeted-killing-pro-and-con-what-to-make-of-us-drone-strikes-in-pakistan/262862/

A new report, "Living Under Drones," jointly authored by Stanford University and New York University -- and reviewed yesterday by Conor Friedersdorf here at The Atlantic -- is harshly critical of the drone campaign in Pakistan. The report argues that the U.S. narrative of drone strikes -- precise, accurate, and limited -- is false. Citing 130 interviews and a review of media reports, the authors argue that the civilian toll from drone strikes is far higher than acknowledged, that many problems with the drone campaign go unreported, and that more government transparency is essential to gaining a better understanding of the campaign and its consequences.

On that last point, the authors are absolutely right -- more transparency about targeting and effects would help everyone understand the consequences of drone strikes in Pakistan. And there are absolutely serious downsides to these strikes (some of which have been explored here already). But the report then makes some questionable claims based on incomplete data, and seems to argue that the drone campaign should be paused or radically altered. Those arguments are not well supported.

For starters, the sample size of the study is 130 people. In a country of 175 million, that is just not representative. 130 respondents isn't representative even of the 800,000 or so people in the Federally Administered Tribal Areas (FATA), the region of Pakistan where most drone strikes occur. Moreover, according to the report's methodology section, there is no indication of how many respondents were actual victims of drone strikes, since among those 130 they also interviewed "current and former Pakistani government officials, representatives from five major Pakistani political parties, subject matter experts, lawyers, medical professionals, development and humanitarian workers, members of civil society, academics, and journalists."

The authors did not conduct interviews in the FATA, but Islamabad, Rawalpindi, Lahore, and Peshawar. The direct victims they interviewed were contacted initially by the non-profit advocacy group Foundation for Fundamental Rights, which is not a neutral observer (their explicit mission is to end the use of drones in Pakistan). The report relies on a database compiled by the Bureau of Investigative Journalism, which relies on media accounts for most of its data. The authors discount the utility of relying on media accounts, since media in Pakistan rely on the Pakistani government for information (reporters are not allowed independent access to the FATA). Even accepting their description of the BIJ data as the most "reliable," these data are highly suspect.

#### Their study relies on interviews with subjects selected by an NGO engaged in anti-drone lawsuits---clearly colors its findings

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

\* An often cited report, "Living Under Drones," issued in 2012 by advocacy law clinics at NYU and Stanford law schools, does not merit the attention it has received. The study was solicited by a UK anti-drone organization, Reprieve, which helped organize the "study," and which then sat in on some interviews. A Pakistani group closely linked to Reprieve, the Foundation for Fundamental Rights, which is engaged in multiple lawsuits against the drone programs, selected the interviewees and also sat in on interviews; the interviewees included nine of FFR's own clients in its anti-drone lawsuits. The foundation also partly funded the study by paying for the transportation of interviewees. The report invents a peculiar and novel category -- "experiential victims" of drones -- apparently lacking enough direct family members killed or injured in actual drone strikes to make the numbers interesting. Crucially, this category includes "victims" who might have witnessed not a drone strike but merely drone surveillance, and also includes those who might be family members of a person from North Waziristan who might have witnessed something. In any case, those called "close family members" for purposes of establishing this "experiential" victimhood include grandparents, parents, siblings, children, uncles, and cousins. All of this is plainly laid out in "Living Under Drones" and requires no special digging around for background facts; national-security columnist for PBS's Need to Know, Joshua Foust, walked through numerous methodological inadequacies of the report in an article for the Atlantic online on September 26,2012.