# Plan

#### The federal judiciary should strike down the President’s targeting killing policy involving drone strikes on the grounds that it violates international law.

# Contention 1 - Solvency

#### Despite international legal precedents, US federal courts have failed to meaningfully rule on targeted killing drone policy – only establishing a judicial legal basis for drones perceptually solves global legitimacy

Ramsden, 2013[Michael, Assistant Professor, Faculty of Law, The Chinese University of Hong Kong., "Assessing U.S. Targeted Killings Under An International Human Rights Law Framework." Groninger Journal of International Law. Vol. 1, No. 1, www.grojil.org/01-Ramsden%20-%20Assessing%20US%20Targeted%20Killings%20UNder%20an%20International%20HRL%20Framework.pdf, accessed: 8-14-13, SpS]

A further requirement is that any use of lethal force must be subject to review

AND

presumably according discretion to states as to how it investigates deprivations of life.

Similar pronouncements can be found in Strasbourg, where the European Court of Human Rights

AND

against abuse and ensure that targeted killings only occur in accordance with law.

#### Empirically the U.S. can solve - American power is dynamic and can set norms that are respected and enforced

*James Whibley – 2013.* *(M.A. in International Relations from Victoria University of Wellington, New Zealand in 2012 and his research is soon to be published in Intelligence and National Security, Georgetown Journal of International Affairs, “The Proliferation of Drone Warfare: The Weakening of Norms and International Precedent,” 2/6/2013,* [*http://journal.georgetown.edu/2013/02/06/the-proliferation-of-drone-warfare-the-weakening-of-norms-and-international-precedent-by-james-whibley/*](http://journal.georgetown.edu/2013/02/06/the-proliferation-of-drone-warfare-the-weakening-of-norms-and-international-precedent-by-james-whibley/)*, Accessed 10/12/2013, WSH)*

In a recent [article](http://www.huffingtonpost.com/2012/11/27/american-drones_n_2199193.html), David Wood expresses concern over the start of a drone

AND

, then surely China or Russia possessing such a program would be terrifying.

#### Judicial incorporation of customary international law will be perceived and modeled—this leads to the bolstering of international law:

Douglas Sylvester, 1994 professor of law at the Sandra Day O'Connor College of Law at Arizona State University, Spring, 1994, 42 Buffalo L. Rev. 555, Lexis

3. Countervailing Arguments. The preceding sections have shown that historical and theoretical objections

AND

laws are made explicit it will become more difficult for violations to occur.

#### Post hoc judicial review solves competency and secrecy and provides accountability

*Vladeck, 2013*

[Stephen, Professor of Law and Associate Dean for Scholarship,

American University Washington College of Law, “DRONES AND THE WAR ON TERROR:

WHEN CAN THE U.S. TARGET ALLEGED AMERICAN TERRORISTS OVERSEAS?”, accessed: 8-16-13, SpS]

At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I believe that virtually all of these concerns could be mitigated.

For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to

AND

S.C. § 1534,24 as a model for such proceedings

More to the point, it should also follow that courts would be far more

AND

the attack is also something that can only reasonably be assessed post hoc.

In addition to the substantive questions, it will also be much easier for courts to review the government’s own internal procedures after they are employed, especially if the government itself is already conducting after-action reviews that could be made part of the (classified) record in such cases. Indeed, the government’s own analysis could, in many cases, go a long way toward proving the lawfulness vel non of an individual strike.

# Contention 2 – Deterrence

#### Current US targeted killing policy has triggered a global drones arms race – this will erode the deterrence norm which makes nuclear conflict and accidental wars inevitable

Boyle, La Salle University Assistant Political Science Professor, 2013

[Michael J., e was previously a Lecturer in International Relations and Research Fellow

AND

1Boyle.pdf, accessed: 7-4-13, SpS]

The race for drones

An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones

AND

where it was shot down by the Israeli air force in October 2012.

A global arms race for drone technology is already under way. According to one

AND

that will fade as more suppliers offer drones that can match US capabilities.

Third, lethal drones create the possibility that the norms on the use of force

AND

from following the American lead and using drone strikes to eliminate potential threats.

#### Collapse of the nuclear deterrence norm guarantees extinction

Freedman, 2013

[Lawrence, is Professor of War Studies and Vice Principal at King’s College in London, and a member of the TWQ editorial board, "Disarmament and Other Nuclear Norms," ncsis.org/files/publication/TWQ\_13Spring\_Freedman.pdf, accessed: 8-13-13, SpS]

Rhetoric that urges elimination on the assumption that the only alternative is Armageddon is not

AND

and of non-/use, as in accepting the responsibility of restraint.

#### The impact is empirical – assumptions of rationality don’t disprove deterrence theory – attempts to understand motivations for war reduce the risk of conflict

***Payne,*** *National Institute for Public Policy President, DOD Forces Policy Deputy Assistant Secretary of Defense (2002-20****03****), Missouri State Defense and Strategic Studies Grad. Dept. Head, Nuclear Strategy Forum Co-Chairman, Comparative Strategy Editor-In-Chief, 2003 [Keith, "The Fallacies of Cold War Deterrence and a New Direction,"* [*http://www.unm.edu/~gleasong/300/su2006/keith\_payne\_fallacies.pdf*](http://www.unm.edu/~gleasong/300/su2006/keith_payne_fallacies.pdf)*]*

There is no adequate alternative to the hard task of attempting to ascertain the particular

AND

relatively more informed by the opponents’ various motivations and cost-benefit calculations.

#### Accidental drone wars spark conflicts in every global nuclear hotspot

Dowd, 2013

[Alan W., writes on national defense, foreign policy, and international security

AND

Vol43No1.pdf, accessed: 8-15-13, SpS]

Error War

If these geo-political consequences of remote-control war do not get our attention, then the looming geo-strategic consequences should.

AND

remote-control pilots will do much to promote a liberal global order.

It would be ironic if the promise of risk-free warpresented by drones spawned a new era of danger for the United States and its allies.

# Contention 3 - International Law

#### US permissive drone policy is modeled globally - collapses international law

***Alston, 2011***

*[Philip, is the John Norton Pomeroy Professor of Law, New York University School of Law. The author was UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010. “The CIA and Targeted Killings Beyond Borders,” Accessed: 8-14-13, SpS]*

Because the United States inevitably contributes disproportionately to the shaping of global regime rules,

AND

United States before long when invoked by other states with highly problematic agendas.

#### All their “I Law fails” cards are non-unique – I Law fails because America is not engaged – our policies on drones and the war on terror are uniquely capable of establishing real respect for international law – if we don’t act now others will shape the international system against us

*Brian Lowenberg – 2013.* *(J.D., University of Houston Law Center (2004); Duke University Law School Transnational Law Institute (Geneva, Switzerland) (2002); B.A., International Affairs, Trinity University (2001)). He is a Partnership-Track Associate practicing with McElroy, Deutsch, Mulvaney & Carpenter, L.L.P. in Philadelphia, PA where he represents international clients in products liability cases, premises liability actions, and commercial litigation. He is also a former Casenotes and Comments Editor of this Journal, “THE UNITED STATES AS A BENEVOLENT INTERNATIONAL LEVIATHAN\* AND THE NEED FOR FRAMING A RESPONSE TO THE EMBASSY ATTACKS PURSUANT TO RECOGNIZABLE INTERNATIONAL LAW,” 6/4/2013,* [*http://www.hjil.org/wp-content/uploads/2013/11/Lowenberg-Final.pdf*](http://www.hjil.org/wp-content/uploads/2013/11/Lowenberg-Final.pdf)*, Accessed 12/3/2013, WSH)*

International law, by nature of its very name, should conjure up images of

AND

-Iraq War and Iraq’s attempt to systematically exterminate the Kurdish Iraqis.38

There were other traces of American support for an ICTI between the Gulf War and

AND

where there is no authoritative structure to ensure the sanctity of international law.

#### This internal link to international law outweighs alternate causes – the status quo actively prompts other countries to violate I-LAW

*Owen* ***Bowcott - 2012.*** *(Owen Bowcott is legal affairs correspondent. He was formerly the Guardian's* [*Ireland*](http://www.guardian.co.uk/world/ireland) *correspondent and also worked on the foreign newsdesk, The Guardian News Paper, “Drone strikes threaten 50 years of international law, says UN rapporteur,” 6/21/2012,* [*http://www.guardian.co.uk/world/2012/jun/21/drone-strikes-international-law-un*](http://www.guardian.co.uk/world/2012/jun/21/drone-strikes-international-law-un)*, Accessed 7/25/2013, WSH)*

QUOTE: The US policy of using aerial [drones](http://www.guardian.co.uk/world/drones) to carry out targeted killings presents

AND

surveillance, rather than relying on intelligence about specific al-Qaida activists.

#### **Effective international law solves warming and multiple scenarios for nuclear war**

***Institute for Energy and Environmental Research 2***

*and the Lawyers Committee on Nuclear Policy, Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties, May, http://www.ieer.org/reports/treaties/execsumm.pdf*

The evolution of international law since World War II is largely a response to the

AND

state has followed the U.S. example and opted out of compliance

#### Warming means extinction if nothing is done

*Graciela* ***Chichilnisky – 2013.*** *(Professor of Economics and of Statistics Director, Columbia Consortium for Risk Management (CCRM) Columbia University, 6th Annual Distinguished Lecture Chautauque Series on International StudiesKeynote Address for Women’s History MonthEastern Kentucky University, “Avoiding Extinction,” at least 2010,* [*http://www.chichilnisky.com/wp-content/uploads/2013/01/Avoiding-Extinction-EKU-revised-Jan-23-2013.pdf*](http://www.chichilnisky.com/wp-content/uploads/2013/01/Avoiding-Extinction-EKU-revised-Jan-23-2013.pdf)*, Accessed 8/16/2013, WSH)*

For the first time ever, humans dominate Planet Earth. We are changing the

AND

? Will humans survive? The issue now is how to avoid extinction.

#### Air pollution is rampant worldwide—we’re specifically losing the battle against acid rain:

Joseph Masilamany, 2/15/2013 (staff writer, “Air-pocalypse in the making,” <http://www.freemalaysiatoday.com/category/business/2013/02/15/air-pocalypse-in-the-making/>, Accessed 2/18/2013, rwg)

PETALING JAYA: The world is losing the battle for clean air. In spite

AND

% of total production – more than US$5 billion a year.

#### (--) Effective international law solves acid rain:

Mark L. Glode & Beverly Nelson Glode, 1993 (Master's in Civil Engineering, University of Wisconsin-Milwaukee & J.D., University of Bridgeport School of Law, Boston College Environmental Affairs Law Review, “TRANSBOUNDARY POLLUTION: ACID RAIN AND UNITED STATES-CANADIAN RELATIONS,” Fall 1993, 20 B.C. Envtl. Aff. L. Rev. 1, Lexis, accessed 7/23/2013, rwg)

The Montreal Protocol affirmed the role of traditional international law in bringing about solutions to

AND

has delayed and complicated resolution of transboundary air pollution between the two countries.

#### (--) Acid rain threatens extinction:

John E. Carroll, 1989 (Environmental Conservation Program at the University of New Hampshire, October 1989, “The Acid Challenge to Security,” Bulletin of the Atomic Scientists, accessed via google books, February 18, 2013, rwg)

The question is how long this will take, and how much damage will be

AND

and the ecosystem as a home for Homo sapiens hangs in the balance.

#### **(--) New satellite date confirms the Earth is facing severe water shortages:**

Daily Mail, 2/13/2013 (“Warnings of severe water shortages in the Middle East after satellites show freshwater reserves the size of the Dead Sea have dried up,” <http://www.dailymail.co.uk/sciencetech/article-2278040/Nasa-warn-freshwater-shortages-Middle-East-study-shows-diminished-reserves.html>, Accessed 2/18/2013, rwg)

Vast freshwater reserves nearly equivalent in size to the Dead Sea have

AND

 They say the precious water stocks have gone because of poor water management, increased demands for groundwater, and a major drought in 2007.

#### (--) International law is key to solve water shortages

Christopher L. Kukk & David A. Deese, 1996 (Ph.D. candidate in political science at Boston College & Director of International Studies at Boston College, UCLA Journal of International Law and Foreign Affairs, “AT THE WATER'S EDGE: REGIONAL CONFLICT AND COOPERATION OVER FRESH WATER,” 1 UCLA J. Int'l L. & For. Aff. 21, Lexis, accessed 7/23/2013, rwg)

Although the "difficulties" of severe water shortages may be alleviated by new technologies

AND

not inevitable and that the water scarcity-conflict link can be broken.

#### (--) Impending water shortages threaten human survival:

Miriam C. Nagel, 2013 (“Water Shortages,” <http://www.highbeam.com/topics/water-shortages-t25820>, Accessed 2/18/2013, rwg)

There is no shortage of water on Earth. However, there is a shortage

AND

they are needed and of handling wastewater, particularly in densely populated regions.

#### (--) International law is key to solving disease:

David P. Fidler, 2003 (“Emerging Trends in International Law Concerning Global Infectious Disease Control,” <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2958540/>, accessed 7/23/2013, rwg)

International cooperation has become critical in controlling infectious diseases. In this article, I

AND

disease control—embodied in the International Health Regulations—may be moribund.

#### (--) Diseases risk extinction:

The Scotsman, 9/11/1995 (“The mega death,” Lexis)

Bullets and bombs may be the weapons of the present, but plagues, viruses

AND

ordained evolutionary programme," warns Nobel Laureate Joshua Lederberg in The Coming Plague.