# 1AC Deterrence Advantage

#### Contention One is the Drones Arms Race:

#### 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

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The race for drones

An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones is that it has generated a new and dangerous arms race for this technology. At present, the use of lethal drones is seen as acceptable to US policy-makers because no other state possesses the ability to make highly sophisticated drones with the range, surveillance capability and lethality of those currently manufactured by the United States. Yet the rest of the world is not far behind. At least 76 countries have acquired UAV technology, including Russia, China, Pakistan and India. China is reported to have at least 25 separate drone systems currently in development. At present, there are 680 drone programmes in the world, an increase of over 400 since 2005. Many states and non-state actors hostile to the United States have begun to dabble in drone technology. Iran has created its own drone, dubbed the ‘Ambassador of Death’, which has a range of up to 600 miles.123 Iran has also allegedly supplied the Assad regime in Syria with drone technology. Hezbollah launched an Iranian-made drone into Israeli territory, 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 estimate, global spending on drones is likely to be more than US$94 billion by 2021. One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market. Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more. The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities.

The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to develop and deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own.

A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144

Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats.

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

Freedman, 2013

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Rhetoric that urges elimination on the assumption that the only alternative is Armageddon is not credible, almost seventy years into the nuclear age. It is also impossible to start from the goal of a world without nuclear weapons and work backwards to explain how this can come about. The many intermediate steps are contingent on so many other factors that any one scheme cannot accommodate them. In looking for first steps, the tendency is to pick up on whatever happens to be the most immediate unfinished business on the international agenda at hand/which, after half a century, is still a comprehensive test ban. If survival depends on a goal which middle-/aged politicians routinely say is both essential yet unlikely to be reached in their lifetime, then the inevitable result is fatalism. This might still be a perverse outcome of the recent campaigning, which if nothing else, has provided eloquent reminders of the terrible capacity to self-/destruct found in the international system.

The norms of nuclear nonproliferation, non-/use, and deterrence can be shown empirically to have brought important benefits. Now, they must be applied in cases marked by shifting and fraught political circumstances that make resort to nuclear arms conceivable. These norms are all vulnerable to being rejected by those who see them as cynical instruments of their opponents and the prejudicial morality of patronizing Western elites. If these norms are to have enduring value, they will require more than assertions of their past value/they need constant demonstrations of their relevance to new types of conflict involving new types of actors.

There is an inescapable logic in the assertion that if nuclear weapons did not exist, then the potential for nuclear war could not exist; however, so long as we are stuck in the nuclear age, even at lower levels of armaments, avoiding nuclear war will require intensive diplomacy and careful posturing. The challenge is not to re-/assert an old norm of disarmament, but to prevent the erosion of the old norms of deterrence, as in prudent appreciation of the dangers in taking a risk of nuclear war; of non-/proliferation, as in a grasp of the consequences of adding to the list of potential nuclear conflicts; 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

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[Keith, "The Fallacies of Cold War Deterrence and a New Direction," <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 opponent’s modes of thought and core beliefs, assessing how they are likely to affect its behavior, and formulating U.S. deterrence policy in light of those findings. In the absence of this, expectations about the behavior of that particular leadership will reflect a dangerous ignorance. Such ignorance clearly cannot be eliminated by even very serious efforts to “know the enemy.” But it may be reduced. Continued reliance on the convenient assumption of a rational and reasonable opponent now risks the type of foreign policy debacles that have followed such an assumption in the past—with the unprecedented additional threats posed by mass destruction weapons.

Accumulating pertinent information about a challenger will never be complete, and the relevant information is likely to change over time. Attempting to become familiar with the decision-making dynamics of foreign leaders, for the purpose of establishing an informed basis for deterring and coercing them, is not a trivial undertaking. And, it must be acknowledged that even extensive efforts at acquiring information concerning the factors underlying a challenger’s decision-making will not preclude surprising, un- predictable behavior based on unfamiliar or wholly obscure motives, goals, and values. Even well-informed policies of deterrence will not be predictably effective. Reducing the level of ignorance concerning the opponent in pertinent areas, however, may be possible in every case. And doing so should serve to increase the likelihood of effectiveness for U.S. deterrence policies by making those policies relatively more informed by the opponents’ various motivations and cost-benefit calculations.

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

Dowd, 2013

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Error War

If these geo-political consequences of remote-control war do not get our attention, then the looming geo-strategic consequences should. If we make the argument that UCAV pilots are in the battlespace, then we are effectively saying that the battlespace is the entire earth. If that is the case, the unintended consequences could be dramatic.

First, if the battlespace is the entire earth, the enemy would seem to have the right to wage war on those places where UCAV operators are based. That’s a sobering thought, one few policymakers have contemplated.

Second, power-projecting nations are following America’s lead and developing their own drones to target their distant enemies by remote. An estimated 75 countries have drone programs underway.45 Many of these nations are less discriminating in employing military force than the United States—and less skillful. Indeed, drones may usher in a new age of accidental wars. If the best drones deployed by the best military crash more than any other aircraft in America’s fleet, imagine the accident rate for mediocre drones deployed by mediocre militaries. And then imagine the international incidents this could trigger between, say, India and Pakistan; North and South Korea; Russia and the Baltics or Poland or Georgia; China and any number of its wary neighbors.

China has at least one dozen drones on the drawing board or in production, and has announced plans to dot its coastline with 11 drone bases in the next two years.46 The Pentagon’s recent reports on Chinese military power detail “acquisition and development of longer-range UAVs and UCAVs . . . for long-range reconnaissance and strike”; development of UCAVs to enable “a greater capacity for military preemption”; and interest in “converting retired fighter aircraft into unmanned combat aerial vehicles.”47 At a 2011 air show, Beijing showcased one of its newest drones by playing a video demonstrating a pilotless plane tracking a US aircraft carrier near Taiwan and relaying targeting information.48

Equally worrisome, the proliferation of drones could enable nonpower-projecting nations—and nonnations, for that matter—to join the ranks of power-projecting nations. Drones are a cheap alternative to long-range, long-endurance warplanes. Yet despite their low cost, drones can pack a punch. And owing to their size and range, they can conceal their home address far more effectively than the typical, nonstealthy manned warplane. Recall that the possibility of surprise attack by drones was cited to justify the war against Saddam Hussein’s Iraq.49

Of course, cutting-edge UCAVs have not fallen into undeterrable hands. But if history is any guide, they will. Such is the nature of proliferation. Even if the spread of UCAV technology does not harm the United States in a direct way, it is unlikely that opposing swarms of semiautonomous, pilotless warplanes roaming about the earth, striking at will, veering off course, crashing here and there, and sometimes simply failing to respond to their 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.

# 1AC International Law

#### Contention Two is 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 because it is making more extensive overt use of targeted killings than other states, its approach will heavily influence emerging global norms. This is of particular relevance in relation to the use of drones. There are strong reasons to believe that a permissive policy on drone-fired targeted killings will come back to haunt the United States in a wide range of potential situations in the not too distant future.

In 2011 a senior official noted that while for the past two decades the United States and its allies had enjoyed “relatively exclusive access to sophisticated precision-strike technologies,” that monopoly will soon be ended.574 In fact, in the case of drones, some 40 countries already possess the basic technology. Many of them, including Israel, Russia, Turkey, China, India, Iran, the United Kingdom and France either have or are seeking drones that also have the capability to shoot laser-guided missiles. Overall, the United States accounts for less than one-third of worldwide investment in UAVs.575 On ‘Defense Industry Day’, August 22, 2010, the Iranian President unveiled a new drone with a range of 1,000 kilometers (620 miles) and capable of carrying four cruise missiles.576 He referred to the drones as a ‘messenger of honour and human generosity and a saviour of mankind’, but warned ominously that it can also be ‘a messenger of death for enemies of mankind’.577

To date, the United States has opted to maintain a relatively flexible and open-ended legal regime in relation to drones, in large part to avoid setting precedents and restricting its own freedom of action.578 But this policy seems to assume that other states will not acquire lethal drone technology, will not use it, or will not be able to rely upon the justifications invoked by the United States. These assumptions seem questionable. American commentators favoring a permissive approach to targeted killings abroad are generally very careful to add that such killings would under no circumstances be permitted within the United States.579

Thus when the United States argues that targeted killings are legitimate when used in response to a transnational campaign of terror directed at it, it needs to bear in mind that other states can also claim to be so afflicted, even if the breadth of the respective terrorist threats is not comparable. Take Russia, for example, in relation to terrorists from the Caucasus. It has characterized its military operations in Chechnya since 1999 as a counter-terrorism operation and has deployed ‘seek and destroy’ groups of army commandoes to “hunt down groups of insurgents”.580 It has been argued that the targeted killings that have resulted are justified because they are necessary to Russia’s fight against terrorism.581 Although there are credible reports of targeted killings conducted outside of Chechnya, Russia has refused to acknowledge responsibility for, or otherwise justify, such killings. It has also refused to cooperate with any investigation or prosecution.582

In 2006 the Russian Parliament passed a law permitting the Federal Security Service (FSB) to kill alleged terrorists overseas, if authorized to do so by the President.583 The law defines terrorism and terrorist activity extremely broadly, including “practices of influencing the decisions of government, local self-government or international organizations by terrorizing the population or through other forms of illegal violent action,” and also any “ideology of violence.”584

Under the law, there appears to be no restriction on the use of military force “to suppress international terrorist activity outside the Russian Federation.”585 The law requires the President to seek the endorsement of the Federation Council to use regular armed forces outside Russia, but the President may deploy FSB security forces at his own discretion. According to press accounts, at the time of the law’s passage, “Russian legislators stressed that the law was designed to target terrorists hiding in failed States and that in other situations the security services would work with foreign intelligence services to pursue their goals.”586 There is no publicly available information about any procedural safeguards to ensure Russian targeted killings are lawful, the criteria for those who may be targeted, or accountability mechanisms for review of targeting operations. In adopting the legislation, Russian parliamentarians claimed that “they were emulating Israeli and US actions in adopting a law allowing the use of military and special forces outside the country’s borders against external threats.”587

China is another case in point. It has consistently characterized unrest among its Uighur population as being driven by terrorist separatists. But Uighur activists living outside China are not so classified by other states. That means that China could invoke American policies on targeted killing to carry out a lethal attack against a Uighur activist living in Europe or the United States. The Chinese Foreign Ministry welcomed the killing of Osama bin Laden as “a milestone and a positive development for the international antiterrorism efforts,” adding ominously in reference to the Uighur situation that “China has also been a victim of terrorism”.588 When a journalist asked how American practice in Pakistan compared to possible Chinese external action against a Uighur to a senior United States counter-terrorism official the latter distinguished the situations from one another on the unconvincing grounds of Pakistan’s special relationship with the United States.589

A more realistic note was struck by Anne-Marie Slaughter after bin Laden’s killing when she observed that “having a list of leaders that you are going to take out is very troubling morally, legally and in terms of precedent. If other countries decide to apply that principle to us, we’re in trouble.”590 The conclusion to be drawn is that the United States might, in the not too distant future, need to rely on international legal norms to delegitimize the behavior of other states using lethal drone strikes. For that reason alone, it would seem prudent today to be contributing to the construction of a regime which strictly limits the circumstances in which one state can seek to kill an individual in another state without the latter’s consent and without complying with the applicable rules of international law. To the extent that the United States genuinely believes it is currently acting within the scope of those rules it needs to provide the evidence.

F. Conclusion

This Article has not sought to spell out the options open to the United States in order to bring its conduct within the law. The bottom line is that intelligence agencies, and particularly those that are effectively unaccountable, should not be conducting lethal operations abroad. Beyond that proposition, there is a great deal that the CIA could do if it so wished, including making public its commitment to comply with both IHL and IHRL, disclosing the legal basis on which it is operating in different situations involving potential killings, providing information on when, where and against whom drone strikes can be authorized, and publishing its estimates on the number and rate of civilian casualties. Full transparency is neither sought nor expected, but basic compliance with the standards applied by the US military, and both consistently and insistently demanded of other countries by the United States, is indispensable.Examining the CIA’s transparency and accountability in relation to targeted killings also sheds light on a range of other issues that international human rights law needs to tackle in a more systematic and convincing manner. They include the approach adopted by international law to the activities of intelligence agencies, the (in)effectiveness of existing monitoring mechanisms in relation to killings governed by a mixed IHL/IHRL regime, and the techniques needed to monitor effectively human rights violations associated with new technologies such as unmanned drones and robotics. International human rights institutions need to respond more robustly to the growing chorus of proposals that targeted killings be liberated from the hard-fought legal restraints that apply to them. There is a great deal at stake and these crucial issues have been avoided for too long. The principal focus of this Article has been on the question of CIA accountability for targeted killings, under both United States law and international law. As the CIA, often in conjunction with DOD Special Operations forces, becomes ever more deeply involved in carrying out extraterritorial targeted killings both through kill/capture missions and drone-based missile strikes in a range of countries, the question of its compliance with the relevant legal standards becomes even more urgent. Assertions by Obama administration officials, as well as by many scholars, that these operations comply with international standards are undermined by the total absence of any forms of credible transparency or verifiable accountability. The CIA’s internal control mechanisms, including its Inspector-General, have had no discernible impact; executive control mechanisms have either not been activated at all or have ignored the issue; congressional oversight has given a ‘free pass’ to the CIA in this area; judicial review has been effectively precluded; and external oversight has been reduced to media coverage which is all too often dependent on information leaked by the CIA itself. As a result, there is no meaningful domestic accountability for a burgeoning program of international killing. This in turn means that the United States cannot possibly satisfy its obligations under international law to ensure accountability for its use of lethal force, either under IHRL or IHL. The result is the steady undermining of the international rule of law, and the setting of legal precedents which will inevitably come back to haunt the United States before long when invoked by other states with highly problematic agendas.

#### 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 a major challenge to the system of international law that has endured since the second world war, a [United Nations](http://www.guardian.co.uk/world/unitednations) investigator has said. Christof Heyns, the UN special rapporteur on extrajudicial killings, summary or arbitrary executions, told a conference in Geneva that President Obama's attacks in [Pakistan](http://www.guardian.co.uk/world/pakistan), Yemen and elsewhere, carried out by the CIA, would encourage other states to flout long-established [human rights](http://www.guardian.co.uk/law/human-rights) standards. In his strongest critique so far of drone strikes, Heyns suggested some may even constitute "war crimes". His comments come amid rising international unease over the surge in killings by remotely piloted unmanned aerial vehicles (UAVs). Addressing the conference, which was organised by the American Civil Liberties Union (ACLU), a second UN rapporteur, Ben Emmerson QC, who monitors counter-terrorism, announced he would be prioritising inquiries into drone strikes. The London-based barrister said the issue was moving rapidly up the international agenda after China and Russia this week jointly issued a statement at the UN Human Rights Council, backed by other countries, condemning drone attacks. If the US or any other states responsible for attacks outside recognised war zones did not establish independent investigations into each killing, Emmerson emphasised, then "the UN itself should consider establishing an investigatory body". Also present was Pakistan's ambassador to the UN in Geneva, Zamir Akram, who called for international legal action to halt the "totally counterproductive attacks" by the US in his country. Heyns, a South African law professor, told the meeting**: "Are we to accept major changes to the international legal system which has been in existence since world war two and survived nuclear threats?"** Some states, he added, "find targeted killings immensely attractive. Others may do so in future … Current targeting practices weaken the rule of law. Killings may be lawful in an armed conflict [such as Afghanistan] but many targeted killings take place far from areas where it's recognized as being an armed conflict." If it is true, he said, that "there have been secondary drone strikes on rescuers who are helping (the injured) after an initial drone attack, those further attacks are a war crime". Heyns ridiculed the US suggestion that targeted UAV strikes on al-Qaida or allied groups were a legitimate response to the 9/11 attacks. "It's difficult to see how any killings carried out in 2012 can be justified as in response to [events] in 2001," he said. "Some states seem to want to invent new laws to justify new practices. "The targeting is often operated by intelligence agencies which fall outside the scope of accountability. The term 'targeted killing' is wrong because it suggests little violence has occurred. The collateral damage may be less than aerial bombardment, but because they eliminate the risk to soldiers they can be used more often." Heyns told the Guardian later that his future inquiries are likely to include the question of whether other countries, such as the UK, share intelligence with the US that could be used for selecting individuals as targets. A legal case has already been lodged in London over the UK's alleged role in the deaths of British citizens and others as a consequence of US drone strikes in Pakistan. Emmerson said that protection of the right to life required countries to establish independent inquiries into each drone killing. "That needs to be applied in the context of targeted killings," he said. "It's possible for a state to establish an independent ombudsman to inquire into every attack and there needs to be a report to justify [the killing]." Alternatively, he said, it was "for the UN itself to consider establishing an investigatory body. Drones attacks by the US raise fundamental questions which are a direct consequence of my mandate… If they don't [investigate] themselves, we will do it for them." **It is time, he added, to end the "conspiracy of silence" over drone attacks and "shine the light of independent investigation" into the process.** The attacks, he noted, were not only on those who had been killed but on the system of "international law itself". The Pakistani ambassador declared that more than a thousand civilians had been killed in his country by US drone strikes. "We find the use of drones to be totally counterproductive in terms of succeeding in the war against terror. It leads to greater levels of terror rather than reducing them," he said. Claims made by the US about the accuracy of drone strikes were "totally incorrect", he added. Victims who had tried to bring compensation claims through the Pakistani courts had been blocked by US refusals to respond to legal actions. The US has defended drone attacks as self-defence against al-Qaida and has refused to allow judicial scrutiny of the UAV programme. On Wednesday, the Obama administration issued a fresh rebuff through the US courts to an ACLU request for information about targeting policies. Such details, it insisted, must remain "classified". Hina Shamsi, director of the ACLU's national security project, said: "Something that is being debated in UN hallways and committee rooms cannot apparently be talked about in US courtrooms, according to the government. Whether the CIA is involved in targeted lethal operation is now classified. It's an absurd fiction."The ACLU estimates that as many as 4,000 people have been killed in US drone strikes since 2002 in Pakistan, Yemen and Somalia. Of those, a significant proportion were civilians. The numbers killed have escalated significantly since Obama became president. The USA is not a signatory to the International Criminal Court (ICC) or many other international legal forums where legal action might be started. It is, however, part of the International Court of Justice (ICJ) where cases can be initiated by one state against another. Ian Seiderman, director of the International Commission of Jurists, told the conference that "immense damage was being done to the fabric of international law". One of the latest UAV developments that concerns human rights groups is the way in which attacks, they allege, have moved towards targeting groups based on perceived patterns of behaviour that look suspicious from aerial 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 demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system established by a treaty. However, influential U.S. policymakers are resistant to the idea of a treaty-based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments that can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. When the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance

#### Warming means extinction if nothing is done

*Graciela* ***Chichilnisky – at least 2010.*** *(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 basic metabolism of the planet: the composition of gases in the atmosphere, the integrity of its bodies of water, and the complex web of species that makes life on Earth. What comes next? The changes we are precipitating in the atmosphere are fundamental and can lead to disruptions in climate and global warming. Signals abound: in the Southern hemisphere alpine glaciers and Antartic ice sheets are melting; in the Northern hemisphere Alaska’s permafrost is melting, sinking entire towns whose inhabitants are being relocated at a cost of $140,000 per person. Greenland's ice sheet is gone, creating hostile climate conditions for a number of species that are now close to extinction such as the polar bear. In Patagonia and the Alps we observe mountains without ice or glaciers, reducing the ability of these regions to store water needed for human consumption. In the Caribbean seas 50% of corals are already extinct. Desertification has overtaken 25% of China's land mass. Climatic instability has led to Australia’s longest draught on record, followed by the worst floods in that continent’s history. We observe disappearing summer ice in the Arctic Seas and soil erosion and storm surges in Alaska. Where is all of this coming from? The rapid industrialization of wealthy nations during the last century is responsible for most of the changes and for the risks they entail. Historically the industrialized nations in the Organization of Economic Cooperation and Development (OECD) originated 70% (now still 60%) of all global emissions of carbon, emissions that most scientists in the world, including those in the United Nations Intergovernmental Panel on Climate Change, believe to cause climate change. China’s relentless industrial growth over the last two decades is a sign of things to come: it accelerates the risk of climate change and underscores the fact that in 20 or 30 years into the future most emissions could come from today's poor nations as they assume their turn to industrialize. Water expands when it warms. Since the seas are warming they are rising all over the world. This irrevocable upward trend is well documented: slowly but surely the rising waters will sink the Maldives and most other island states – there are 43 island states in the United Nations representing about 23% of the global vote and most or all could disappear soon under the warming seas. The current shift in climate patterns has led to habitat changes for many insect species and therefore vector illnesses, for example new outbreaks of malaria in Africa. 25 million people are reportedly migrating due to drought and other climate change conditions, and the numbers are increasing rapidly. In the US the consequences are less extreme but they stack up: the mighty Colorado River is drying up, its basin under stress prompts orders to turnoff farm water. Lake Mead’s waters in Nevada exhibit record lows threatening the main supply of water to Las Vegas, and arid areas are spreading quickly as Vegas’ new sites double water use. Wild fires from drought conditions have multiplied and spread rapidly around the region, including California since 2006.The world is aware of the connection that scientists postulate between climate change and the use of fossil energy. The largest segment of carbon emissions, 45% of all global emissions of CO2, originate in the world’s power plant infrastructure, 87% of which are fossil fuel plants that produce the overwhelming majority of the world's electricity. This power plant infrastructure represents $55 trillion according to the International Energy Agency, about the size of the world's economic output. New forms of clean energy are emerging such as wind farms in Scotland and solar farms in Spain in an attempt to forestall carbon emissions. But the process is necessarily slow since the world’s fossil power plant infrastructure is comparable to the world’s entire GDP, and therefore changing this infrastructure will take decades. But this timeframe - several decades - is too slow to avert the potential catastrophes that are anticipated in the next 10 - 20 years. What, then, is the solution? Below we propose a realistic plan that involves market solutions in both industrial and developing nations, simultaneously resolving the problems of economic development and climate change and the global climate negotiations. But the climate change issue is just one of several global environmental areas that are in crisis today. Biodiversity is another: industrialization and climate warming threaten ecosystems. Endangered species include sea- mammals, birds such as cockatoos, polar bears, and marine life such as coral, sawfish, whales, sharks, dogfish, sea-turtles, skates, grouper, seals, rays, and bass; the survival even of primates, our cousins in evolution is at risk. Scientists know that we are in the midst of the 6th largest extinction of biodiversity in the history of Planet Earth, and that the scope of extinction is so large that 75% of all known species are at risk today. The UN Millennium Report documents rates of extinction 1,000 times higher than is found in fossil records. The current 6th largest extinction event follows the dinosaurs’ extinction, which took place 65 million years ago. But today's extinction event is unique in that it is caused, created, by human activity. And it puts our own species at risk. There is a warning signal worth bringing up: all major recorded planetary extinctions were related to changes in climate conditions. Through industrialization we have created environmental conditions that could put our own species’ survival at risk. 99.9% of all species that ever existed are now extinct. Are we to be next? 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 of several decades of efforts to combat it, air pollution is taking an increasing toll on human health, the environment and the economy.¶ A recent study by the Washington-based Worldwatch Institute says more than a billion people – or one-fifth of all humanity – live in regions that do not meet World Health Organisation’s air quality standards.¶ According to the institute, air pollution in the US causes as many as 50,000 deaths per year and costs as much as US$40 billion (RM123.62 billion) annually in healthcare and lost productivity.¶ Around the world, Milan, Shenyang, Tehran, Seoul and Rio de Janeiro reported the worst levels of sulphur dioxide – a pollutant directly harmful to humans. Paris and Madrid also made the top 10 in the list.¶ Though concern for human health led to the world’s first control laws, air pollution poses an equally grave threat to the environment. Many water systems around the world are turning toxically rabid because of acid rain, 35% of Europe’s forests are showing signs of air pollution damage and crop losses in the US caused by harmful emissions are estimated to be 5%-10% 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 transboundary pollution problems. n104 Analogously, the North American acid rain problem can be resolved through application of international environmental law. The Montreal protocol provides a model of the type of agreement the United States and Canada must reach to abate the acid rain problem confronting the two nations. While this task is difficult it is not insuperable. The United States and Canada have entered agreements to resolve pollution problems in the past. Most notable are the 1972 and 1978 Great Lakes Water Quality Agreements. n105 On the other hand, many of the issues presented by the acid rain debate [\*13] have sparked strong emotional reaction, in the United States and Canada, which 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 done in the interim. Technology and conventional economic and political decisions may cover over problems temporarily or shift their burdens to other people or ecosystems but will not resolve them. With acid rain and its analogs, there is no national or personal security. Balance will be restored, and whether the restoration is dictated by nature or whether it is guided by humankind and thus provides for human survival is still a matter of human choice. But we cannot stop acid rain or other forms of air pollution while continuing to make the lifestyle and consumption and investment decisions that we make daily. If we do not achieve greater harmony with the natural environment, the future of national security, the nation-state, 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 been lost in the Middle East in the last decade, according to a new Nasa study.¶ Scientists warn there could be severe water shortages in decades to come if water resources are not managed better in the region.¶ 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, better water management, and conservation, the water scarcity-conflict link must still be addressed urgently. Until regional organizations are developed and international law is respected and adopted, water scarcity will continue to be a cause of tension and conflict in the Middle East. Similarly, water scarcity will continue to be a threat to regional and international stability as long as countries define their security in misleading, dangerously narrow terms; refuse to share hydrological information and surpluses of water; and fail to establish regional treaties or agreements concerning the use of international water resources. Still, the solutions discussed herein are meant to show that conflict over water scarcity is 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 of potable water—water suitable for humans to consume—and also of clean water for washing and crop irrigation in areas where some people live. Fresh, clean water is essential for human survival, but this natural resource is seriously threatened by human activities, such as overuse and mismanagement.¶ Other human activities, such as the burning of fossil fuels, are contributing to climate change, and global supplies of freshwater also are negatively impacted by these changes. Weather patterns are shifting, and unusually strong storms are altering the hydrologic cycle. In addition, the growing human population is placing an ever-increasing burden on the world's water supplies. This growing population presents the challenges of maintaining adequate freshwater resources where they are needed and of handling wastewater, particularly in densely populated regions.

# Plan

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

# 1AC Solvency

#### Contention 3: 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. Article 6 of the ICCPR does not provide explicitly that there must be an investigation. The Human Rights Committee in General Comment No. 6 noted that the law must ‘strictly control and limit the circumstances in which a person may be deprived of their life by the authorities’, and to take ‘measures…to prevent and punish deprivation of life’.76 In subsequent cases, the Committee has noted that the state is subject to a duty to ‘take effective steps to investigate’ the deprivation of life.77 This requires a ‘proper’ and ‘independent’ investigation to be carried out.78 The Committee has not been prescriptive of any particular form of oversight, 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 has frequently observed that protection of the right to life required some form of official investigation when state agents have killed individuals as a result of the use of force. The purpose of this investigatory obligation was to ensure accountability for deaths occurring under their responsibility. In order to meet this investigatory obligation, the state had to initiate a prompt and independent investigation capable of determining whether lethal force was justified. There must also be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory.79Some exercises of executive power that interfere with human rights also require judicial oversight. For example in Klass v Germany the court noted in the context of covert surveillance laws that ‘an interference by the executive authorities with an individual's rights should be subject to an effective control which should normally be assured by the judiciary, at least in the last resort, judicial control offering the best guarantees of independence, impartiality and a proper procedure.’ 80 The court also noted that ‘in a field where abuse is potentially so easy in individual cases and could have such harmful consequences for democratic society as a whole, it is in principle desirable to entrust supervisory control to a judge.’ 81Likewise, the Israeli Supreme Court underscored the importance of judicial review of targeted killings when reviewing the executive’s practice.82

The US executive has resisted calls for the introduction of external checks on its decisions to target suspect terrorists. Recently Brennan has noted, ‘a state that is engaged in an armed conflict or in legitimate self-defence is not required to provide targets with legal process before the state may use lethal force.’ 83 Furthermore, Brennan also noted that adequate process was also unnecessary, as the ‘procedures and practices for identifying lawful targets are extremely robust…They are implemented rigorously throughout the planning and execution of lethal operations to ensure that such operations are conducted in accordance with applicable law.’ 84 Despite assurance that the US practice of targeted killings accords with applicable law in the planning and execution stages, there are a number of concerns from an IHRL perspective. First, the characterisation of ‘applicable law’ is essentially one that is defined unilaterally by the US executive alone without any judicial challenge. The US District Court in Al-Aulai v Obama did not allay these concerns in finding that the issues raised non-justiciable political questions. Accordingly the US executive may be applying standards that fall short of IHRL, especially given that it primarily characterises the applicable law as IHL. Second, the failure to provide any form of independent mechanism violates basic procedural requirements under IHRL. The reasons presented by US officials to resist independent oversight are unconvincing. In particular, as analysed above, the procedural minimum standard under IHRL does not require audial te rampartem to be respected in the sense that the target has an opportunity of notice and reply prior to the commencement of any drone strike. Rather, the need for an independent investigation requires at a minimum a post-hoc examination of all the circumstances. Such oversight should be capable, it is submitted, of identifying, amongst other matters, whether the individual was a member of a terrorist organization; the evidence that establishes he was engaged in acts of terrorism; whether he was arbitrarily deprived of his life. Third, the suggestion that independent oversight is unjustified or unnecessary reflects a worrying trend by US administrations to insulate counter-terrorism decisions from public accountability. Indeed, the reported human rights abuses at Guantanamo Bay provide a poignant example of the dangers of unchecked power.85

IV. Conclusion

It has been argued in this article that the US justification for targeted killings, resting on self-defence and the existence of an armed conflict with al-Qaeda, is unduly narrow and does not provide an adequate justification for all targeted killings to date. Outside of a defined zone of conflict, the US must justify any targeted killings as consistent with the international law of self-defence and IHRL. The international law of selfdefence serves to preclude the wrongfulness of any use of force on another state’s territory, whereas IHRL provides the appropriate framework to assess the legality of depriving an individual of their life.

Whilst IHRL imposes stringent requirements for the use of lethal force, it is to be noted that some pronouncements from human rights decision-makers recognise that the standards of necessity and proportionality are adaptable, taking into account the gravity of the threat posed to life and the extent to which the authorities are able to assert control over the suspected terrorists. Indeed, if an expanded definition of jurisdiction is given so that the ICCPR enjoys wide extra-territorial effects, it necessarily follows that the standards that qualify the right to life will also take into account a range of factors unique to any extra-territorial use of force. To assert otherwise would be to impose a domestic law enforcement paradigm on the quite different context and challenges arising from the extra-territorial uses of force.

Yet, IHRL is also relevant in another important way; in requiring the US to take measures domestically to provide a legal basis for the killings and an effective means of investigating each killing. In order to enhance the legitimacy of targeted killings and to safeguard from abuse, the US should take steps to provide a legislative standard governing the use of lethal force against suspect terrorists. Effective mechanisms of administrative and judicial review should also be put in place to protect against abuse and ensure that targeted killings only occur in accordance with law.

#### 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 to a modern application of customary international law are not dispositive. Since the judiciary is not precluded from applying customary international law by the Constitution, history, or political theory, the only remaining question to be answered is whether the judiciary should begin applying it. The answer is clearly yes, for a number of reasons. First, there is the fact that much of international law since the Second World War has been created and fostered under the auspices, and to the benefit, of the United States. Judicial applications of international law have the possibility of continuing to solidify and evolve that process. Second, the decisions of domestic tribunals, as evidence of state practice, can have a significant impact on the further development of international law. [n301](http://www.lexisnexis.com.ezproxy.samford.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1283045542529&returnToKey=20_T10006208298&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.794553.2787725402#n301) Increased participation of the domestic judiciary in international law cases will aid in the development of international law in accordance with the interests of the United States.  [\*620]  Third, United States attempts to foster the rule of law in other nations have been **seriously hampered** by this country's refusal to be **bound by** the very proscriptions it espouses. This country's **return to international legitimacy**, even if through judicial imposition, would go far to **strengthening the rule of law** in international relations -- a development that can only support American interests. Finally, the disproportionate effect that this country's actions have upon the development of international law is another factor compelling the judiciary to enforce legitimacy. The incorporation of this law into United States constitutional discourse could have important ramifications. Such an incorporation could simultaneously strengthen the body of customary international law and make it easier for other nations to identify and enforce this law. Once these laws are made explicit it will become more difficult for violations to occur.

After-the-fact judicial review solves best – deters unlawful policy by allowing for judicial competence that balances government secrecy with the defendant’s rights  
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 adversity or judicial competence. With respect to adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief, it’s difficult to see any pure Article III problem with such a suit for retrospective relief. As for competence, judges routinely review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what the Supreme Court’s 1985 decision in Tennessee v. Garner20 contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, it demonstrates that judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances—albeit not always ideally—the government’s interest in secrecy with the detainee’s ability to contest the evidence against him.21 Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures,22 so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own. And although the Guantánamo procedures have been developed by courts on an ad hoc basis (a process that has itself been criticized by some jurists),23 Congress might also look to provisions it enacted in 1996 in creating the little-known Alien Terrorist Removal Court, especially 8 U.S.C. § 1534,24 as a model for such proceedings

More to the point, it should also follow that courts would be far more able as a practical matter to review the relevant questions in these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight—removed from the pressures of the moment and with the benefit of the dispassionate distance that judicial review provides. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc.

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.

As I mentioned before, there would still be a host of legal doctrines that would likely get in the way of such suits. Just to name a few, there is the present (albeit, in my view, unjustified) hostility to judicially inferred causes of actions under Bivens; the state secrets privilege; and sovereign and official immunity doctrines. But I am a firm believer that, except where the President himself is concerned (where there’s a stronger argument that immunity is constitutionally grounded),25 each of these concerns can be overcome by statute—as at least some of them arguably have been in the context of the express damages actions provided for under FISA.26 So long as Congress creates an express cause of action for nominal damages, and so long as the statute both (1) expressly overrides state secrets and immunity doctrines; and (2) replaces them with carefully considered procedures for balancing the secrecy concerns that would arise in many—if not most—of these cases, these legal issues would be vitiated. Moreover, any concerns about exposing to liability government officers who acted in good faith and within the scope of their employment can be ameliorated by following the model of the Westfall Act, and substituting the United States as the proper defendant in any suit arising out of such an operation.27

Perhaps counterintuitively, I also believe that after-the-fact judicial review wouldn’t raise anywhere near the same prudential concerns as those noted above. Leaving aside how much less pressure judges would be under in such cases, it’s also generally true that damages regimes don’t have nearly the same validating effect on government action that ex ante approval does. Otherwise, one would expect to have seen a dramatic upsurge in lethal actions by law enforcement officers after each judicial decision refusing to impose individual liability arising out of a prior use of deadly force. So far as I know, no such evidence exists.

Of course, damages actions aren’t a perfect solution here. It’s obvious, but should be said anyway, that in a case in which the government does act unlawfully, no amount of damages will make the victim (or his heirs) whole. It’s also inevitable that, like much of the Guantánamo litigation, most of these suits would be resolved under extraordinary secrecy, and so there would be far less public accountability for targeted killings than, ideally, we might want. Some might also object to this proposal as being unnecessary—that, given existing criminal laws and executive orders, there is already a sufficiently clear prohibition on unlawful strikes to render any such damages regime unnecessarily superfluous.

At least as to this last objection, it bears emphasizing that the existing laws depend entirely upon the beneficence of the Executive Branch, since they assume both that the government will (1) willfully disclose details of unlawful operations rather than cover them up; and (2) prosecute its own in cases in which they cross the line. Given both prior practice and unconfirmed contemporary reports of targeted killing operations that appear to raise serious legality issues, such as “signature strikes,” it doesn’t seem too much of a stretch to doubt that these remedies will prove sufficient.

In addition, there are two enormous upsides to damages actions that, in my mind, make them a least-worst solution—even if they are deeply, fundamentally flawed:

First, if nothing else, the specter of damages, even nominal damages, should have a deterrent effect on future government officers, such that, if a targeted killing operation ever was carried out in a way that violated the relevant legal rules, there would be liability—and, as importantly, precedent—such that the next government official in a similar context might think twice, and might make sure that he’s that much more convinced that the individual in question is who the government claims, and that there’s no alternative to the use of lethal force.

Second, at least where the targets of such force are U.S. citizens, I believe that there is a non-frivolous argument that the Constitution may even compel at least some form of judicial process.28 Compared to the alternatives, nominal damages actions litigated under carefully circumscribed rules of secrecy may be the only way to balance all of the relevant private, government, and legal interests at stake in such cases.

# CP

PDB

CP Doesn’t solve and links to politics – president will ignore the counterplan   
Posner, 2011

[Eric A., University of Chicago Law School Professor, “DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER 9/11:

CONGRESS, THE COURTS AND THE OFFICE OF LEGAL COUNSEL,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1932393>, accessed: 9-22-13, SpS]

These two events neatly encapsulate the dilemma for OLC, and indeed all the president’s legal advisers. If OLC tries to block the president from acting in the way he sees fit, it takes the risk that he will disregard its advice and marginalize the institution. If OLC gives the president the advice that he wants to hear, it takes the risk that it will mislead him and fail to prepare him for adverse reactions from the courts, Congress, and the public.

Can OLC constrain the executive? That is the position taken by many scholars, most notably Jack Goldsmith.18 The underlying idea here is that even if Congress and the courts cannot constrain the executive, perhaps offices within the executive can. The opposite view, advanced by Bruce Ackerman, is that OLC is a rubber stamp.19 I advocate a third view: OLC does not constrain the executive but enables him to accomplish goals that he would not otherwise be able to accomplish. It is more accurate to say that OLC enables than constrains.

A. Background on OLC

OLC is a small office in the Justice Department headed by an assistant U.S. Attorney General.20 The OLC head is nominated by the president and confirmed by the Senate, and is formally a subordinate of the Attorney General. OLC is essentially an adviser to an adviser. The Attorney General’s chief obligation is to give advice to the president; he typically relies on OLC to produce that advice. But he retains the authority to disagree and disregard it if he so chooses. In practice, OLC often gives advice directly to the president because the Attorney General has delegated to it much of his advice-giving role.

Most matters that come before OLC are routine. OLC provides legal analysis of bills, executive orders, and signing statements. OLC also plays an important role in resolving disputes among executive agencies over legal authority. In most of these cases, the president does not have any particular agenda, and so OLC can give honest advice without fear of retribution. In a number of significant cases, however, OLC is asked by the White House to evaluate a proposed action or policy that the president clearly seeks to pursue. For example, the president may seek to launch a military intervention, and asks OLC for legal authorization. In these cases, the White House may put pressure on OLC to rubber stamp the action.

B. OLC as a Constraint on the Executive

A number of scholars have argued that OLC can serve as an important constraint on executive power. I will argue that OLC cannot act as a constraint on executive power. Indeed, its only function is the opposite—as an “enabler” (as I will put it) or extender of executive power. A president must choose a course of action. He goes to OLC for advice. Ideally, OLC

will provide him good advice as to the legality of the course of action. It will not provide him political advice and other relevant types of advice. The president wants to maximize his political advantage,21 and so he will follow OLC’s advice only if the legal costs that OLC identifies are greater than the political benefits. On this theory, OLC will properly always give the president neutral advice, and the president will gratefully accept it although not necessarily follow it.

If the story ended here, then it would be hard to see what the controversy over OLC could be about. As an adviser, it possesses no ability to constrain the executive. It merely provides doctrinal analysis, in this way, if it does its job properly, merely supplying predictions as to how other legal actors will react to the president’s proposed action. The executive can choose to ignore OLC’s advice, and so OLC cannot serve as a “constraint” on executive power in any meaningful sense. Instead, it merely conveys to the president information about the constraints on executive power that are imposed from outside the executive branch.

However, there is an important twist that complicates the analysis. The president may choose to publicize OLC’s opinions. Naturally, the president will be tempted to publicize only favorable opinions. When Congress22 claims that a policy is illegal, the president can respond that his lawyers advised him that the policy is legal. This response at least partially deflects blame from the president. There are two reasons for this. First, the Senate consented to the appointment of these lawyers; thus, if the lawyers gave bad advice, the Senate is partly to blame, and so the blame must be shared. Second, OLC lawyers likely care about their future prospects in the legal profession, which will turn in part on their ability to avoid scandals and to render plausible legal advice; they may also seek to maintain the office’s reputation. When OLC’s opinions are not merely private advice, but are used to justify actions, then OLC takes on a quasi-judicial function. Presidents are not obliged to publicize OLC’s opinions, but clearly they see an advantage to doing so, and they have in this way given OLC quasi-judicial status.

But if the president publicizes OLC opinions, he takes a risk. The risk is that OLC will publicly advise him that an action is illegal. If OLC approval helps deflect blame from the president, then OLC disapproval will tend to concentrate blame on the president who ignores its advice. Congress and the public will note that after all the president is ignoring the advice of lawyers that he appointed and thus presumably he trusts, and this can only make the president look bad. To avoid such blame, the president may refrain from engaging in a politically advantageous action. In this way, OLC may be able to prevent the president from taking an action that he would otherwise prefer. At a minimum, OLC raises the political cost of the action.

I have simplified greatly, but I believe that this basic logic has led some scholars to believe that OLC serves as a constraint on the president. But this is a mistake. OLC strengthens the president’s hand in some cases and weakens them in others; but overall it extends his power—it serves as enabler, not constraint.

To see why, consider an example in which a president must choose an action that lies on a continuum. One might consider electronic surveillance. At one extreme, the president can engage in actions that are clearly lawful—for example, spying on criminal suspects after obtaining warrants from judges. At the other extreme, the president can engage in actions that are clearly unlawful—for example, spying on political opponents. OLC opinions will not affect Congress’s or the public’s reaction to either the obviously lawful or the obviously unlawful actions. But then there are middle cases. Consider a policy L, which is just barely legal, and a policy I, which is just barely illegal. The president would like to pursue policy L but fears that Congress and others will mistakenly believe that L is illegal. As a result, political opposition to L will be greater than it would be otherwise.

In such a case, a favorable advisory opinion from a neutral legal body that has credibility with Congress will help the president. OLC’s approval of L would cause political opposition (to the extent that it is based on the mistaken belief that L is unlawful) to melt away. Thus, OLC enables the president to engage in policy L, when without OLC’s participation that might be impossible. True, OLC will not enable the president to engage in I, assuming OLC is neutral. And, indeed, OLC’s negative reaction to I may stiffen Congress’ resistance. However, the president will use OLC only because he believes that OLC will strengthen his hand on net.

It might be useful to make this point using a little jargon. In order for OLC to serve its ex ante function of enabling the president to avoid confrontations with Congress in difficult cases, it must be able to say “no” to him ex post for barely illegal actions as well as “yes” to him for barely legal actions. It is wrong to consider an ex post no as a form of constraint because, ex ante, it enables the president to act in half of the difficult cases. OLC does not impose any independent constraint on the president, that is, any constraint that is separate from the constraint imposed by Congress.

An analogy to contract law might be useful. People enter contracts because they enable them to do things ex ante by imposing constraints on them ex post. For example, a debtor can borrow money from a creditor only because a court will force the debtor to repay the money ex post. It would be strange to say that contract law imposes “constraints” on people because of ex post enforcement. In fact, contract law enables people to do things that they could not otherwise do—it extends their power. If it did not, people would not enter contracts.

A question naturally arises about OLC’s incentives. I have assumed that OLC provides neutral advice—in the sense of trying to make accurate predictions as to how other agents like Congress and the courts would reaction to proposed actions. It is possible that OLC could be biased—either in favor of the president or against him. However, if OLC were biased against the president, he would stop asking it for advice (or would ask for its advice in private and then ignore it). This danger surely accounts for the fact that OLC jurisprudence is pro-executive.23 But it would be just as dangerous for OLC to be excessively biased in favor of the president. If it were, it would mislead the president and lose its credibility with Congress, with the result that it could not help the president engage in L policies. So OLC must be neither excessively propresident nor anti-president. If it can avoid these extremes, it will be an “enabler”; if it cannot, it will be ignored. In no circumstance could it be a “constraint.”24

If the OLC cannot constrain the president on net, why have people claimed that OLC can constrain the president? What is the source of this mistake?

One possibility, which I have already noted, is that commentators might look only at one side of the problem. Scholars note that OLC may “prevent” the president from engaging in barely illegal actions without also acknowledging that it can do so only if at the same time it enables the president to engage in barely legal actions. This is simply a failure to look at the full picture.

For example, in The Terror Presidency, Goldsmith argues that President Bush abandoned a scheme of warrantless wiretapping without authorization from the FISA court because OLC declared the scheme illegal, and top Justice Department officials threatened to resign unless Bush heeded OLC’s advice.25 This seems like a clear example of constraint. But it is important to look at the whole picture. If OLC had approved the scheme, and subsequently executive branch agents in the NSA had been prosecuted and punished by the courts, then OLC’s credibility as a supplier of legal advice would have been destroyed. For the president, this would have been a bad outcome. As I have argued, a credible OLC helps the president accomplish his agenda in “barely legal” cases. Without taking into account those cases where OLC advice helps the president’s agenda ex post as well as the cases where OLC advice hurts the president’s agenda ex post, one cannot make an overall judgment about OLC’s ex ante effect on executive power.

Another possible source of error is that scholars imagine that “neutral” advice will almost always prevent the president from engaging in preferred actions, while rarely enabling the president to engage in preferred actions. The implicit picture here is that a president will normally want to break the law, that under the proper interpretation of the Constitution and relevant standards the president can accomplish very little. So if OLC is in fact neutral and the president does obey its advice, then it must constrain the president.

But this theory cannot be right, either. If OLC constantly told the president that he cannot do what he wants to do, when in fact Congress and other agents would not object to the preferred actions, then the president would stop asking OLC for advice. As noted above, for OLC to maintain its relevance, it cannot offer an abstract interpretation of the Constitution that is divorced from political realities; it has to be able to make realistic predictions as to how other legal agents will react to the president’s actions. This has led OLC to develop a pro-executive jurisprudence in line with the long-term evolution of executive power. If OLC tried to impose constraints other than those imposed by Congress and other institutions with political power, then the president would ignore it.

#### Turn – flexibility causes reckless policy and collapses the signal

Farley, 2012

[Benjamin R., "Drones and Democracy: Missing Out on Accountability?," works.bepress.com/cgi/viewcontent.cgi?article=1003&context=benjamin\_farley, accessed: 9-22-13, SpS]

Removing the constraints policymakers face when choosing to use force may be advantageous. Indeed, some argue that the post-9/11 world is so dangerous that policymakers must be allowed to use force without constraint.3 However, an absence of accountability in use of-force decisions—like an absence of accountability in any other realm—may lead to misguided or abusive use-of-force decisions. Arguably, the destabilization of Yemen and the increasing strength of Al Qaeda in the Arabian Peninsula are attributable in part to the frequency of U.S. uses of force there.4 Additionally, when the executive branch apparently purposefully and intentionally avoids accountability in use-of-force decision-making, it opens itself and the United States generally to a panoply of criticism5—some well-founded, some not.

This article explores how drones have facilitated use-of-force decisions that avoid political, supervisory, and legal accountability. It argues not that drones are the root of accountability-avoidance, but that drones exacerbate an already flawed accountability system. It further argues that, although lack of accountability imparts policymakers with increased flexibility, that increased flexibility may come at the cost of wise policymaking.

Part I of this article provides a brief overview of current U.S. drone operations. Part II explores accountability mechanisms relevant to use-of-force decisions in the United States. Part III assesses the impact of accountability mechanisms on U.S. use-of-force decisions, particularly

It bears emphasizing that this article does not argue that drone strikes are per se wrong, illegal, or foolhardy. Nor is this article an argument for placing U.S. service personnel in harm’s way. Instead, this article highlights that a combination of circumstance and purpose facilitate U.S. policymakers’ accountability avoidance when employing an important modern tool—and that accountability avoidance may ultimately undermine U.S. policy objectives.

#### No solvency – International Signal – only an external check on the executive sends a credible signal abroad – prefer comparative evidence

Somin, 2013

[Illya, GMU Constitutional Law Prof, "Hearing on 'Drone Wars: the Constitutional and counterterrorism implications of targeted killing,’" TESTIMONY BEFORE THE UNITED STATES SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND HUMAN RIGHTS, April 23, 2013, www.judiciary.senate.gov/pdf/04-23-13SominTestimony.pdf, accessed: 8-20-13, SpS]

We might even consider developing a system of judicial approval for targeted strikes aimed at non-citizens. The latter process might have to be more streamlined than that for citizens, given the larger number of targets it would have to consider. But it is possible that it could act quickly enough to avoid compromising operations, while simultaneously acting as a check on abusive or reckless targeting. However, the issue of judicial review for strikes against non-citizens is necessarily more difficult than a court that only covers relatively rare cases directed at Americans.

Alternatively, one can envision some kind of more extensive due process within the executive branch itself, as advocated by Neal Katyal of the Georgetown University Law Center.24 But any internal executive process has the flaw that it could always be overriden by the president, and possibly other high-ranking executive branch officials. Moreover, lowerlevel executive officials might be reluctant to veto drone strikes supported by their superiors, either out of careerist concerns, or because administration officials are naturally likely to share the ideological and policy priorities of the president. An external check on targeting reduces such risks. External review might also enhance the credibility of the target-selection process with informed opinion both in the United States and abroad.

Doesn’t solve I/L

A. Procedure – Failure to provide an external check violates IHRL - that’s 1AC Ramsden  
B. Courts – only having the Supreme Court bind the executive to international law sparks global modeling – that’s Sylvester

# K

#### Conditionality is a voting issue

#### A. Education – the NEG only goes for what has the least coverage and analysis, preventing in-depth discussion

#### B. Strategic Skew – conditionality undermines AFF ability to generate offense and skews time allocation undermining AFF ability to hedge against the block

#### C. Advocacy – conditionality prevents the NEG from learning consistent advocacy and encourages argument irresponsibility

#### D. No Offense – pre-tournament research and dispositional CPs capture all NEG offense, while still preserving side balance

#### Perm – we can acknowledge that liberal regimes conceptualize human rights through the lens of security – but that doesn’t mean intervention is evil in all instances – their alternative ignores the reality of genocide

Davidson, 2012

[ Joanna, Emory College Institute of Critical International Studies States at Regional Risk post-doctoral fellow, "Humanitarian Intervention as Liberal Imperialism: Force for Good?" www.polis.leeds.ac.uk/assets/files/students/student-journal/ug-summer-12/joanna-davidson.pdf, accessed: 9-17-13, SpS]

The debate over the legitimacy and conduct of humanitarian intervention continues to rage fiercely within the international community, particularly in the aftermath of the 9/11 attacks and the declaration of the War on Terror. From growing calls for more humanitarian action and political involvement to solve the humanitarian crises of the 90s, to international scepticism and condemnation of the liberal interventions in the Middle East following the events of 9/11, it comes as no surprise that humanitarian intervention is generally deemed to be ―in crisis‖ (Rieff 2002). As this essay has demonstrated, the waning of state sovereignty and the subsequent rise in ‗humanitarian‘ interventions has been an emergent reality throughout the 1990s; yet far from being the result of a growing humanism amongst the powerful liberal states, such a shift in concern from the state to the individual is in reality part of a much more sinister liberal enterprise which is quintessentially concerned with the art of global governance (Gordon 1991: 14). The repercussions of the implication of liberal self- interests alongside the achievement of humanitarian goals has been highlighted only too clearly in an analysis of the development of humanitarian intervention throughout the 1990s, during which time it became painfully clear that intervention undertaken for purely humanitarian concerns, if it occurs at all, has generally been underfunded and insufficient (Falk 2000: 333), therefore leading to interventions which arguably did more harm than good. Rwanda provides us with a clear example of what happens when, despite grave humanitarian concerns, there exists no strategic interests for the states with the power to intervene, whilst events in Somalia, Bosnia and Kosovo illustrated the fact that in the absence of state selfinterest, there exists little political will to pay the costs of blood and gold in order to ensure that ―humanitarian war is conducted in a humanitarian manner.‖ (Falk 2000: 331) The 1990s then, far from being the ‗golden era of humanitarian intervention‘ (Bellamy and Wheeler 2008), were in reality an experimentation in liberal expansionism, yet where there existed few security concerns for the liberal states, there existed little political will to commit to the mission. It is only when national interests are implicated that states are willing to accept the costs and stay the duration necessary to alter the humanitarian situation in any meaningful way (Weiss 2004: 37).

As has been noted throughout this essay, the vital interests of the intervening states are grounded in liberal notions of human security; that is to say entire swathes of the world‘s population are re-conceptualized as a threat to humanity which requires pacification through assimilation into the liberal world order or, failing that, destruction. In liberalisms quest to expand its control and influence across the world, the remit of intervention has been broadened to include within its scope democracy spreading, nation building, and regime change, as has been demonstrated in Iraq, Afghanistan, and more recently, Libya. It would seem undeniable that humanitarian intervention is essentially a veil behind which liberal imperialism can disguise itself, despite protestations of liberals heralding a ―revolution of moral concern‖. Indeed, we can see clear similarities between the old rhetoric of empire and current discussions surrounding liberal imperialism. As Nardin has noted, in the old days of empire humanitarianism was used to justify the imposition of foreign power on populations at the margins of the ‗civilized‘ world in order to uphold the standards of civilized morality; essentially in order to protect the population from themselves. We can see that little has changed between then and now when we note that current rhetoric on humanitarian intervention constructs the third world as a threat to itself and to the rest of the world, and therefore the barbarity of tyranny and terrorism that these ‗uncivilized‘ regions breed ―must be countered, in the name of humanity, by the exercise of imperial power‖ (Nardin 2006: 25). In construing humanitarian intervention as liberal imperialism, the motives behind liberal intervention become clearer, in that essentially liberal regimes wish to subjugate and impose indirect control on those portions of the population securitization discourse has constructed as a threat to global security. Whilst it is true that the days of territorial expansion are over, what we are experiencing now is by no means a waning of imperial ambition, as through the spread of liberal values and the imposition of liberal structures, through force if necessary, liberalism is extending its ‗universal‘ values across the world, justifying any means by the end which is indisputably morally right (Bishai 2004: 51).

Indeed, as was highlighted in chapter four, there exists a significant cognitive dissonance between liberal universalism, with its proclaimed notions of a cosmopolitan humanitarianism, and liberal imperialism, which finds its expression through intervention which is justified on a humanitarian basis, yet which in reality functions through the eradication or exclusion of all life forms which do not conform to liberalism (McCarthy 2009: 166). It would seem that the obvious conclusion to draw would be one which wholly condemns the practise of humanitarian intervention as a front for the furthering of a liberal ideology which functions through the subjugation of ‗morally inferior‘ populations so as to extend its own remit of control and power. Humanitarian intervention is less about a moral concern for the suffering of people, than a method through which Western liberal states can secure their own populations from a global imaginary of threat. Yet such a damning analysis of liberal intervention is incomplete, as it fails to give a sufficient analysis of the effects these interventions have on the populations concerned, not to mention the effects non-intervention could have on those populations suffering human rights abuses. Of course a proclaimed interest in ‗saving strangers‘ will only ever be put into action when the strategic interests of liberal states are at stake, meaning liberal cries of a ‗duty to intervene‘ and a ‗responsibility to protect‘ in those situations that shock the moral conscience of mankind must be regarded with scepticism. Such scepticism, however, should not be translated into an absolute rule of nonintervention, as to do so would be to turn our backs completely on the suffering of those that need our help, in whatever form such help may come in. Indeed, the spread of liberal imperialism does not necessarily signify the death of humanitarian sentiments; rather the two can coincide, and when they do, a greater window of opportunity is created for those wishing to act on the humanitarian impulse in the Security Council (Weiss 2004: 37).

When we consider the globalizing effect the War on Terror has had on liberal intervention, however, as we move further into the new millennium it is becoming ever clearer that liberal intervention is being stretched to its limits. Ten years after the invasion of Afghanistan and eight years after the invasion of Iraq, 99,000 and 46,000 US troops remained in each country respectively (New York Times 2011), highlighting the extensive nature of the liberal imperial mission in the aftermath of 9/11. The ‗unending war‘ against terrorism seems to have taken its toll on Western liberal states capacity to intervene, meaning that, rather than coinciding, the requirements of the war against terrorism will have to be balanced against the more distant demands of humanity (Macfarlane et al 2007: 985), and it is not difficult to work out which will prevail. Indeed, since the coming to power of the Bush administration in 2001, humanitarian intervention where no national interests were at stake has been dismissed as ―blunting the purpose of the military‖ (Ignatieff 2003), yet quite paradoxically Bush pinned continuing support for the wars in Iraq and Afghanistan on humanitarian rhetoric regarding nation-building and the promotion of democracy for the Afghan and Iraqi people. In doing so it would seem that the US has manipulated the idea of a responsibility to protect to include a much broader remit for intervention, embracing not just the ―responsibility to react‖ but the ―responsibility to prevent‖ and the ―responsibility to rebuild‖ as well (Evans and Sahnoun 2002: 101), stretching the language of humanitarianism to suit liberalisms own political agenda. As has been evidenced by the growing disillusionment with the on-going operations in the Middle East in which thousands of western troops have been killed, the continued threat of terrorist attacks, and more recently the lack of political support for further meaningful interventions in Libya and Syria, it would seem that liberal interventionism has not only lost sight of the universal humanitarian notions that lie at its roots, but is struggling to retain its omnipotence in the face of widespread opposition to the invasions in Iraq and Afghanistan. Whilst the 9/11 attacks may have had a ‗rally round the flag‘ effect within the US, the most ardent exporter of international liberalism, it has had the opposite effect across the rest of the international community, which has sought to distance itself from the aggressively Western liberal interventionist stance that provoked such terrorist attacks (Ignatieff 2003).

All things considered, it would seem that Fukuyama‘s prediction in 1992 that the rise to predominance of Western liberal democracy would signal the ‗End of History‘ in that it would become the universal and final form of human government (Fukuyama 1992) is increasingly being challenged. The rise in militant Islam and terrorist attacks against the West highlights inescapably that the proclaimed universal moral righteousness of the liberal mission is in reality far from universal, whilst the rising spectre of China as the new superpower on the international stage could diminish Western liberalisms power and influence in years to come. This being said, the reality remains that, for now at least, Western liberal regimes retain hegemony on the global stage, and therefore hegemony in decisions to intervene or not. As we have seen, liberal ‗humanitarian‘ intervention is deeply flawed; oftentimes the primary motives for intervention are far from humanitarian, and there is much resentment in the international community regarding the omnipotence of the Western liberal states wishing to impose their world view on weaker states. What is more, the War on Terror has only exemplified such concerns, highlighting the way in which liberal states have manipulated humanitarian sentiments to justify intervention with other motives (Ayoob 2002) and allowed liberalism to broaden its scope of expansion globally (Evans 2010). Yet the reality is that liberal intervention, however imperfect and unpalatable it may be is currently the only choice the international community has if it is to avoid another Rwanda, or another Srebenica, to avoid once again becoming a bystander to genocide. As we have seen, where no other interests exist, attempts at humanitarianism will flounder. To argue for intervention motivated by purely humanitarian motives and conducted in a completely humanitarian manner is to ignore the realities of the world in which we live. The reality is that, as Weiss quite succinctly put it, the rise to predominance of liberal imperialism and the resultant convergence of humanitarian values and liberal security interests ―has not brought utopia, but made the world a somewhat more liveable place than it would have been otherwise‖ (2001: 104). Whether this remains the case in the aftermath of the wars in Afghanistan and Iraq, in a seemingly endless War against Terror, and in a world where Western liberalism is increasingly feeling threatened yet where political support and capacity for liberal intervention is low, remains to be seen.

#### Turn – Force - Plan prevents the erosion of use of force norm - that’s 1AC Boyle – this contains the K impact because removing international legal constraints on use of force leads to unchecked unilateral aggression – only a robust international legal system prevents a hegemonic free-for-all and the escalation of global violence

**Demenchonok**, Professor of Foreign Languages and Philosophy at Fort Valley State University, **2009**

[Edward, Russian Academy of Sciences Philosophy Institute Senior Researcher, P.h.D. in Philosophy, Institute of Philosophy of the Russian Academy of Sciences, Moscow, "Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-Responsibility," American Journal of Economics and Sociology, 68.1]

The project of a hegemonic-centered world order means **abandoning the international system based on the rule of law and collective actions** (including collective security), and replacing it by unilateral actions of individual states (or coalitions of states). **Removing the existing legal procedural constraints on the** use of force **will result in the stronger states becoming unchecked, while the weaker ones remain unprotected**. This would also mean falling back toward the violent, unlawful “state of nature.”

The prospects of a unipolar hegemonic world look grim: a world of “social Darwinism,” where the divided nations would be dominated by a hegemonic power, but each nation would be left on its own in striving for survival in a hostile environment. Facing the economic challenges and the negative consequences of climate change and other environmental problems, the poor nations would be the most vulnerable. The major powers would more aggressively compete for the dominant position and control over the economy and the limited natural resources of the planet. Since the decisive factor in this competition is military force, this would boost militarization and the arms race, thus increasing the possibility of wars and the escalation of global violence.

A traditional reaction to social and global problems is governmental reliance on force and power politics, accompanied by “emergency” measures and a myth of protection. This simplistic approach obfuscates the root causes of the problems and thus is unable to solve them. Instead, the resulting arms race, the infringement of civil liberties, and the tendency toward neototalitarian control have become problems in themselves, keeping society hostage to a spiral of violence. 40

For those politicians who rely mainly on military “hard power” rather than on the “soft power” of diplomacy, the reasoning seems to be that the use of force is a quick and efﬁcient means for the solution to the problems of security, stability, human rights, and so on. However, many human and social problems by their very nature can not be resolved by force, and an unrestricted use of force can make things even worse, creating new problems. Even well-intentioned leaders or “benevolent hegemons,” being limited by their political cultures and interests, cannot know whether the consequences of their policies and actions are equally good for all. Therefore, policies and decisions that potentially could affect society and the international community must be based on collective wisdom in a broad context, through deliberative democracy, international multilateral will formation, and inclusive legal procedures, thus equally considering the cognitive points of view and interests of all those potentially affected. The complex, diverse, and interdependent high-tech world of the twenty-ﬁrst century requires genuinely robust democratic relations within society and among nations as equals, an adequate political culture, and an enlightened “reasoning public.” Otherwise, a society that has powerful techno-economic means but is ethically blind and short-sighted could ultimately suffer the same fate as the dinosaurs, with their huge bodies but disproportionately small brains.

Here we again return to the legacy of Hiroshima. Reﬂecting on the suffering and horror of the atomic bombings, we see all too clearly that the decision to develop and use weapons of mass destruction, inhumane by deﬁnition, reveals the problems of social power structures and decision making in the current scientiﬁc and global age. 41 In constitutional democracies, the existing system of division of powers with checks and balances has shown its “democratic deﬁcit” in not being a strong enough safeguard for the prevention of abuse of power or the risk of misguided decisions, especially regarding the use of force. It is too risky for the contemporary, complex, high-tech societies in an interrelated world to become dependent on the subjective decisions of an unaccountable leader or on the volatile policies of only one state. Any concentration of power and decision making in the hands of a few is problematic.

Our global problems are interrelated and constitute a bewildering system of difﬁcult challenges without obvious solutions. But the problem of war continues to lie at the heart of many of the problems of the present. The arms industry absorbs colossal amounts of human and economic resources and aggravates the ecological crisis. Meanwhile, the hegemonic politics of the few who control the resources of the many is reinforced by cultures of militarism, thus making a vicious circle of violence against humans and nature, and leaving no room for the positive programs of social development and preservation of the environment. The policy of domination of the outer world has as its mirror-like inner extension the militarization of society, infringement of civil liberties, and a neototalitarian control over people.

We can no longer deny the obvious, which is that humanity ﬁnds itself today on a planet with a rapidly deteriorating ecology and the risk of potentially becoming “Hiroshimized” on a global scale. The “overkill” capacity of the existing stockpiles of thermonuclear weaponry is so enormous that even if 90 percent of them were eliminated, the remaining 10 percent would still be enough to exterminate much of the life on Earth, perhaps even threatening all life. There exists not only the immediate threat of living on the “powder keg” of the stocks of nuclear and other weapons of mass destruction, which can be detonated by regional wars and explode at any time, but also the “time bombs” of the escalating ecological crisis and of the deteriorating social-economic conditions in the underdeveloped countries. The “end of history” of humanity can come “not as a bang but as a whimper”: an entropy-like, agonizing process of degradation.

These threats to the human race raise fundamental metaphysical questions about the meaning of history, limits, horizons, evil, nothingness, and the suicidal character of war itself. But they also put at the forefront escalating social and global problems, such as the deepening ecological crisis, third-world underdevelopment, and war in a world full of weapons of mass destruction.

#### The security dilemma doesn’t apply to situations where states pose genuine threats.

Randall Schweller, (professor of political science at Ohio State) Security Studies, Spring 1996 p. 117-118)

The crucial point is that the security dilemma is always apparent, not real. If states are arming for something other than security; that is, if aggressors do in fact exist, then it is no longer a security dilemma but rather an example of a state or a coalition mobilizing for the purpose of expansion and the targets of that aggression responding and forming alliances to defend themselves. Indeed, Glenn Snyder makes this very important point (disclaimer?) in his discussion of the security dilemma and alliance politics: “Uncertainty about the aims of others is inherent in structural anarchy. If a state clearly reveals itself as an expansionist, however, the alliance that forms against it is not self defeating as in the prisoners’ dilemma (security dilemma) model” 89 That is, if an expansionist state exists, there is no security dilemma/spiral model effect. Moreover, if all states are relatively sure that none seeks expansion, then the security dilemma similarly fades away. It is only the misplaced fear that others harbor aggressive designs that drive the security dilemma.

#### Most wars are caused by deliberate threats, not spiraling insecurities.

Randall Schweller, (professor of political science at Ohio State) Security Studies, Spring 1996 p. 120)  
War is almost always intended by someone. Throughout history it has been decided upon in cold blood not for reasons of self-preservation but for the purpose of greedy expansion at the expense of others’ security, prestige, and power. “What was so often unintentional about war,” Blainey points out, “was not the decision to fight but the outcome of the fighting.” 98  
(--) War preparation deters aggression, the kritik prevents these efforts.  
Edward Luttwak (Senior Fellow, Center for Strategic and International Studies), BOSTON REVIEW, October 1997, p.11.   
More generally, war-preparation by those actually willing to fight (not just ritualistic preparations, as is mostly the case in advanced countries nowadays) may avert war by dissuading others' hopes of easy victories -- even Bosnia might have done it, had it raised a good army before declaring independence -- whereas wishing for peace, marching for peace, etc., is as relevant as wishing and marching for good weather -- except if it interferes with concrete war-preparations, when it may be counterproductive.

#### Consequences key to ethics

Issac 2002 (Jeffery, professor of political science @ Indiana University. Dissent, Spring 2002, 49: 2, p. 32)

Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters ; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics — as opposed to religion— pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century : it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### Turn – Value to life – external claims destroy it

Schwartz, Glasgow Philosophy Professor, 2003,

(Lisa, “The Value to Life: Who Decides and How?” [www.fleshandbones/readingroom/pdf/399.pdf](http://www.fleshandbones/readingroom/pdf/399.pdf))

The second assertion made by supporters of the quality of life as a criterion for decision- making is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves. It is important to remember the subjectivity assertion in this context, so as to emphasize that the judgement made about the value of a life ought to be made only by the person concerned and not by others.

#### And, reps aren’t key to policy making: they don’t predict specific outcomes.

Jennifer Milliken '99 (Graduate Institute of International Studies) The study of discourse in international relations: A critique of research and methods. European Journal of International Relations, 5(2), p. 240-241

In contrast to International Relations theory studies, foreign policy and diplomacy/organization studies are directly concerned with explaining how a discourse articulated by elites produces policy practices (individual or joint). These types of discourse analysis also share an understanding of what it means to explain the production of policy practices, namely to take the significative system which they have analysed, and to argue for that system as structuring and limiting the policy options (joint policies, norms of state practice) that policy-makers find reasonable.9 This approach is an appropriate one, and one which I too have followed. But like the treatment of common sense, it also deserves to be re-examined and refined as a way to explain policy production. The current approach’s main weakness (or puzzle, in another idiom) is that it leaves out what happens after a policy is promulgated among high-level officials, i.e. the implementation of policy as actions directed towards those objectified as targets of international practices. Analysing how policies are implemented (and not just formulated) means studying the operationalization of discursive categories in the activities of governments and international organizations, and the ‘regular effects’ on their targets of interventions taken on this basis (Ferguson, 1994: xiv). The operationalization practices of these entities is a subject rarely taken up in mainstream International Relations, as attested to by the general lack of discussion of implementation in most theories and studies of foreign policy or of international regimes. When implementation is considered, the discussion is usually couched in very general terms, outlined as a stylized type of act or policy (e.g. ‘land redistribution’, ‘intervention’, ‘foreign aid’) but not as explanation of how the actions putatively covered by the term were organized and enacted in particular circumstances. Governments and international organizations do document and record implementation practices and take measures of their effects, but in an arcane language that, for public consumption, usually involves the use of vague and general labels (e.g. ‘measures taken to improve debt servicing’ to describe IMF demands to Indonesia). Discourse studies which include the implementation of policy practices can potentially problematize such labels and expose readers to the ‘micro-physics of power’ in International Relations (Foucault, 1980: 27). This exposure might in turn give readers a basis with which to ‘question’ and ‘enquire about’ the workings of states and international organizations, a critical goal that discourse studies share (Edkins, 1996a: 575).

#### No impact to epistemology - mindsets don’t lead to violence – democracy checks

Dickinson, U.C. Berkeley Associate History Professor, 2004

(Edward Ross, "Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About "Modernity," EBSCO, accessed: 9-19-12]

In short, the development of the science of human heredity and the ambition of total social “renovation” (Fritzsche) made Nazi policies theoretically possible, made them imaginable. What made them real was the creation of a totalitarian dictatorship. To put it in few words: no dictatorship, no catastrophe.

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . .and toward a dispersed and decentered notion of power and its ‘microphysics.’” 48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest. 49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” (Jean Quataert), simply do not explain Nazi policy. 50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead,it was the principles that guided how those instruments and disciplines were organized and used,and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been constrained by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state.

#### The alternative isn’t real world and only increases the threat of war.

John Norton Moore (Dir. Center for Security Law @ University of Virginia), Solving the War Puzzle: Beyond the Democratic Peace, 2004, pages 41-2.

If major interstate war is predominantly a product of a synergy between a potential nondemocratic aggressor and an absence of effective deterrence, what is the role of the many traditional "causes" of war? Past, and many contemporary, theories of war have focused on the role of specific disputes between nations, ethnic and religious differences, arms races, poverty or social injustice, competition for resources, incidents and accidents, greed, fear, and perceptions of "honor," or many other such factors. Such factors may well play a role in motivating aggression or in serving as a means for generating fear and manipulating public opinion. The reality, however, is that while some of these may have more potential to contribute to war than others, there may well be an infinite set of motivating factors, or human wants, motivating aggression. It is not the independent existence of such motivating factors for war but rather the circumstances permitting or encouraging high risk decisions leading to war that is [are] the key to more effectively controlling war. And the same may also be true of democide. The early focus in the Rwanda slaughter on "ethnic conflict," as though Hutus and Tutsis had begun to slaughter each other through spontaneous combustion, distracted our attention from the reality that a nondemocratic Hutu regime had carefully planned and orchestrated a genocide against Rwandan Tutsis as well as its Hutu opponents.I1 Certainly if we were able to press a button and end poverty, racism, religious intolerance, injustice, and endless disputes, we would want to do so. Indeed, democratic governments must remain committed to policies that will produce a better world by all measures of human progress. The broader achievement of democracy and the rule of law will itself assist in this progress. No one, however, has yet been able to demonstrate the kind of robust correlation with any of these "traditional" causes of war as is reflected in the "democratic peace." Further, given the difficulties in overcoming many of these social problems, an approach to war exclusively dependent on their solution may be to doom us to war for generations to come.

# DA

#### (--) ZERO LINK AT ALL: The Supreme Court does the plan—Obama doesn’t use any capital to push the plan.

#### Bill has been shelved—the debate is over:

Steve Benen, 2/5/2014 (staff writer, “Senate effectively scraps Iran sanctions bill,”

<http://www.msnbc.com/rachel-maddow-show/senate-effectively-scraps-iran-sanctions-bill>, Accessed 2/21/2014, rwg)

A month ago, proponents of a bipartisan bill on new Iranian sanctions had reason to be optimistic. Despite White House arguments that the bill risked sabotaging delicate international diplomacy, the Senate bill had 59 co-sponsors. The question wasn’t whether the bill would pass the Senate, but rather, whether it could garner a veto-proof super-majority.¶ ¶ The tide turned quickly. Last week, some of the Senate Democrats who had endorsed the legislation began backing off. And this week, supporters effectively shelved the entire bill.¶ Proponents of Iran sanctions have all but abandoned their search for a highly symbolic 60th co-sponsor who would give their bill a filibuster-proof majority and reverse the push against immediate action.

#### (--) Turn: Courts preserve president’s political capital

Tushnet, 2008 (law professor at Harvard, Mark, “THE OBAMA PRESIDENCY AND THE ROBERTS COURT: SOME HINTS FROM POLITICAL SCIENCE: POLITICAL FOUNDATIONS OF JUDICIAL SUPREM-ACY: THE PRESIDENCY, THE SUPREME COURT, AND CONSTITUTIONAL LEADERSHIP IN U.S. HISTORY”, Summer, 25 Const. Commentary 343, lexis, Accessed 2/18/2013, rwg)

What can the courts do for a resilient regime? Presidents and Congress have limited time and political energy. They will spend them on what they regard as central issues. But at any time there will be "outliers" - geographic regions as yet uncommitted to the regime's constitutional understandings, or substantive areas that plainly require change if those understandings are to become deeply implanted in society, yet politically too touchy [\*347] or relatively unimportant to Congress. "For the affiliated leader, enhancing judicial authority to define and enforce constitutional meaning provides an efficient mechanism for supervising and correcting those who might fail to adhere to the politically preferred constitutional vision" (pp. 105-06). The courts can serve as a convenient but essentially administrative mechanism for bringing these outliers into the constitutional order. n16¶ In addition, the courts may have rhetorical resources unavailable to presidents. Their obligation to explain their decisions, and the fact that they make decision after decision, means that they have an opportunity to develop a reasonably general account of the resilient regime's constitutional understandings. In Whittington's words, "It is the classic task of judges within the Anglo-American tradition ... to render new decisions and lay down new rules that can be explicated as a mere working out of previously established legal principles" (p. 84). Presidents, in contrast, only sporadically make speeches illuminating those understandings.¶ More boldly, affiliated presidents may try to use the courts to "overcomee gridlock" (p. 124) caused by the strategic positions recalcitrant opponents of the new constitutional regime may occupy. And, if not "use the courts," at least rely on the courts to take the initiative, because "the Court can sometimes move forward on the constitutional agenda where other political officials cannot" (p. 125). "Coalition leaders might be constrained by the needs of coalition maintenance," but "judges have a relatively free hand" (p. 125). This "use" of the courts, though, poses risks. The courts may push the regime's constitutional principles further and faster than is politically wise, and the regime's political leaders may find themselves on the defensive. Indeed, in this way the courts can contribute to making a resilient regime vulnerable, which may be part of the story about the Warren Court and the demise of the New Deal/Great Society regime. n17¶ [\*348] Preemptive presidents face a special strategic problem. Sometimes they take office because they manage to persuade the public that they remain committed to a resilient regime's constitutional vision even if in their hearts they want to transform the regime. n18 At other times they take office as a regime becomes vulnerable, but do not themselves have the program, vision, or charisma to be reconstructive presidents themselves. n19 They are likely to face opposition in Congress and to some degree in the courts. But they can turn divided government to their advantage by seeking judicial confirmation of executive prerogative. The judges in place might be sympathetic to such claims for doctrinal and political reasons. They will have "inherited from affiliated administrations" (p. 169) doctrines supporting executive authority. And, though Whittington doesn't make this point explicitly, they may see the preemptive president as an accident, soon to be replaced by an affiliated one whose exercises of presidential power they will want to endorse. Finally, preemptive presidents need to get their authority from somewhere when they face congressional opposition, as they will. They don't have much of their own, but they can try "to borrow from the authority of the courts in order to hold off their political adversaries" (p. 195).¶ One final point before I move to some speculations about the future of judicial supremacy. Whittington emphasizes the growth of judicial supremacy during the twentieth century, both in terms of the judges' self-understanding and, perhaps more importantly, in terms of the degree of political commitment to judicial supremacy (p. 25). He suggests that politicians have had increasingly strong reasons to support the Supreme Court. The reconstructive presidency of Ronald Reagan was less ambitious than that of Franklin Roosevelt (p. 232), assuring the American people that Reagan's policies would strengthen rather than destroy the social safety nets that Roosevelt and Lyndon Johnson's regimes had created. Even a reconstructive president could hope that the Supreme Court would assist in articulating regime principles in the way the Court ordinarily does for affiliated presidents. Further, drawing again on Skowronek's account of the [\*349] ways in which regimes leave a residue even after they have been displaced, Whittington describes the doctrinal thickening that occurred during the twentieth century with respect to essentially every possible ideological and political commitment a President could have (p. 283). Doctrinal thickening means that every member of a ruling coalition will have some basis in constitutional law for its assertions that the Constitution requires satisfaction of its policy preferences, and that the Court cannot possibly satisfy all the demands on it. n20 So, for the future, we might expect Presidents to have increasingly ambivalent views about the Supreme Court. In the twenty-first century, the Supreme Court will be useful and annoying to every President - useful because the Court can do some policy work that Presidents would rather not expend time and political capital on, and annoying because the Court's failure to satisfy all the demands emanating from a President's political supporters will put pressure on the President to do something about the Court.

#### (--) Obamacare has sucked up all president’s political capital:

David Finkel, 2014 (Jan/Feb, “Will the Iran Deal Hold?”

http://www.solidarity-us.org/node/4058, Accessed 1/4/2014, rwg)

The spectacular disaster of the Afford­able Care Act website is a self-inflicted wound from which the Obama administration will not easily, or perhaps ever, fully recover. Certainly all of us who support single-payer health insurance realized that the fantastically tangled system of “Obamacare” would ultimately fail, due to its scheme for subsidizing the parasitical private insurance industry, but no one could have expected such an immediate display of arrogant incompetence in the “rollout.” The Republican Party has regained big chunks of the ground lost during its own government shutdown fiasco. It’s true that Congress’s approval ratings remain even deeper in the toilet than the President’s, but that fact affects both capitalist parties — and now, Congressional Democrats who stood united against repealing “Obamacare,” because that would have represented the effective end of the Obama presidency and virtual suicide for the party, are angry, alienated and afraid to be near him. Whatever political capital the President had for immigration reform, seriously raising the minimum wage, protecting food stamps from savage cuts, or much of anything else including the climate change crisis, has been dissipated. The Democrats’ chances of regaining the House of Representatives in the November 2014 midterm election, marginal to begin with, are now much less than those of losing the Senate as well.

#### Reid won’t put Iran sanctions up to a vote:

Jonathan S. Tobin, 2/4/2014 (staff writer, “Sanctions Stall Doesn’t Signal AIPAC’s Fall,”<http://www.commentarymagazine.com/2014/02/04/iran-sanctions-stall-doesnt-signal-aipacs-decline-nuclear/>, Accessed 2/20/2014, rwg)

All this has chilled a debate about passing more Iran sanctions that might be considered moot in any case since as long as Majority Leader Harry Reid is determined to keep the bill from coming to a vote, it has little chance of passage. But rather than discuss the administration’s scorched-earth campaign on the issue, the New York Times prefers to join with the administration in taking another shot at the arch-villain of the supporters of the conspiratorial view of U.S. foreign policy put forward in the infamous “Israel Lobby” thesis: the American Israel Public Affairs Committee (AIPAC). According to the Times, the lull in the battle over sanctions is a sign that AIPAC is losing its touch on Capitol Hill. This is considered good news for the administration and critics of the pro-Israel lobby and the bipartisan community for which it speaks. But while AIPAC can’t be happy with the way it and other advocates of sanctions have been brushed back in this debate, reports of its decline are highly exaggerated. While the administration has won its point for the moment in stalling the bill, the idea that it has won the political war over Iran is, at best, premature.

#### (--) No spillover evidence: no reason this issue would spill from the courts to Congress or from issue to issue.

#### (--) Turn: Plan popular – judicial review gains traction with both sides of the political aisle

Boot, 2-11-13 [Max, is a leading military historian and foreign-policy analyst. The Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, "A Drone Court is a Terrible Idea," www.commentarymagazine.com/2013/02/11/a-drone-court-is-a-terrible-idea-fisa-terroris/, accessed; 8-21-13, SpS]

There is no doubt that putting judicial imprimatur on such strikes would help to dissipate growing opposition to the use of drones and could help to rein in capricious decision-making by this administration or a future administration. This proposal is sure to gain traction on both the antiwar left and the anti-government right—as well as among many in the general public who have a certain unease about the idea of presidentially ordered “assassinations” a la fictional characters like Jason Bourne.

#### (--) No US-Iran war:

David Rohde, 9/19/2013 (staff writer, “Iran's offer is genuine — and fleeting,” <http://www.reuters.com/article/2013/09/19/us-irans-offer-idUSBRE98I18B20130919>, Accessed 10/16/2013, rwg)

Skepticism is understandable. But given Iranian hardliners' track record of using lethal force to crush uprisings, there is little chance of Khamenei and his Revolutionary Guard backers being toppled. And given the American public's sweeping opposition to U.S. military involvement in the Middle East, there is little chance of a major American military action against Iran.

#### **(--) Obama’s pc isn’t key—his influence isn’t switching votes on Iran:**

Reuters, 12/12/2013 (“US lawmakers to introduce bill on new Iran sanctions soon,”

http://www.jpost.com/Iranian-Threat/News/US-lawmakers-to-introduce-bill-on-new-Iran-sanctions-soon-334747, Accessed 1/22/2014, rwg)

Robert Menendez, the Democratic chairman of the Senate Foreign Relations Committee, and Republican Senator Mark Kirk are finishing legislation that would target Iran's remaining oil exports and foreign exchange and seek to limit President Barack Obama's ability to waive sanctions. However, the measure would impose the new sanctions only if the interim deal has gone nowhere in six months or Iran violates terms of the agreement. Supporters said that would comply with the administration's request to allow negotiators to pursue a comprehensive diplomatic solution to the Iran nuclear crisis. But the measure faces an uphill battle to become law. Administration officials have been pushing Congress hard not to go ahead, including a classified briefing for the entire 100-member Senate on Wednesday by Secretary of State John Kerry and Treasury Secretary Jack Lew. The session seemed to have done little to change lawmakers' minds. Republican Senator Lindsey Graham, a supporter of the Menendez-Kirk plan, said after the meeting that the sanctions bill should go ahead. "Giving the administration a six-month period to negotiate a successful deal makes sense to me. But having sanctions hanging over the head of the Iranians if the deal is not acceptable also makes sense to me," Graham told reporters after the meeting with Kerry and Lew.

**(--) Massive partisan bickering now:**

**Business Recorder, 2/7/2013** (“Partisanship in Congress puts US at risk: Panetta,” Accessed 2/22/2014, rwg, http://www.brecorder.com/top-stories/0/1151607/)

Chronic partisanship in Congress poses the biggest risk to America's economy, national security and political life, US Defence Secretary Leon Panetta warned in a speech Wednesday. In his last major policy address before he retires this month, the Pentagon chief blasted lawmakers for a lack of leadership that has produced an escalating series of budget crises. The most urgent task facing political leaders is to overcome "partisan dysfunction in Congress that poses a threat to our quality of life, to our national security, to our economy, to our ability to address the problems that confront this country," said Panetta, who served as a lawmaker from California before holding senior posts under two Democratic presidents.

#### **Multitude of thumpers: Nothing will get done**

Coshocoton Tribune 1-1 ["Obama, Congress need to give Americans hope" http://www.coshoctontribune.com/article/20140101/OPINION04/301010019/Obama-Congress-need-give-Americans-hope

In Washington alone, consider the difficulties: Political gridlock is rampant. Midterm elections are bound to ramp up the partisanship. Republican opposition to virtually anything Obama touches is intense and shows no signs of stopping. And some of the nation’s top legislative priorities — the Affordable Care Act, stronger guidelines on background checks for gun purchases, federal-level immigration reform, for instance — are either wrapped in controversy or going nowhere.

#### **(--) Obama’s pc isn’t key—his influence isn’t switching votes on Iran:**

Reuters, 12/12/2013 (“US lawmakers to introduce bill on new Iran sanctions soon,”

http://www.jpost.com/Iranian-Threat/News/US-lawmakers-to-introduce-bill-on-new-Iran-sanctions-soon-334747, Accessed 1/22/2014, rwg)

Robert Menendez, the Democratic chairman of the Senate Foreign Relations Committee, and Republican Senator Mark Kirk are finishing legislation that would target Iran's remaining oil exports and foreign exchange and seek to limit President Barack Obama's ability to waive sanctions. However, the measure would impose the new sanctions only if the interim deal has gone nowhere in six months or Iran violates terms of the agreement. Supporters said that would comply with the administration's request to allow negotiators to pursue a comprehensive diplomatic solution to the Iran nuclear crisis. But the measure faces an uphill battle to become law. Administration officials have been pushing Congress hard not to go ahead, including a classified briefing for the entire 100-member Senate on Wednesday by Secretary of State John Kerry and Treasury Secretary Jack Lew. The session seemed to have done little to change lawmakers' minds. Republican Senator Lindsey Graham, a supporter of the Menendez-Kirk plan, said after the meeting that the sanctions bill should go ahead. "Giving the administration a six-month period to negotiate a successful deal makes sense to me. But having sanctions hanging over the head of the Iranians if the deal is not acceptable also makes sense to me," Graham told reporters after the meeting with Kerry and Lew.

#### **(--) New sanctions won’t cause war—only increases leverage:**

Jim Lobe, 12/27/2013 (staff writer, “Iran sanctions bill: Big test of Israel lobby power,”

http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046, Accessed 1/22/2014, rwg)

But none of that has deterred key Israel lobby institutions. “Far from being a step which will make war more likely, as some claim, enhanced sanctions together with negotiations will sustain the utmost pressure on a regime that poses a threat to America and our closest allies in the Middle East,” the Anti-Defamation League (ADL) argued Thursday.

#### (--) UQ overwhelms the link: Can’t get a veto proof majority:

Timothy Gardner, 1/6/2014 (staff writer, “Iran sanctions bill opposed by Obama gains Senate backers,” http://www.reuters.com/article/2014/01/06/us-usa-sanctions-iran-idUSBREA0516E20140106, Accessed 1/22/2014, rwg)

While the bill has gained support, it remains uncertain if backers can put together the two-thirds majority in the Senate needed to override a veto by President Barack Obama.

#### (--) Centrifuge development proves Iran isn’t serious about negotiations:

Ed Henry, 12/27/2013 (staff writer, “Top Dem presses Obama on Iran sanctions after centrifuge surprise,” http://www.foxnews.com/politics/2013/12/27/top-dem-presses-obama-on-iran-sanctions-after-centrifuge-announcement/, Accessed 1/23/2014, rwg)

President Obama faced mounting bipartisan pressure on Friday to drop his resistance to an Iran sanctions bill after Tehran announced a new generation of equipment to enrich uranium -- a move the Israelis claimed was further proof the regime seeks nuclear weapons. One of the president's top Democratic allies is leading the charge for Congress to pass sanctions legislation, despite the president's pleas to stand down. Senate Foreign Relations Committee Chairman Bob Menendez, D-N.J., told Fox News that the "Iranians are showing their true intentions" with their latest announcement. "If you're talking about producing more advanced centrifuges that are only used to enrich uranium at a quicker rate ... the only purposes of that and the only reason you won't give us access to [a military research facility] is because you're really not thinking about nuclear power for domestic energy -- you're thinking about nuclear power for nuclear weapons," he said. Menendez was reacting after Iran's nuclear chief Ali Akbar Salehi said late Thursday that the country is building a new generation of centrifuges for uranium enrichment. He said the system still needs further tests before the centrifuges can be mass produced. His comments appeared aimed at countering hard-liner criticism by showing the nuclear program is moving ahead and has not been halted by the accord. At the same time, the government was walking a fine line under the terms of the deal.

#### (--) Second term curse is sapping Obama’s capital now:

Doyle McManus, 1/6/2014 (staff writer, “Obama may still hold his own,” http://gulfnews.com/opinions/columnists/obama-may-still-hold-his-own-1.1274531, Accessed 1/23/2014, rwg)

For many presidents — Richard M. Nixon, Ronald Reagan, Bill Clinton — this was the point when the scandals took over. President Barack Obama has run into his share of controversies, but none that quite reached scandalhood. (Does anyone even remember the IRS flap?) But the calamitous launch of Obama’s health care plan has had the same confidence-sapping effect. And if the past is any predictor, Obama’s plight is likely to get worse before it gets better. The midterm congressional election has almost always taken seats from the second-term president’s party, making his job even harder.

**(--) Saudi Arabia will scuttle successful diplomacy with Iran:**

Mark Leonard, 10/15/2013 (staff writer, “On Iran, Obama’s bigger challenge is with his allies,” <http://blogs.reuters.com/mark-leonard/2013/10/15/on-iran-obamas-bigger-challenge-is-with-his-allies/>, Accessed 10/16/2013, rwg)

The other American ally — Saudi Arabia — has a murkier modus operandi. Rather than relying on American politics to subvert rapprochement with Iran, Riyadh will put more efforts into proxy wars on the ground, above all in Syria, to upset the nuclear deal and the idea of a negotiated political solution to the Syrian conflict. A well-placed Saudi told me of Riyadh’s complete unwillingness to accept any diplomatic process involving Iran and Assad, and claimed that Saudi Arabia would be using “unlimited resources” to win the battle. As Marc Lynch argues in Foreign Policy, “the Saudis are always willing to fight Iran to the last dead American (or Syrian).”

#### **(--) Congress won’t agree to relax sanctions:**

REUTERS, 10/16/2013 (“Hawkish US Congress holds key to easing Iran sanctions,” <http://www.jpost.com/Iranian-Threat/News/Hawkish-US-Congress-holds-key-to-easing-Iran-sanctions-328831>, Accessed 10/16/2013, rwg)

Even if Iran promises to take serious steps, it is unlikely to satisfy key members of the US Congress, which generally takes a harder line on Iran than President Barack Obama's administration.¶ Lawmakers including Robert Menendez, the chairman of the Senate Foreign Relations Committee, have signaled they want Tehran to stop even low-level enrichment of uranium used in generating power before they would take steps to wind down existing sanctions, or even agree not to put through tougher ones.¶ "Sanctions relief is easier said than done," said Ali Vaez, an Iran analyst at the International Crisis Group, an organization that seeks to prevent and resolve conflict.¶ "Without a fundamental reorientation of Iran's approach, a significant relaxation in sanctions is not in the cards."

#### (--) Obama can’t hold off pressure from the Congress on Iran:

Mark Landler, 10/11/2013 (staff writer, “On Iran Talks, Congress Could Play ‘Bad Cop’” <http://www.nytimes.com/2013/10/11/world/middleeast/on-iran-talks-congress-could-play-bad-cop.html>, Accessed 10/16/2013, rwg)

The Senate version would cruise to victory, too, though the government shutdown could bog down its march to a vote. In 2011, the Senate passed a bill aimed at Iran’s oil exports by a unanimous vote. Those sanctions crippled Iran’s economy and helped bring Mr. Rouhani to power.¶ “The notion that we can hold off pressure from the Hill, in the absence of anything concrete from the Iranians, is an illusion,” said Dennis B. Ross, a former senior Obama adviser on Iran.

#### (--) Obama could always waiver the sanctions:

REUTERS, 10/16/2013 (“Hawkish US Congress holds key to easing Iran sanctions,” <http://www.jpost.com/Iranian-Threat/News/Hawkish-US-Congress-holds-key-to-easing-Iran-sanctions-328831>, Accessed 10/16/2013, rwg)

The Democratic president could also exercise temporary waivers of sanctions on oil sales that have slashed Iran's crude exports by more than 1 million barrels per day since 2011, depriving the country of billions of dollars worth of sales per month.¶ With a waiver, Obama could suspend sanctions for 120 days before they kick in again.¶ "You have to ask yourself what's the way to offer sanctions relief that's reversible if Iran reneges on its parts of any bargain," said Michael Singh, a managing director at The Washington Institute, who was a senior director for Middle Eastern affairs under former President George W. Bush.