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#### Targeted killings are strikes carried about against pre-meditated, individually designated targets---signature strikes are distinct

Kenneth Anderson 11, Professor at Washington College of Law, American University, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Distinguishing High Value Targeted Killing and ‘Signature’ Attacks on Taliban Fighters,” August 29 2011, http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains:¶ The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there.¶ High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say.¶ Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.)¶ This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

#### Vote neg --- signature strikes and targeted killings are distinct operations with entirely separate lit bases and advantages---they kill precision and limits

Kenneth Anderson 11, Professor at Washington College of Law, American University, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare,” Sept 23 2011, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1812124

Although targeted killing and drone warfare are often closely connected, they are not the same and are not always associated with each other. We need to disaggregate the practices of targeted killing from the technologies of drone warfare.¶ Targeted killing consists of using deadly force, characterized by the identification of and then strike against an individual marked to be killed. It is distinguished, among other things, by making an individualized determination of a person to be killed, rather than simply identifying, for example, a mass of enemy combatants to attack as a whole. Since it is a practice that involves the determination of an identified person, rather than a mass of armed and obvious combatants, it is a use of force that is by its function integrated with intelligence work, whether the intelligence actors involved are uniformed military or a civilian agency such as the CIA.¶ Targeted killing might (and does) take place in the course of conventional warfare, through special operations or other mechanisms that narrowly focus operations through intelligence. But it might also take place outside of a conventional conflict, or perhaps far from the conventional battlefields of that conflict, sufficiently so operationally to best be understood as its own operational category of the use of force – “intelligence-driven,” often covert, and sometimes non-military intelligence agency use of force, typically aimed at “high value” targets in global counterterrorism operations. It might be covert or it might not – but it will be driven by intelligence, because of necessity it must identify and justify the choice of target (on operational, because resources are limited; or legal grounds; or, in practice, both).¶ Targeted killing might use a variety of tactical methods by which to carry out the attack. The method might be by drones firing missiles – the focus of discussion here. But targeted killing – assassination, generically – is a very old method for using force and drones are new. Targeted killing in current military and CIA doctrine might, and often does, take place with covert civilian intelligence agents or military special operations forces – a human team carrying out the attack, rather than a drone aircraft operated from a distance. The Bin Laden raid exemplifies the human team-conducted targeted killing, of course, and in today’s tactical environment, the US often uses combined operations that have available both human teams and drones, to be deployed according to circumstances.¶ Targeted killing is thus a tactic that might be carried out either by drones or human teams. If there are two ways to do targeted killing, there are also two functions for the use of drones – targeted killing as part of an “intelligence-driven” discrete use of force, on the one hand, and a role (really, roles) in conventional warfare. Drones have a role in an ever-increasing range of military operations that have no connection to “targeted killing.” For many reasons ranging from cost-effectiveness to mission-effectiveness, drones are becoming more ramified in their uses in military operations, and will certainly become more so. This is true starting with their fundamental use in surveillance, but is also true when used as weapons platforms.¶ From the standpoint of conventional military operations and ordinary battlefields, drones are seen by the military as simply an alternative air weapons platform. One might use an over-the-horizon manned aircraft – or, depending on circumstances, one might instead use a drone as the weapons platform. It might be a missile launched from a drone by an operator, whether sitting in a vehicle near the fighting or farther away; it might be a weapon fired from a helicopter twenty miles away, but invisible to the fighters; it might be a missile fired from a US Navy vessel hundreds of miles away by personnel sitting at a console deep inside the ship. Future air-to-air fighter aircraft systems are very likely to be remotely piloted, in order to take advantage of superior maneuverability and greater stresses endurable without a human pilot. Remotely-piloted aircraft are the future of much military and, for that matter, civil aviation; this is a technological revolution that is taking place for reasons having less to do with military aviation than general changes in aviation technology.¶ Missiles fired from a remotely-piloted standoff platform present the same legal issues as any other weapons system – the law of war categories of necessity and proportionality in targeting. To military professionals, therefore, the emphasis placed on “remoteness” from violence of drone weapons operators, and presumed psychological differences in operators versus pilots, is misplaced and indeed mystifying. Navy personnel firing missiles from ships are typically just as remote from the fighting, and yet one does not hear complaints about their indifference to violence and their “Playstation,” push-button approach to war. Air Force pilots more often than not fire from remote aircraft; pilots involved in the bombing campaign over Serbia in the Kosovo war sometimes flew in bombers taking off from the United States; bomber crews dropped their loads from high altitudes, guided by computer, with little connection to the “battlefield” and little conception of what they – what their targeting computers - were aiming at. Some of the crews in interviews described spending the flights of many hours at a time, flying from the Midwest and back, as a good chance to study for graduate school classes they were taking – not Playstation, but study hall. In many respects, the development of new sensor technologies make the pilots, targeters, and the now-extensive staff involved in a decision to fire a weapon from a drone far more aware of what is taking place at the target than other forms of remote targeting, from Navy ships or high altitude bombing.¶ Very few of the actors on a technologically advanced battlefield are personally present in a way that makes the destruction and killing truly personal – and that is part of the point. Fighting up close and personal, on the critics’ psychological theories, seems to mean that it has greater significance to the actors and therefore leads to greater restraint. That is extremely unlikely and contrary to the experience of US warfighters. Lawful kinetic violence is more likely to increase when force protection is an issue, and overuse of force is more likely to increase when forces are under personal pressure and risk. The US military has known since Vietnam at least that increased safety for fighting personnel allows them greater latitude in using force, encourages and permits greater willingness to consider the least damaging alternatives, and that putting violence at a remove reduces the passions and fears of war and allows a coolly professional consideration of what kinds, and how much, violence is required to accomplish a lawful military mission. Remote weapon systems, whether robotic or simply missiles launched from a safe distance, in US doctrine are more than just a means for reducing risk to forces – they are an integral part of the means of allowing more time to consider less-harmful alternatives.¶ This is an important point, given that drones today are being used for tasks that involve much greater uses of force than individualized targeted killing. Drones are used today, and with increasing frequency, to kill whole masses of enemy columns of Taliban fighters on the Pakistan border – in a way that would otherwise be carried out by manned attack aircraft. This is not targeted killing; this is conventional war operations. It is most easily framed in terms of the abstract strategic division of counterinsurgency from counterterrorism (though in practice the two are not so distinct as all that). In particular, drones are being deployed in the AfPak conflict as a counterinsurgency means of going after Taliban in their safe haven camps on the Pakistan side of the border. A fundamental tenet of counterinsurgency is that the safe havens have to be ended, and this has meant targeting much larger contingents of Taliban fighters than previously understood in the “targeted killing” deployment. This could be – and in some circumstances today is – being done by the military; it is also done by the CIA under orders of the President partly because of purely political concerns; much of it today seems to be a combined operation of military and CIA.¶ Whoever conducts it and whatever legal issues it might raise, the point is that this activity is fundamentally counterinsurgency. The fighters are targeted in much larger numbers in the camps than would be the case in “targeted killing,” and this is a good instance of how targeted killing and drone warfare need to be differentiated. The targets are not individuated, either in the act of targeting or in the decision of who and where to target: this is simply an alternative air platform for doing what might otherwise be done with helicopters, fixed wing aircraft, or ground attack, in the course of conventional counterinsurgency operations. But it also means that the numbers killed in such operations are much larger, and consist often of ordinary fighters who would otherwise pile into trucks and cross back into Afghanistan, rather than individualized “high value” targets, whether Taliban or Al Qaeda.

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#### Congress will ultimately compromise to avert shutdown – GOP divisions make it more likely, not less

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

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

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

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

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

#### Shutdown wrecks the economy

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

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

#### Global nuclear war

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

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

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#### The aff uses expertism to mask their politically constructed scenarios as objective — this privileges insulated decision-making authority — causes deference to the executive — turns case and results in endless militarism

Aziz Rana 12, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417

Despite such democratic concerns, a large part of what makes today's dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, this conclusion assesses them more directly and, in the process, indicates what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the United States faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create a world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states. n310¶ [\*1486] ¶ Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of the national security state, with the U.S. military permanently mobilized to gather intelligence and to combat enemies wherever they strike-at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decision-making are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency-one armed with countless secret and public agencies as well as with a truly global military footprint n311 -greatly outweigh the costs.¶

Yet although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments, but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides-and with it the issue of how democratic or insular our institutions should be-remains open as well.¶

Clearly, technological changes, from airpower to biological and chemical weapons, have shifted the nature of America's position in the [\*1487] world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet in truth, they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers. n312 But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments-assessments that carry with them preexisting ideological points of view-such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy.¶ In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have-at times unwittingly-reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America's post- World War II position of global primacy, one which today has only expanded following the Cold War. n313 In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that "our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century," was no longer "adequate" for the "20th-century nation." n314 For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country's "pre-eminen[ce] in political and military power." n315 Fulbright believed that greater executive action and war- making capacities were essential precisely because the United States found itself "burdened with all the enormous responsibilities that accompany such power." n316 According to Fulbright, the United States had [\*1488] both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. n317 Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States' own national security rested on the successful projection of power into the internal affairs of foreign states.¶ The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion. n318 To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principle and overriding danger facing the country. According to National Counterterrorism Center's 2009 Report on Terrorism, in 2009 there were just twenty-five U.S. noncombatant fatalities from terrorism worldwide-nine abroad and sixteen at home. n319 While the fear of a terrorist attack is a legitimate concern, these numbers-which have been consistent in recent years-place the gravity of the threat in perspective. Rather than a condition of endemic danger-requiring ever-increasing secrecy and centralization-such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit national security aims emphasizes just how entrenched Herring's old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling.¶ It also underscores a telling and often ignored point about the nature of [\*1489] modern security expertise, particularly as reproduced by the United States' massive intelligence infrastructure. To the extent that political assumptions-like the centrality of global primacy or the view that instability abroad necessarily implicates security at home-shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. These assumptions mean that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underlines that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge.

If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of "expertise." n320 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threats to newspapers as a method of shaping the public debate. n321 These "open" secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making.

#### It’s try or die — absent interrogating security, extinction is inevitable

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

3. From securitisation to militarisation 3.1 Complicity

This analysis thus calls for a broader approach to environmental security based on retrieving the manner in which political actors construct discourses of 'scarcity' in response to ecological, energy and economic crises (critical security studies) in the context of the historically-specific socio-political and geopolitical relations of domination by which their power is constituted, and which are often implicated in the acceleration of these very crises (historical sociology and historical materialism).¶ Instead, both realist and liberal orthodox IR approaches focus on different aspects of interstate behaviour, conflictual and cooperative respectively, but each lacks the capacity to grasp that the unsustainable trajectory of state and inter-state behaviour is only explicable in the context of a wider global system concurrently over-exploiting the biophysical environment in which it is embedded. They are, in other words, unable to address the relationship of the inter-state system itself to the biophysical environment as a key analytical category for understanding the acceleration of global crises. They simultaneously therefore cannot recognise the embeddedness of the economy in society and the concomitant politically-constituted nature of economics.¶ Hence, they neglect the profound irrationality of collective state behaviour, which systematically erodes this relationship, globalising insecurity on a massive scale - in the very process of seeking security.85 In Cox's words, because positivist IR theory 'does not question the present order [it instead] has the effect of legitimising and reifying it'.86 Orthodox IR sanitises globally-destructive collective inter-state behaviour as a normal function of instrumental reason -thus rationalising what are clearly deeply irrational collective human actions that threaten to permanently erode state power and security by destroying the very conditions of human existence. Indeed, the prevalence of orthodox IR as a body of disciplinary beliefs, norms and prescriptions organically conjoined with actual policy-making in the international system highlights the extent to which both realism and liberalism are ideologically implicated in the acceleration of global systemic crises.¶ By the same token, the incapacity to recognise and critically interrogate how prevailing social, political and economic structures are driving global crisis acceleration has led to the proliferation of symptom-led solutions focused on the expansion of state/regime military-political power rather than any attempt to transform root structural causes.88 It is in this context that, as the prospects for meaningful reform through inter-state cooperation appear increasingly nullified under the pressure of actors with a vested interest in sustaining prevailing geopolitical and economic structures, states have resorted progressively more to militarised responses designed to protect the concurrent structure of the international system from dangerous new threats. In effect, the failure of orthodox approaches to accurately diagnose global crises, directly accentuates a tendency to 'securitise' them - and this, ironically, fuels the proliferation of violent conflict and militarisation responsible for magnified global insecurity.¶ 'Securitisation' refers to a 'speech act' - an act of labelling - whereby political authorities identify particular issues or incidents as an existential threat which, because of their extreme nature, justify going beyond the normal security measures that are within the rule of law. It thus legitimises resort to special extra-legal powers. By labelling issues a matter of 'security', therefore, states are able to move them outside the remit of democratic decision-making and into the realm of emergency powers, all in the name of survival itself. Far from representing a mere aberration from democratic state practice, this discloses a deeper 'dual' structure of the state in its institutionalisation of the capacity to mobilise extraordinary extra-legal military-police measures in purported response to an existential danger.¶ The problem in the context of global ecological, economic and energy crises is that such levels of emergency mobilisation and militarisation have no positive impact on the very global crises generating 'new security challenges', and are thus entirely disproportionate.90 All that remains to examine is on the 'surface' of the international system (geopolitical competition, the balance of power, international regimes, globalisation and so on), phenomena which are dislocated from their structural causes by way of being unable to recognise the biophysically-embedded and politically-constituted social relations of which they are comprised. The consequence is that orthodox IR has no means of responding to global systemic crises other than to reduce them to their symptoms.¶ Indeed, orthodox IR theory has largely responded to global systemic crises not with new theory, but with the expanded application of existing theory to 'new security challenges' such as 'low-intensity' intra-state conflicts; inequality and poverty; environmental degradation; international criminal activities including drugs and arms trafficking; proliferation of weapons of mass destruction; and international terrorism.91 Although the majority of such 'new security challenges' are non-military in origin - whether their referents are states or individuals - the inadequacy of systemic theoretical frameworks to diagnose them means they are primarily examined through the lenses of military-political power.92 In other words, the escalation of global ecological, energy and economic crises is recognised not as evidence that the current organisation of the global political economy is fundamentally unsustainable, requiring urgent transformation, but as vindicating the necessity for states to radicalise the exertion of their military-political capacities to maintain existing power structures, to keep the lid on.93¶ Global crises are thus viewed as amplifying factors that could mobilise the popular will in ways that challenge existing political and economic structures, which it is presumed (given that state power itself is constituted by these structures) deserve protection. This justifies the state's adoption of extra-legal measures outside the normal sphere of democratic politics. In the context of global crisis impacts, this counter-democratic trend-line can result in a growing propensity to problematise potentially recalcitrant populations - rationalising violence toward them as a control mechanism.¶ Consequently, for the most part, the policy implications of orthodox IR approaches involve a redundant conceptualisation of global systemic crises purely as potential 'threat-multipliers' of traditional security issues such as 'political instability around the world, the collapse of governments and the creation of terrorist safe havens'. Climate change will serve to amplify the threat of international terrorism, particularly in regions with large populations and scarce resources. The US Army, for instance, depicts climate change as a 'stress-multiplier' that will 'exacerbate tensions' and 'complicate American foreign policy'; while the EU perceives it as a 'threat-multiplier which exacerbates existing trends, tensions and instability'.95¶ In practice, this generates an excessive preoccupation not with the causes of global crisis acceleration and how to ameliorate them through structural transformation, but with their purportedly inevitable impacts, and how to prepare for them by controlling problematic populations. Paradoxically, this 'securitisation' of global crises does not render us safer. Instead, by necessitating more violence, while inhibiting preventive action, it guarantees greater insecurity. Thus, a recent US Department of Defense report explores the future of international conflict up to 2050. It warns of 'resource competition induced by growing populations and expanding economies', particularly due to a projected 'youth bulge' in the South, which 'will consume ever increasing amounts of food, water and energy'. This will prompt a 'return to traditional security threats posed by emerging near-peers as we compete globally for depleting natural resources and overseas markets'. Finally, climate change will 'compound' these stressors by generating humanitarian crises, population migrations and other complex emergencies.96¶ A similar study by the US Joint Forces Command draws attention to the danger of global energy depletion through to 2030. Warning of ‘the dangerous vulnerabilities the growing energy crisis presents’, the report concludes that ‘The implications for future conflict are ominous.’97 Once again, the subject turns to demographics: ‘In total, the world will add approximately 60 million people each year and reach a total of 8 billion by the 2030s’, 95 per cent accruing to developing countries, while populations in developed countries slow or decline. ‘Regions such as the Middle East and Sub-Saharan Africa, where the youth bulge will reach over 50% of the population, will possess fewer inhibitions about engaging in conflict.’98 The assumption is that regions which happen to be both energy-rich and Muslim-majority will also be sites of violent conflict due to their rapidly growing populations. A British Ministry of Defence report concurs with this assessment, highlighting an inevitable ‘youth bulge’ by 2035, with some 87 per cent of all people under the age of 25 inhabiting developing countries. In particular, the Middle East population will increase by 132 per cent and sub-Saharan Africa by 81 per cent. Growing resentment due to ‘endemic unemployment’ will be channelled through ‘political militancy, including radical political Islam whose concept of Umma, the global Islamic community, and resistance to capitalism may lie uneasily in an international system based on nation-states and global market forces’. More strangely, predicting an intensifying global divide between a super-rich elite, the middle classes and an urban under-class, the report warns: ‘The world’s middle classes might unite, using access to knowledge, resources and skills to shape transnational processes in their own class interest.’99¶ Thus, the securitisation of global crisis leads not only to the problematisation of particular religious and ethnic groups in foreign regions of geopolitical interest, but potentially extends this problematisation to any social group which might challenge prevailing global political economic structures across racial, national and class lines. The previous examples illustrate how secur-itisation paradoxically generates insecurity by reifying a process of militarization against social groups that are constructed as external to the prevailing geopolitical and economic order. In other words, the internal reductionism, fragmentation and compartmentalisation that plagues orthodox theory and policy reproduces precisely these characteristics by externalising global crises from one another, externalising states from one another, externalising the inter-state system from its biophysical environment, and externalising new social groups as dangerous 'outsiders\*. Hence, a simple discursive analysis of state militarisation and the construction of new "outsider\* identities is insufficient to understand the causal dynamics driving the process of 'Otherisation'. As Doug Stokes points out, the Western state preoccupation with the ongoing military struggle against international terrorism reveals an underlying 'discursive complex", where representations about terrorism and non-Western populations are premised on 'the construction of stark boundaries\* that 'operate to exclude and include\*. Yet these exclusionary discourses are 'intimately bound up with political and economic processes', such as strategic interests in proliferating military bases in the Middle East, economic interests in control of oil, and the wider political goal of 'maintaining American hegemony\* by dominating a resource-rich region critical for global capitalism.100¶ But even this does not go far enough, for arguably the construction of certain hegemonic discourses is mutually constituted by these geopolitical, strategic and economic interests — exclusionary discourses are politically constituted. New conceptual developments in genocide studies throw further light on this in terms of the concrete socio-political dynamics of securitisation processes. It is now widely recognised, for instance, that the distinguishing criterion of genocide is not the pre-existence of primordial groups, one of which destroys the other on the basis of a preeminence in bureaucratic military-political power. Rather, genocide is the intentional attempt to destroy a particular social group that has been socially constructed as different. As Hinton observes, genocides precisely constitute a process of 'othering\* in which an imagined community becomes reshaped so that previously 'included\* groups become 'ideologically recast' and dehumanised as threatening and dangerous outsiders, be it along ethnic, religious, political or economic lines — eventually legitimising their annihilation.102¶ In other words, genocidal violence is inherently rooted in a prior and ongoing ideological process, whereby exclusionary group categories are innovated, constructed and 'Otherised' in accordance with a specific socio-political programme. The very process of identifying and classifying particular groups as outside the boundaries of an imagined community of 'inclusion\*, justifying exculpatory violence toward them, is itself a political act without which genocide would be impossible.1 3 This recalls Lemkin's recognition that the intention to destroy a group is integrally connected with a wider socio-political project - or colonial project — designed to perpetuate the political, economic, cultural and ideological relations of the perpetrators in the place of that of the victims, by interrupting or eradicating their means of social reproduction. Only by interrogating the dynamic and origins of this programme to uncover the social relations from which that programme derives can the emergence of genocidal intent become explicable.¶ Building on this insight, Semelin demonstrates that the process of exclusionary social group construction invariably derives from political processes emerging from deep-seated sociopolitical crises that undermine the prevailing framework of civil order and social norms; and which can, for one social group, be seemingly resolved by projecting anxieties onto a new 'outsider' group deemed to be somehow responsible for crisis conditions. It is in this context that various forms of mass violence, which may or may not eventually culminate in actual genocide, can become legitimised as contributing to the resolution of crises.105¶ This does not imply that the securitisation of global crises by Western defence agencies is genocidal. Rather, the same essential dynamics of social polarisation and exclusionary group identity formation evident in genocides are highly relevant in understanding the radicalisation processes behind mass violence. This highlights the fundamental connection between social crisis, the breakdown of prevailing norms, the formation of new exclusionary group identities, and the projection of blame for crisis onto a newly constructed 'outsider' group vindicating various forms of violence.

#### Our interrogation of the 1AC is critical to identify the root cause of their harms — absent ideological reform, serial policy failure is inevitable

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

While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad.¶ The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question.¶ As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves.¶ There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them.¶ Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation.¶ Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

### CP

#### The Executive branch of the United States should make necessary adjustments to its targeted killing policy to ensure compliance with relevant domestic and international law, including principles of necessity, distinction, and proportionality. The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

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

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

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

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

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

### Case- Pakistan

#### The alternative to drones in Pakistan is full-scale military operations---obviously worse for all their impacts

Michael Llenza 11, Senior Navy Fellow at the Atlantic Council and Foreign Affairs Specialist, NATO ISAF, Spring 2011, “Targeted Killings in Pakistan: A Defense,” Global Security Studies, Vol. 2, No. 2, http://globalsecuritystudies.com/Targeted%20Killings.pdf

Regardless of the possibility of civilian deaths, if the United States continues its policy of targeted killings, which by all signs it appears to, then the humanitarian benefits of drone strikes far outweigh their costs of the alternative. Predator strikes introduce greater discrimination in targeting than full-scale military assault or large-scale warfare would permit (Anderson, 2009, p.8). They allow the United States to seek out those who mean it harm without having to launch a full-scale invasion or placing U.S. forces at risk. Without placing U.S. and coalition forces at risk, the government can go after the terrorist without the fear of a counterassault that might increase the use of force and cause more collateral damage (Anderson, 2009, pp.7-8).

Although some may see military action on the ground more palatable than a standoff killing, invading a hostile area that is predominantly civilian would inevitably result in the death and injury of far more innocent people than those caused by targeted drone strikes. In addition, this measure is more commensurate with the conditions of self-defense, that those killed be responsible for the threat being posed (Statman). Furthermore, as a strategic option, drone strikes are a prudent alternative to what may otherwise result in a larger, costlier and undesirable conflict (Anderson, 2010, p.32).

Some critics of the drone operations would rather see Pakistan go after these terrorists, but from a humanitarian standpoint, one need only consider the political unreliability of their government along with the ineffectiveness of the Pakistani army and its penchant for long range artillery barrages over counterinsurgency (The Daily Times, 2010; Anderson, 2009, pp.8-9). Pakistani researchers’ state that attacks by the Pakistani military have caused far more collateral deaths than those by drones with relatively no success (Rodriguez & Zucchino).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### No impact to Pakistani public opposition---it’s not widespread and most anger is directed at the Pakistani government

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

A 2012 poll found that 74 percent of Pakistanis viewed the United States as their enemy, likely in part because of the ongoing drone campaign. Similarly, in Yemen, as the scholar Gregory Johnsen has pointed out, drone strikes can win the enmity of entire tribes. This has led critics to argue that the drone program is shortsighted: that it kills today's enemies but creates tomorrow's in the process.

Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as SEAL team raids or cruise missile strikes, would make the United States more popular.

#### No scenario for nuclear acquisition from Pakistan

Michael Clarke '13, PhD in Asian and International Studies and an Australian Research Council (ARC) Research Fellow at the Griffith Asia Institute, 4/17/13, "Pakistan and Nuclear Terrorism: How Real is the Threat?" Comparative Strategy, Vol. 32 No.2

\*\*C2= command and control system- ensures that the state's nuclear weapons will only be used according to the principles of its nuclear doctrine

This article demonstrates that while nuclear terrorism is indeed possible, there remain significant obstacles for terrorists to overcome in order to acquire sufficient fissile or radiological material from Pakistani sources. It also identifies the potential for terrorists to acquire fissile or radiological material due to problems at each level of Pakistan's nuclear complex. However, the potential for some of these problems to increase the likelihood of nuclear terrorism tends to be overstated. For example, it has been suggested that Pakistan's nuclear first use doctrine combined with a delegative C2 system could open a window of opportunity for terrorists to seize either an intact nuclear weapons or key components of nuclear weapons. This scenario, however, is improbable given that Pakistan appears on balance to have a more assertive C2 system and stores its nuclear weapons unassembled and dispersed across the country. Nonetheless, separate storage and dispersal could create more points of access for terrorists to acquire components of nuclear weapons, such as the AF&F mechanism or fissile cores.¶ In the Pakistani context, although the technical/scientific obstacles to nuclear terrorism detailed in the first section of this chapter remain, there are numerous question marks not only over the state's capacity to manage and secure nuclear material but also over the epistemic side of the equation. [95](http://www.tandfonline.com/doi/full/10.1080/01495933.2013.773700#EN0095) There remain concerns about the potential for individuals employed in Pakistan's nuclear complex, and with specific technical/scientific knowledge regarding nuclear materials, either to leak such information to extremists or to closely collaborate with them. Although Pakistan has put in place a PRP to guard against such an occurrence it remains unclear as to how rigorously it is implemented. The threat stemming from the epistemic side of the equation may also be set to increase given Pakistan's proposed expansion of its nuclear power generation capacity, as such an expansion will require a large cadre of trained and qualified personnel.¶ Thus, much of the speculation and commentary about the potential for nuclear terrorism in Pakistan tends to emphasize scenarios in which hypothetical terrorists are aided and abetted in the acquisition of an intact nuclear weapon or fissile material by individuals employed in the nuclear complex or rogue elements of the military. This focus has tended to result in the downplaying of the real and complex barriers to terrorists acquiring intact weapons and fissile or radiological material.

#### No scenario for nuclear terror---consensus of experts

Matt Fay ‘13, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

For over a decade now, one of the most oft-repeated threats raised by policymakers—the one that in many ways justified the invasion of Iraq—has been that of nuclear terrorism. Officials in both the Bush and Obama administrations, including the presidents themselves, have raised the specter of the atomic terrorist. But beyond mere rhetoric, how likely is a nuclear terrorist attack really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of scholars in recent years have pushed back against this trend. Frank Gavin has put post-9/11 fears of nuclear terrorism into historical context (pdf) and argued against the prevailing alarmism. Anne Stenersen of the Norwegian Defence Research Establishment has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon. John Mueller ridiculed the notion of nuclear terrorism in his book Atomic Obsessions and highlighted the numerous steps a terrorist group would need to take—all of which would have to be successful—in order to procure, deliver, and detonate an atomic weapon. And in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the United States—citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: states will not turn over nuclear weapons terrorists. To back up this claim, Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from the constraints of deterrence.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, fears of nuclear terrorism have been used to justify a wide-range of policies—up to, and including, military action. Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants the type of exertions many alarmist assessments indicate it should.

#### Terrorists aren’t pursuing

Wolfe 12 – Alan Wolfe is Professor of Political Science at Boston College. He is also a Senior Fellow with the World Policy Institute at the New School University in New York. A contributing editor of The New Republic, The Wilson Quarterly, Commonwealth Magazine, and In Character, Professor Wolfe writes often for those publications as well as for Commonweal, The New York Times, Harper's, The Atlantic Monthly, The Washington Post, and other magazines and newspapers. March 27, 2012, "Fixated by “Nuclear Terror” or Just Paranoia?" [http://www.hlswatch.com/2012/03/27/fixated-by-“nuclear-terror”-or-just-paranoia-2/](http://www.hlswatch.com/2012/03/27/fixated-by-)

If one were to read the most recent unclassified report to Congress on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions, it does have a section on CBRN terrorism (note, not WMD terrorism). The intelligence community has a very toned down statement that says “several terrorist groups … probably remain interested in [CBRN] capabilities, but not necessarily in all four of those capabilities. … mostly focusing on low-level chemicals and toxins.” They’re talking about terrorists getting industrial chemicals and making ricin toxin, not nuclear weapons. And yes, Ms. Squassoni, it is primarily al Qaeda that the U.S. government worries about, no one else. The trend of worldwide terrorism continues to remain in the realm of conventional attacks. In 2010, there were more than 11,500 terrorist attacks, affecting about 50,000 victims including almost 13,200 deaths. None of them were caused by CBRN hazards. Of the 11,000 terrorist attacks in 2009, none were caused by CBRN hazards. Of the 11,800 terrorist attacks in 2008, none were caused by CBRN hazards.

#### Great power cooperation is far more likely --- they will also prevent a civil war

Hadar 11—former prof of IR at American U and Mount Vernon-College. PhD in IR from American U (1 July 2011, Leon, Saving U.S. Mideast Policy, http://nationalinterest.org/commentary/saving-us-policy-the-mideast-5556)

Indeed, contrary to the warning proponents of U.S. military intervention typically express, the withdrawal of American troops from Iraq and Afghanistan would not necessarily lead to more chaos and bloodshed in those countries. Russia, India and Iran—which supported the Northern Alliance that helped Washington topple the Taliban—and Pakistan (which once backed the Taliban) all have close ties to various ethnic and tribal groups in that country and now have a common interest in stabilizing Afghanistan and containing the rivalries.

#### Stability increasing Afghanistan

DoD July 2013, Department of Defense, July 2013, "Report on¶ Progress Toward Security and¶ Stability in Afghanistan," http://www.defense.gov/pubs/Section\_1230\_Report\_July\_2013.pdf¶

The conflict in Afghanistan has shifted into a fundamentally new phase. For the past 11 years, ¶ the United States and our coalition partners have led the fight against the Taliban, but now ¶ Afghan forces are conducting almost all combat operations. The progress made by the ¶ International Security Assistance Force (ISAF)-led surge over the past three years has put the ¶ Government of the Islamic Republic of Afghanistan (GIRoA) firmly in control of all of ¶ Afghanistan’s major cities and 34 provincial capitals and driven the insurgency into the ¶ countryside. ISAF’s primary focus has largely transitioned from directly fighting the insurgency ¶ to training, advising and assisting the Afghan National Security Forces (ANSF) in their efforts to ¶ hold and build upon these gains, enabling a U.S. force reduction of roughly 34,000 personnel—¶ half the current force in Afghanistan—by February 2014. ¶ As agreed by President Obama and President Karzai at their January 2013 meeting in ¶ Washington, D.C., and in line with commitments made at the Lisbon and Chicago NATO ¶ summits, "Milestone 2013" was announced on June 18, 2013, marking ISAF’s official transition ¶ to its new role. The ANSF has grown to approximately 96 percent of its authorized end-strength ¶ of 352,000 personnel and is conducting almost all operations independently. As a result, ISAF ¶ casualties are lower than they have been since 2008. The majority of ISAF bases has been ¶ transferred to the ANSF or closed (although most large ISAF bases remain), and construction of¶ most ANSF bases is complete. Afghanistan’s populated areas are increasingly secure; the ANSF ¶ has successfully maintained security gains in areas that have transitioned to Afghan lead ¶ responsibility. To contend with the continuing Taliban threat, particularly in rural areas, the ¶ ANSF will require training and key combat support from ISAF, including in extremis close air ¶ support, through the end of 2014.

#### **No conflict over terror attacks- nuclear deterrence**

TI '13 Times of India is a daily newspaper, 5/11/13, "India does not retaliate against Pak due to nukes: US expert," <http://articles.timesofindia.indiatimes.com/2013-05-11/india/39185579_1_south-indian-nuclear-weapons-cold-war>

\*\*\*quoting Stephen Blank, Research Professor of National Security Affairs at the Army War College

WASHINGTON**: India does not retaliate despite Pakistan-backed terrorist attacks** against **it because of the deterrence of nuclear weapons that the two countries posses**s, an American defence expert has said. "**All the terrorism that Pakistan has supported against India has been carried out, secure in the knowledge that India cannot retaliate**," Stephen Blank, Research Professor of National Security Affairs at the Army War College, said. "**If Pakistan had no nukes**, if there were no nukes on the South Indian peninsula, **India could retaliate and probably would. But their hand is stayed by the threat of nuclear war,**" Blank told a meeting of National Defense Industrial Association in response to a question. Similarly, **nuclear weapons act as a deterrent for many countries**, as was the case during the cold war between the US and China, he noted. "If you look at the map, the Russian Far East, which directly adjoins China, is what we call an[economy](http://timesofindia.indiatimes.com/topic/Economy) of force theatre. It is a theatre that can only survive by sustaining itself," Blank said. "If a war broke out between Russia and China -- and now and then Russian military and political officials actually [allude](http://timesofindia.indiatimes.com/topic/Allude) to the possibility of a Chinese threat -- probably within a day the Chinese could take out the Trans-Siberian Railway and essentially isolate the area from [the rest](http://timesofindia.indiatimes.com/topic/The-Rest-(musician)) of continental Russia," he said. "Therefore, the only recourse that the Russian military has in a contingency with China is nuclear," he added. During the Cold War, at the strategic level of nuclear weapons, the Russians could at any time they wanted destroy all of Europe. "In return, we threatened to destroy all of the Soviet Union. That was basically the mutual hostage relationship. Then the US also became as well a target of enhanced Soviet capabilities," he said. "If we are truly looking to build, 'a new world order', whatever that may be, and get beyond the Cold War, then we should not be encouraging people to build more nuclear weapons and to remain frozen in this posture of hostility and thinking about first-use scenarios," Blank said. "So that already is the utility of nuclear weapons.

#### No Pakistani collapse

Sunil Dasgupta '13 Ph.D. in political science and the director of UMBC's Political Science Program and a senior fellow at Brookings, 2/25/13, "How will India respond to civil war in Pakistan," East Asia Forum, http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

Bill Keller of the New York Times [has described Pakistani president Asif Ail Zardari](http://www.nytimes.com/2011/12/18/magazine/bill-keller-pakistan.html?pagewanted=all&_r=0) as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar [Anatol Lieven argues](http://www.anu.edu.au/vision/videos/6291/) that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.¶ Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. [Given the current conditions](http://www.eastasiaforum.org/2012/12/30/pakistans-bleak-outlook-lightened-by-the-game-changer-with-india/) and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

### Case- other

#### No impact to global drone prolif and it’s impossible to solve

Alejandro Sueldo 12, J.D. candidate and Dean’s Fellow at the University of California, Berkeley, School of Law and a PhD candidate at the Department of War Studies at King’s College London of the University of London, 4/11/12, “The coming drone arms race,” <http://dyn.politico.com/printstory.cfm?uuid=70B6B991-ECA7-4E5F-BE80-FD8F8A1B5E90>

Of particular concern are the legal and policy challenges posed if other states imitate the U.S. targeted killing program. For Washington is setting a precedent whereby states can send drones, often over sovereign borders, to kill foreigners or their own citizens, who are deemed threats.

Other states may also follow Washington’s example and develop their own criteria to define imminent threats and use drones to counter them.

Washington will find it increasingly difficult to protest other nations’ targeted killing programs — particularly when the United States has helped define this lethal practice. U.S. opposition will prove especially difficult when other states justify targeted killings as a matter of domestic affairs.

Should enough states follow the U.S. example, the practice of preemptively targeting and killing suspected threats may develop into customary international law.

Such a norm, however, which requires consistent state practice arising out of a sense of legal obligation, now looks unlikely. While targeted killing policies are arguably executed by states citing a legal obligation to protect themselves from imminent threats, widespread state practice is still uncommon.

But international law does not forbid drones. And given the lack of an international regime to control drones, state and non-state actors are free to determine their future use.

This lack of international consensus about how to control drones stems from a serious contradiction in incentives. Though drones pose grave challenges, they also offer states lethal and non-lethal capabilities that are of great appeal. Because the potential for drone technology is virtually limitless, states are now unwilling to control how drones evolve.

#### No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent

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

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

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

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

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

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

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

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

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

#### It’ll take Russia and China decades to catch up to U.S. drone tech

Alex Olesker 12, Technology Research Analyst at Crucial Point LLC, 9/10/12, “The Russian and Chinese Drone Programs,” http://www.oodaloop.com/technology/2012/09/10/the-russian-and-chinese-drone-programs/

Unmanned aerial vehicles have become the signature of American offensive military operations. While far from perfect, drones are now critical to achieving US goals in an effective and efficient manner. But how do the nations considered the United States’ closest “near peers,” Russian and China, compare in this critical capability? While both countries are making strides in developing their own combat drones, their technology is significantly behind and it will take years or likely decades for them to reach the stage the United States is at now. That reality is not lost on the Russian and Chinese military-industrial complexes, which have both taken a practical and realistic approach to drone research and development.

#### Russian and Chinese drones are inevitable but won’t be effective enough to challenge the U.S.

Alex Olesker 12, Technology Research Analyst at Crucial Point LLC, 9/10/12, “The Russian and Chinese Drone Programs,” http://www.oodaloop.com/technology/2012/09/10/the-russian-and-chinese-drone-programs/

Neither China nor Russia can approach American capabilities in remotely piloted vehicles and at this stage are unlikely to catch up any time soon. Both nation’s drone programs, however, take that into account with much more realistic goals. While they hope to challenge American technological dominance, the primary goal seems to be to cut costs on foreign drones and perhaps sell their own drones abroad, to stay ahead of neighboring nations, and to continue advancing their military R&D. Both nations, however, also take great pride from their programs, especially as UAVs have become such a high-profile weapon. The Russians, for example, often talk about developing drones better than their American or Israeli counterparts despite those drones likely being obsolete by the time the domestic equivalents become operational. Still, with national pride at stake, it’s likely that drone programs will continue to be an R&D priority for both countries.

#### No Sino-Japanese war [over the Senkakus]---economic ties and the US check

Richard Katz 13 Richard Katz is the editor of the semiweekly Oriental Economist Alert, a report on the Japanese economy. “Mutual Assured Production,” Foreign Affairs, July/August, Vol. 92, Issue 4, EBSCO

Why Trade Will Limit Conflict Between China and Japan¶ During the Cold War, the United States and the Soviet Union carefully avoided triggering a nuclear war because of the assumption of "mutual assured destruction": each knew that any such conflict would mean the obliteration of both countries. Today, even though tensions between China and Japan are rising, an economic version of mutual deterrence is preserving the uneasy status quo between the two sides.¶ Last fall, as the countries escalated their quarrel over an island chain that Japan has controlled for more than a century, many Chinese citizens boycotted Japanese products and took to the streets in anti-Japanese riots. This commotion, at times encouraged by the Chinese government, led the Japanese government to fear that Beijing might exploit Japan's reliance on China as an export market to squeeze Tokyo into making territorial concessions. Throughout the crisis, Japan has doubted that China would ever try to forcibly seize the islands -- barren rocks known in Chinese as the Diaoyu Islands and in Japanese as the Senkaku Islands -- if only because the United States has made it clear that it would come to Japan's defense. Japanese security experts, however, have suggested that China might try other methods of intimidation, including a prolonged economic boycott.¶ But these fears have not materialized, for one simple reason: China needs to buy Japanese products as much as Japan needs to sell them. Many of the high-tech products assembled in and exported from China, often on behalf of American and European firms, use advanced Japanese-made parts. China could not boycott Japan, let alone precipitate an actual conflict, without stymieing the export-fueled economic miracle that underpins Communist Party rule.¶ For the moment, the combination of economic interdependence and Washington's commitment to Japan's defense will likely keep the peace. Still, an accidental clash of armed ships around the islands could lead to an unintended conflict. That is why defense officials from both countries have met with an eye to reducing that particular risk. With no resolution in sight, those who fear an escalation can nonetheless take solace in the fact that China and Japan stand to gain far more from trading than from fighting.

#### And, US will always deter China---even if they acted it would only cause a diplomatic fuss

Vu Duc ‘13 "Khanh Vu Duc is a Vietnamese-Canadian lawyer who researches on Vietnamese politics, international relations and international law. He is a frequent contributor to Asia Sentinel and BBC Vietnamese Service, "Who's Bluffing Whom in the South China Sea?" www.asiasentinel.com/index.php?option=com\_content&task=view&id=5237&Itemid=171

Conversely, China would find an increased American presence unacceptable and a nuisance. Of course, **neither country is likely to find itself staring down the barrel of the other's gu**n. China's plans for the region would undoubtedly be under greater American scrutiny if Washington decides to allocate more assets to Asia-Pacific.

For the US, returning in force to Asia-Pacific would prove to be a costly endeavour, resources the country may or may not be able to muster. Yet, even if this is true, Washington's calculations may determine that the security risk posed by China in the region outweighs whatever investment required by the US.

China's dispute with Japan over the Senkaku/Diaoyu Island, however heated, will prove to be a peripheral issue with respect to China's dispute with the several claimant states over the Spratlys. Ultimately, it is not improbable that China would seize one or several of the Spratlys under foreign control as a means to demonstrate its resolve in the disputes and the region; but to do so is to engage in unnecessary risk. The consequences stemming from such action are too great for Beijing to ignore.

**Although it is unlikely that China's neighbors would be able to mount more than a diplomatic protest**, the fuss deriving from such an incident could prove more burdensome for China than it is willing to risk. The real consequence for China of any and all conflict in the region is and has always been an American intervention. As is, it would benefit Beijing to seek a peaceful, mutually agreed upon resolution, rather than brute force.

# 2NC

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### 2NC Overview

#### Our interpretation is that targeted killings are strikes carried out based on pre-existing intelligence against individually selected targets

#### Signature strikes are distinct---they are carried out en-masse against foot-soldiers who haven’t each been individually identified---that’s Anderson

#### Our interp is key to neg ground and limits--- --- the 2 have entirely distinct literature bases because US policy regarding the Taliban and regarding high-value terrorist leaders are entirely different---their interpretation explodes the topic to include all US drone policy which is vastly expanding in the status quo---that destroys in-depth clash and research---limits are key to good debates or the aff can always out-nuance generic neg links with specific turns

#### Only our interp is the only precise one which is necessary for neg ground and limits---Anderson says the distinction between sig strikes and targeted killings is crucial because they rely on fundamentally different procedures when being carried out--- the aff conflates conventional war operations and targeted killings---precision in this instance has to be the gold-standard because there are two entirely distinct lit bases for US policy regarding random Taliban members and high-value Al Qaeda leaders

#### Their interpretation explodes the topic to include all US drone policy which is vastly expanding in the status quo---that lets the aff read unpredictable advantages based on future air-to-air combat operations or centered around counterinsurgency---large topics destroys in-depth clash and research---limits are necessary or else the aff can always out-nuance generic neg links with specific turns

#### They’re totally different procedures and the distinction is important

David Hastings Dunn 13, Reader in International Politics and Head of Department in the Department of Political Science and International Studies at the University of Birmingham, UK, and Stefan Wolff, Professor of International Security at the University of Birmingham in the UK, March 2013, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6

Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7

Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9

The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists.

#### The aff kills nuanced debates

Kenneth Anderson 11, Professor at Washington College of Law, American University, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare,” Sept 23 2011, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1812124

Speaking to the broad future of the technology, however, and given the direction of technology and cost, it appears inevitable that drones will take on many more operational roles over time, whether in conventional war, special operations, and what has here been called generically “intelligence-driven uses of force.” Drones will likely evolve – as aircraft, as well as in the weapons and sensor systems they bear – into many specialized types. They will get both bigger and smaller than they are now, for example, and they will surely evolve into those specialized for surveillance and those specialized to fire weapons. And they will also surely evolve into those specialized in high-value, “intelligence-driven” targeted killing of individuals and those that are suited to conventional operations. Bearing in mind these increasingly varied uses is essential to understanding, when it comes to targeted killing and/or drone warfare, that one-size-fits-all legal analysis is not sufficient.

#### The government also draws a distinction between the two

Micah Zenko 12, the Douglas Dillon Fellow at the Council on Foreign Relations, 7/16/12, “Targeted Killings and Signature Strikes,” http://blogs.cfr.org/zenko/2012/07/16/targeted-killings-and-signature-strikes/

Although signature strikes have been known as a U.S. counterterrorism tactic for over four years, no administration official has acknowledged or defended them on-the-record. Instead, officials emphasize that targeted killings with drones (the official term is “targeted strikes”) are only carried out against specific individuals, which are usually lumped with terms like “senior” and “al-Qaeda.”

Harold Koh: “The United States has the authority under international law, and the responsibility to its citizens, to use force, including lethal force, to defend itself, including by targeting persons such as high-level al-Qaeda leaders who are planning attacks.”

John Brennan: “This Administration’s counterterrorism efforts outside of Afghanistan and Iraq are focused on those individuals who are a threat to the United States.”

Jeh Johnson: “In an armed conflict, lethal force against known, individual members of the enemy is a long-standing and long-legal practice.”

Eric Holder: “Target specific senior operational leaders of al Qaeda and associated forces.”

In April, Brennan was asked, “If you could address the issue of signature strikes, which I guess aren’t necessarily targeted against specific individuals?” He replied: “You make reference to signature strikes that are frequently reported in the press. I was speaking here specifically about targeted strikes against individuals who are involved.” Shortly thereafter, when the White House spokesperson was asked about drone strikes, he simply stated: “I am not going to get into the specifics of the process by which these decisions are made.”

#### Historical analysis proves

Afsheen John Radsan 12, Professor, William Mitchell College of Law, Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004; and Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, 2012, “The Evolution of Law and Policy for CIA Targeted Killing,” Journal of National Security Law & Policy, Vol. 5, p. 439-463

Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. “Targeted killing,” however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of “tora, tora, tora” on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file.

#### Best consensus definition of targeted killings excludes signature strikes---identification of individual targets is the key defining factor throughout the lit

Philip Alston 11, the John Norton Pomeroy Professor of Law, New York University School of Law, was UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010, 2011, “ARTICLE: The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283

As with many terms that have entered the popular consciousness as though they had a clear and defined meaning, there is no established or formally agreed upon legal definition of the term "targeted killings" and scholarly definitions vary widely. Some commentators have sought to "call a spade a spade" and used terms such as "leadership decapitation," n30 which clearly captures only some of the practices at stake, assassinations, n31 or "extrajudicial executions," which has the downside of building per se illegality into the description of the process, or "targeted pre-emptive actions," which is designed to characterize a killing as a legal exercise of the right of self-defense. n32 But these usages have not caught on and do not seem especially helpful in light of the range of practices generally sought to be covered by the use of the term-targeted killing.

The term was brought into common usage after 2000 to describe Israel's self-declared policy of "targeted killings" of alleged terrorists in the Occupied Palestinian Territories. n33 But influential commentators also sought to promote more positive terminology. The present head of the [\*296] Israeli Military Intelligence Directorate, for example, argued that they should be termed "preventive killing," which was consistent with the fact that they were "acts of self-defense and justified on moral, ethical and legal grounds." n34 Others followed suit and adopted definitions designed to reflect Israeli practice. n35 Kremnitzer, for example, defined a "preventative (targeted) killing" as "the intended and precise assassination of an individual; in many cases of an activist who holds a command position in a military organization or is a political leader." n36 For Kober, it is the "selective execution of terror activists by states." n37 But such definitions reflect little, if any, recognition of the constraints imposed by international law, a dimension to which subsequent definitions have, at least in theory, been more attuned. Most recently, Michael Gross has defined such killing as "an unavoidable, last resort measure to prevent an immediate and grave threat to human life." Although this too remains rather open-ended, Gross relies on international standards to defend it when he suggests that it tracks "exactly the same rules that guide law enforcement officials." n38 He cites as authority for that proposition the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, n39 but these principles contain no such provisions. The quotation he uses is, in fact, a rough summary of the text of Article 2(2) of the European Convention on Human Rights, a standard that was adopted in 1950 and has since been interpreted in a much more restrictive manner than he suggests. n40 Gross then goes on to suggest that the approach he proposes is "like that of the Israeli courts," when in fact the key judgment of the Israeli Supreme Court on the question [\*297] of targeted killings does not apply international human rights law at all, but instead uses the customary law applicable to international armed conflicts. n41

At the other end of the definitional spectrum is a five-part definition proposed by Gary Solis. For there to be a targeted killing: (i) there must be an armed conflict, either international or non-international in character; (ii) the victim must be specifically targeted; (iii) he must be "beyond a reasonable possibility of arrest"; (iv) the killing must be authorized by a senior military commander or the head of government; (v) and the target must be either a combatant or someone directly participating in the hostilities. n42 But whereas Gross seeks to use a human rights-based definition, Solis proposes one which is unsuitable outside of international humanitarian law.

A more flexible approach is needed in order to reflect the fact that "targeted killing" has been used to describe a wide range of situations. They include, for example: the killing of a "rebel warlord" by Russian armed forces, the killing of an alleged al Qaeda leader and five other men in Yemen by a CIA-operated Predator drone using a Hellfire missile; killings by both the Sri Lankan government and the Liberation Tigers of Tamil Eelam of individuals accused by each side of collaborating with the other; and the killing in Dubai of a Hamas leader in January 2010, allegedly carried out by a team of Israeli Mossad intelligence agents. Targeted killings therefore take place in a variety of contexts and may be committed by governments and their agents in times of peace as well as armed conflict, or by organized armed groups in armed conflict. The means and methods of killing vary, and include shooting at close range, sniper fire, firing missiles from helicopters or gunships, firing from UAVs, the use of car bombs, and poison.

There are thus three central requirements for a workable definition. The first is that it be able to embrace the different bodies of international law that apply and is not derived solely from either IHRL or IHL. The second is that it should not prejudge the question of the legality or illegality [\*298] of the practice in question. And the third is that it must be sufficiently flexible to be able to encompass a broad range of situations in relation to which it has regularly been applied.

The common element in each of the very different contexts noted earlier is that lethal force is intentionally and deliberately used, with a degree of pre-meditation, against an individual or individuals specifically identified in advance by the perpetrator. n43 In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill.

Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal. This is in contrast to other terms with which "targeted killing" has sometimes been interchangeably used, such as "extrajudicial execution," "summary execution," and "assassination," all of which are, by definition, illegal. n44 Consistent with the detailed analysis developed by Nils Melzer, n45 this Article adopts the following definition: a targeted killing is the intentional, premeditated, and deliberate use of lethal force, by States or their agents acting under color of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator. n46

### T Cards Not Read

#### Most precise interpretations prove that TKs are premeditated against a specific individual---their interps are normative which kills predictability

William Abresch 9, Director, Project on Extrajudicial Executions, Center for Human Rights and Global Justice, New York University School of Law, “Targeted Killing in International Law,” European Journal of International Law, 20 (2): 449-453

Studies of targeted killing are often situated within the politically fraught debate over Hellfire missile attacks on suspected terrorists. The scope of Melzer's analysis is, then, refreshingly broad, covering equally sniper shots used to end hostage stand-offs, poison letters sent to insurgent commanders, and commando raids launched with orders to liquidate opponents. These diverse practices are marked off from other uses of lethal force by states, such as soldiers shooting in a firefight, with a precise and intuitively satisfying definition. Melzer defines targeted killing as a use of lethal force by a subject of international law that is directed against an individually selected person who is not in custody and that is intentional (rather than negligent or reckless), premeditated (rather than merely voluntary), and deliberate (meaning that ‘the death of the targeted person [is] the actual aim of the operation, as opposed to deprivations of life which, although intentional and premeditated, remain the incidental result of an operation pursuing other aims’) (at 3–4). It is a strength of Melzer's book that, although the concepts deployed in this definition do not correspond with those found in either international human rights law or international humanitarian law (IHL), he eschews de lege ferenda argumentation in favour of a rigorous elaboration of the implications of the lex lata for the practices covered by his definition.

[“de lege ferenda” means “what the law should be,” while “lex lata” means “what the law really is”]

#### Their evidence conflates sig strikes and targeted killings because of lax term usage

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

ARE DRONE TECHNOLOGY AND TARGETED KILLING really so strategically valuable? The answer depends in great part not on drone technology, but on the quality of the intelligence that leads to a particular target in the first place. The drone strike is the final kinetic act in a process of intelligence-gathering and analysis. The success -- and it is remarkable success -- of the CIA in disrupting al-Qaeda in Pakistan has come about not because of drones alone, but because the CIA managed to establish, over years of effort, its own ground-level, human-intelligence networks that have allowed it to identify targets independent of information fed to it by Pakistan's intelligence services. The quality of drone-targeted killing depends fundamentally on that intelligence, for a drone is not much use unless pointed toward surveillance of a particular village, area, or person.

It can be used for a different kind of targeting altogether: against groups of fighters with their weapons on trucks headed toward the Afghan border. But these so-called signature strikes are not, as sometimes represented, a relaxed form of targeted killing in which groups are crudely blown up because nothing is known about individual members. Intelligence assessments are made, including behavioral signatures such as organized groups of men carrying weapons, suggesting strongly that they are "hostile forces" (in the legal meaning of that term in the U.S. military's Standing Rules of Engagement). That is the norm in conventional war.

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

#### Targeted killings exclusively apply to individually identified people

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

Targeted killing is an "extra-judicial, premeditated killing by a state of a specifically identified person not in its custody." n20 The CIA conducts the majority of U.S. targeted killings using missile strikes from unmanned aerial vehicles, more commonly known as Predator drones. n21 According to John Rizzo, the CIA's former acting general counsel, the targeted killing program is "basically a hit list" in which the "Predator is the weapon of choice, but it could also be someone putting a bullet in your head." n22 These covert drone strikes are an integral part of U.S. counterterrorism strategy and have increased significantly during the Obama Administration. n23

### AT: Reasonability

Competing interps create a race to the top — find most defensible definitions.

Our standards prove they’re unreasonable.

It’s arbitrary—reasonability is subjective — makes 2NR choice impossible.

## Counterplan

### Solvency---2NC

#### The counterplan establishes transparency over targeted killing policy from within the executive branch---it discloses the administration’s legal rationale for the policy and the criteria for target selection. It also mandates that targeted killings be narrowed to comply with domestic and international law---particularly three international legal principles:

#### 1) Necessity---whether the target an imminent threat, and whether a kill order is the only viable method to neutralize the threat

#### 2) Distinction---can the target be clearly identified as a combatant, as distinguished from a civilian

#### 3) Proportionality---does the strategic value of the attack justify the risk, if any, of collateral damage

#### This combination of legal justification and transparency solves the case---it prevents overreach in drone operations and builds legitimacy, which solves any international perception or precedent args, while preserving targeted killings as an effective counter-terrorism tool employed by an unconstrained executive---that’s Byman.

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

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

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

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

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

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

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

#### Executive transparency and commitment that targeted killings will comply with international law solves the case while preserving the benefits of flexibility and drone strikes

Michael Aaronson 13, Professorial Research Fellow and Executive Director of cii – the Centre for International Intervention – at the University of Surrey, and Adrian Johnson, Director of Publications at RUSI, the book reviews editor for the RUSI Journal, and chair of the RUSI Editorial Board, “Conclusion,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

As Weizmann and other contributors to this report highlight, it is important to determine whether new capabilities can satisfy the essential criteria of discrimination and proportionality. The answer seems to be that unmanned systems, as they exist, can indeed do so. There is no inherent contradiction between armed drone capability and International Humanitarian Law – a finding echoed by the UN Human Rights Council and the British government.1¶ This is not to glibly dismiss the controversy they have aroused. Many of the critiques of drone warfare2 are reasonable. The US administration argues that its targeting policy is in line with the law of conflict, involving a three-part test that the individual targeted must pose an imminent threat; capture must be too difficult; and the strike must be conducted in line with proportionality and discrimination.3 Aside from innocent casualties, there are two other main lines of ethical objection to the actual conduct of this policy. First, that by so stretching the definition of ‘imminence’ – a justification to be acting in self-defence – the administration has essentially rendered it meaningless. ¶ Second, that ‘signature strikes’ depart too far from discriminatory targeting to adhere to the lawful conduct of war. In the words of one journalist, the operator of a CIA drone over Pakistan ‘almost certainly doesn’t know for sure what he’s shooting at.’4 The latter may be an extreme view, but when targeting is based merely on suspicious patterns of behaviour, it is not radical to argue that the principles of necessity and discrimination are not satisfied, and that the justification of ‘imminence’ is contorted further.¶ However, these are objections to a specific use, not to the nature, of drones. Targeted killing and signature strikes would raise precisely the same quandaries were they undertaken by cruise missiles, manned aerial sorties or special forces. An underlying problem with the CIA drone programme, which the US military seems to have avoided, is the secrecy in which it has been conducted. This has, perhaps unfairly, suggested a wanton disregard for legal constraints (although the drone programme has temporarily been exempted from the ‘Counterterrorism Playbook’, a set of limits for legal conduct5). ¶ A more transparent drone programme, recognising explicit legal limits and allowing independent consideration of compliance, is one possible solution.6 Another suggestion is to remove operations from the CIA – which, after all, is a civilian agency dedicated to secretive operations – and bring them under the control of the Department of Defense, which is accorded privileged combatant status under the Geneva Conventions.7 As this report was going to press, there were good indications that the operational control and oversight might indeed be shifted to the military, with the CIA’s role reduced. ¶ These are all, however, problems of policy – not technology. For drones permit unprecedented levels of persistence and observation in support of effective targeting decisions; and, as Franke points out in her chapter, by far the majority of military drones worldwide are unarmed and used for surveillance. Furthermore, effective engineering could help pilots and operators to make better decisions under stressful circumstances, as Leveringhaus and De Greef argue in their chapter. It is not unreasonable to assume that, on balance, unmanned systems may provide a more effective means of respecting International Humanitarian Law in interventions to come. ¶ There is nothing about drones that necessarily violates the laws and customs of war. Policy-makers should, however, remain alert to the possibility that while drones remain lawful, public opinion may one day turn against the use of unmanned systems precisely because of policy; as the chapter on lawfulness and legitimacy reminds us, these two concepts are linked, but distinct.

### AT: Perm Do Both

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### The CP alone is key to send a signal that the U.S. won’t negotiate the particulars of its targeted killing policy with the international soft-law community---the plan means targeted killing will die a death of a thousand legal cuts

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

So the legal basis for targeted killing, Predator drone strikes, and covert action involving the CIA is not really the “combatancy” standard under armed conflict into which we have mistakenly subsided. The United States today needs to reassert and reaffirm something it has never given up—but also not reiterated for a generation—the traditional standard of self-defense. As customary law doctrine, it is not (as some might reasonably fear) utterly discretionary, empty, and standardless. On the contrary, while self-defense does not invoke the technical rules of armed conflict, it does have to conform to the usual, fundamental customary law requirements of necessity and proportionality. Note, too, that insofar as the U.S. military carries out any such attacks, they already adhere to international laws of war and their standards, irrespective of whether the operation is part of an armed conflict in a legal sense.

Whether necessity or proportionality, however, the legal standard for the CIA cannot be lower than the equivalent standard in armed conflict for launching an attack upon a lawful target (and might under many circumstances be higher). But proportionality with respect to collateral damage always raises a special problem. It is customarily stated that anticipated harms, including innocent deaths, must not be “excessive” in relation to the anticipated benefits (to paraphrase from the laws of war). It should never be lower and in some instances possibly higher.

Beyond that, however, one cannot go—if for no other reason than that the international legal standards on proportionality are not more specific. Human rights groups sometimes talk as if there were some decreed standard of proportionality. One to one? Two to one? One to two? Fifty to one? One to fifty? Sometimes they sound as though they have a special moral faculty to spot “disproportionality.” But in fact there is no fixed legal standard that goes beyond this obligation on the part of commanders. The law requires a good faith effort to weigh anticipated benefits against anticipated harms. It provides no mathematical formulas, and it is disingenuous, though common, to suggest to credulous journalists and the public that it is more definitive than it is.

For that reason—quite apart from operational security—the CIA has to resist getting into a pissing match with the soft-law community over collateral damage numbers. The best nonofficial, non-CIA-leaked estimates are found at the blog Long War Journal, which keeps a running count based on a wide range of public reporting. Long War Journal’s tabulations suggest far lower collateral damage rates than the global press seems to believe. Leaks by government officials to journalists on a couple of occasions have expressed the same view—in even stronger terms. (When I have asked reporters about this, they appear to take the view that the more “conservative” way to report civilian casualty figures is to err on the high side, if necessary through that weaselly journalistic locution, “as high as.”) Perhaps some mechanism could be worked out for overtly informing the press about the aggregate collateral damage from the now obviously overt targeted killings campaign in Afghanistan and Pakistan. But the U.S. government can’t fall into the losing game of arguing with the press and human rights groups over proportionality. The standards and mechanisms for review should be tailored as closely as possible to military standards of review, and left at that.

Making clear that the U.S. government is operating under the legal standard of self-defense would not quiet critics who believe it is all just murder, anyway. But it would provide a public, principled legal position by which this administration and future administrations could defend themselves against the charge of lawlessness. Congress has an important legitimating role to play in this—to show that the two political branches of government have policies in place that they regard as lawful and defensible, to occupy a ground of lawful national security that would otherwise invite inappropriate judicial entry, and to offer a check on covert actions that sometimes achieve momentum within the executive but, seen by congressional outsiders, raise commonsense questions.

The U.S. government should, moreover, defend what its officers in fact believe to be the case—that targeted killing from drone platforms is not merely a question of hard-edged military necessity, but is also a humanitarian step forward in technology. The president believes that and so does the vice president, and they are correct. These technologies are lessening, not increasing, civilian damage, are being applied in ways (because it is killing that is, indeed, targeted) that lessen collateral damage from what it would otherwise be in traditional war. The U.S. government should react with outrage to the charge, implied or express, of American cowardice or some abstract increased propensity to violence on account of drone strikes, and assert its humanitarian moral ground.

For that matter, hostile journalists ought to be pressed to explain why drone attacks are significantly different from missiles fired from aircraft or offshore naval vessels​—save for the vastly greater ability to monitor the circumstances of firing through sensor technologies. Senior officials believe that drone warfare allows the United States to take far greater measure and care with collateral damage than it can using either conventional war or attack teams on the ground. The U.S. government should say so, rather than simply falling back on narrow arguments of military necessity, operational convenience, and force protection, while ceding the moral high ground to the international soft-law community.

But in making its case, the United States government has to be clear that it is reaffirming self-defense as its legal basis, not simply combatancy and not simply armed conflict. Congress—Republicans and Democrats—should endeavor to get the senior legal officials of the Obama administration to say so, on the public record. This will be important down the road for U.S. officials not protected by the aura of the Nobel Peace laureate now in the Oval Office.

The administration itself might consider that a narrow justification of drone strikes under combatancy with respect to al Qaeda and the Taliban, rather than a broader legal basis in self-defense, is most likely to work for it under one circumstance—a one-term presidency. Indeed, the silence of the administration’s senior international lawyers, and in particular their failure to defend the practice on a basis broad enough to encompass the circumstances under which it might be used in the next seven years, rather than the next three, might be taken as their implied view of the administration’s life expectancy.

The U.S. government ought to consider that, over time, terrorist groups the United States will believe itself compelled to attack will not always be al Qaeda. They may also be found in places beyond Yemen and Somalia, without obvious connection to the existing theaters of armed conflict in Iraq and South Asia. Unless the United States moves to self-defense as its fundamental legal basis for using force against terrorists, it will find itself pushed to revive the discredited “global” war on terror.

Finally, future administrations, long beyond the Obama administration, may one day have to confront nonstate enemies that are not al Qaeda, have no relation whatever to 9/11, and are not jihadists but espouse some other violent cause against the United States. Future presidents will also have to respond with force, sometimes covert force, to such threats. The Obama administration has an obligation to itself and its successors to preserve their legal powers of national security. The United States must use these legal powers or lose them.

#### Executive transparency on standards for targeted killings are sufficient to solve the case---judicial interference allows U.S. enemies to employ ‘lawfare’ to stop counter-terror ops globally

Afsheen John Radsan 12, Professor, William Mitchell College of Law, Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004; and Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, 2012, “The Evolution of Law and Policy for CIA Targeted Killing,” Journal of National Security Law & Policy, Vol. 5, p. 439-463

We sympathize with Alston’s effort to develop reasonable procedures from scant sources. In two earlier articles, we attempted something similar.87 We may cite different authorities from Alston, but we share his goal in calling for more process and accountability. In one article, we said that IHL’s demand for precaution “requires the CIA, in general, to adopt procedures reasonably expected to improve accuracy and to curb abuse without excessive military or humanitarian costs.”88 While recognizing that decisionmakers may differ in their application of a “rule of reason,” we suggested that precaution demands as much independent, public, ex post review of CIA drone strikes as national security reasonably permits.89 In an earlier piece, we proposed an aggressive reading of the majority opinion in Boumediene v. Bush, 90 suggesting that the constitutional requirement of due process even restricts U.S. actions against non-citizens located outside the United States.91 The government must take reasonable steps based on individualized facts to ensure accuracy before depriving any person of life, liberty, or property. What is required varies with circumstances. Full-blown judicial process is not always necessary. As to CIA drone strikes, due process might be satisfied by independent, intra-executive review.92

What is needed is a new, specific understanding of what “due process” or “precaution” or “reason” – the label does not much matter – demands for drone strikes. The goal of this new due process should be to balance national security against the risk of killing persons who are not lawful targets in an armed conflict or under lawful self-defense. The precise contours of this new balance have not yet come into focus. Still, since targeted killing should involve only a few, high-level targets, significant resources should be available for assessing any given attack. Also, Alston is correct that the new balance will need to enhance transparency and accountability. At the same time, this new balance will need to protect legitimate secret sources and methods.

No one person or group can speak alone to create a new, specific framework for the CIA’s targeted killing by drone. This framework, if it emerges at all, will depend on a conversation that includes all reasonable voices from the human rights, international law, and national security communities. In particular, the U.S. government, including policymakers and lawyers, should be a powerful voice in this conversation. The U.S. government can and should take a leading role in developing and publicizing standards that maximize accuracy and transparency, consistent with concerns about national security. The government has already taken a few steps down this road. Although the CIA will neither confirm nor deny a drone program, some information has leaked out concerning its procedures. Agency lawyers prepare detailed cables to justify particular targets.93 The Agency’s General Counsel signs off on these cables.94 (Former Acting General Counsel John Rizzo stated that during his tenure the Agency generally had about thirty targets on the list.)95 And each strike requires the Director’s approval.96 Since military and intelligence functions have become increasingly intertwined, the CIA should learn from the military’s extensive experience, both practical and legal, in targeting.

If one always expects a judicial trial in, or before, making important decisions, the procedures we sketch will seem too thin. But depending on how they are applied, in the context of an armed conflict or in self-defense, they may be remarkably robust. Whether any given set of procedures strikes the best balance cannot be determined with mathematical certainty – in part because such judgments implicate contestable facts and competing values. It seems obvious, however, that a better balance can emerge only through a more open conversation than the U.S. government has so far been willing to indulge.

CONCLUSION

Indulge another scenario, farther from the Oval Office than the scenario with which this essay began. A group of conspirators has demonstrated its commitment and ability to kill thousands of peaceful civilians. This group, though weakened by American counterattacks, remains ideologically and operationally committed to further attacks. A leader of this group involved in the planning, command, or execution of terrorist attacks has been identified in a “host” country, but neither the host nor the United States can, as a practical matter, arrest him. Should the United States kill this person with a drone-fired missile? Call the target al-Awlaki or al-Zawahiri.97 Various critics suggest that the answer is “no.” Some depend on law that does not effectively bind the United States. A violation of Yemeni law, for example, presents more of a policy concern than a legal concern, so long as the alleged American violator remains outside Yemeni reach. On this score, it is instructive that both the Bush and Obama administrations have refused to deliver CIA officials to Italian authorities for an alleged kidnapping of an Egyptian cleric in Milan. Some American intelligence activities just require a level of illegality.

Other critics depend on contestable applications of uncertain facts to vague law: the claim that the United States is not in an armed conflict with al Qaeda, that consent to an incursion must be express, that armed conflicts are limited to war zones, and so on. This article clears the legal thicket to show that President Obama and his advisers can adequately address these critics. Presumably, they have already done so in a classified setting. The right answer to the question we posed about targeted killing is yes – subject to qualifications. Under appropriate circumstances, the United States has legal authority to engage in targeted killing of al Qaeda and Taliban operatives. (Actually, it has an obligation to do so to protect its citizens and other potential victims.) This answer is based on a reasonable application of the substantive law of armed conflict and self-defense and is consistent with public remarks from the Obama administration. Because terrorism poses a far greater danger than organized crime or narcotics trafficking, we must go beyond the law enforcement model for justice.

In the real world, intelligence is sometimes faulty. Mistakes occur, and peaceful civilians are at risk. The law’s method for preventing the government from harming people based on mistaken facts is to insist on reasonable or “due” process. IHL, as an example of one body of law, demands very little in the way of process beyond the admonition to take feasible precautions. IHL, after all, must control an infinite number of variations in combat. Even so, the intelligence-driven nature of targeted killing, and the accompanying real concerns over mistakes and abuse, prompt the law – whether couched as IHL or something else – to develop specifics for the CIA’s drone program. To assist this development, the United States should publicize and defend its standards for the CIA. If any of these standards turn out to be indefensible, the United States should abandon them and develop better rules for its shadow war. Just as the United States should play a more constructive role in this conversation, so should some of its critics. Some, it seems, are most interested in using “lawfare” to block the use of U.S. force around the world. We do not agree with them. A world in which the United States could not, after taking due precautions, use deadly force against bin Laden, or al-Awlaki, or alZawahiri would be less secure and less just.

### Solves---International Law

#### Disclosing the targeting process and describing the safeguards in place brings the U.S. into compliance with I-law

Major John C. Harwood 12, J.D., The University of Utah College of Law (2001); LL.M., The Judge Advocate General's Legal Center and School, United States Army, (2011), Judge Advocate in the United States Air Force and is presently posted as a legal exchange officer with the Royal Australian Air Force, assigned to the Directorate of Operations and International Law, Defence Legal, Australian Defence Force, Fall 2012, “ARTICLE: KNOCK, KNOCK; WHO'S THERE? ANNOUNCING TARGETED KILLING PROCEDURES AND THE LAW OF ARMED CONFLICT,” Syracuse Journal of International Law & Commerce, 40 Syracuse J. Int'l L. & Com. 1

In May 2010, Professor Alston presented a report to the UN Human Rights Council on extrajudicial, summary, or arbitrary [\*17] executions in the context of states' targeted killing programs. He begins his report by asserting that "in the legitimate struggle against terrorism, too many criminal acts have been re-characterized so as to justify addressing them within the framework of the law of armed conflict." n72 Alston notes the "problematic blurring and expansion of the boundaries of the applicable legal frameworks - human rights law, the laws of war, and the law applicable to the use of inter-state force," n73 and complains that:

the States concerned have often failed to specify the legal justification for their policies, to disclose the safeguards in place to ensure that targeted killings are in fact legal and accurate, or to provide accountability mechanisms for violations. Most troublingly, they have refused to disclose who has been killed, for what reason, and with what collateral consequences. n74

Among many other topics within the rubric of targeted killing programs, the Alston report addresses an issue it terms "transparency and accountability," staking out the position that a state violates international law when it fails to disclose who it has targeted, its legal justification for targeting that individual, and the factual basis for the targeting. n75 According to Alston, "the refusal by States who conduct targeted killings to provide transparency about their policies violates the international legal framework that limits the unlawful use of lethal force against individuals." n76

As a basis for his legal argument, Alston cites to the judgments of several cases heard by international courts and tribunals. The first is from the Inter-American Court of Human Rights, addressing the government of Peru's actions during and after the suppression of a prison riot. n77 Two of Alston's cited cases [\*18] are opinions by the European Court of Human Rights. n78 Another case involves police tactics during a raid on a home in Bogota, Columbia, discussed by the U.N. Human Rights Committee. n79 Lastly, Alston cites two cases arising under the International Convention on Civil and Political Rights. n80

#### Publicizing the procedures for determining targets brings the U.S. into compliance with IHL

Cheri Kramer 11, J.D., Santa Clara University School of Law, 1/1/11, “The Legality of Targeted Drone Attacks as U.S. Policy,” Santa Clara Journal of International Law, http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1105&context=scujil

Assuming that targeted killing is good policy, should the U.S. publicly comply with IHL standards in its use of targeted killing? Strong policy considerations urge the Obama administration to seriously consider publicizing the procedures employed by the U.S. in determining its targets and the safeguards in place to minimize the abuse of this tactic. 104¶ At least from an ideological perspective, the objectives of IHL and counter-terrorism are nearly indistinguishable. Counter-terrorism seeks to suppress gross violations of the principle of distinction: The intentional targeting and killing of civilians. From this perspective, then, adherence to IHL is a natural tool of counter-terrorism. In practice, IHL is treated as a hampering force on counter-terrorism, as evidenced by the Bush administration's tactics to avoid the application of the Geneva Conventions. 10 s While any practical pitfalls of adhering to IHL should be addressed frankly by the Obama administration, President Obama could still benefit from recognizing the closely related aims of IHL and counter-terrorism in his rhetoric.

### Solves---Perception---General

#### The CP shapes the development of global norms on drones and actively builds legitimacy---that means it solves their perception deficits because all their ev is only about the way that drones are perceived now, not how they’re perceived after a vigorous defense by the U.S.

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

But a thorough reading of the Predator coverage calls to mind how the detention, interrogation, and rendition debates proceeded over the years after 9/11. As Brookings scholar Benjamin Wittes observes, those arguments also had elements of both legal sense and sensibility. Ultimately the battle of international legal legitimacy was lost, even though detention at Guantánamo continues for lack of a better option. It is largely on account of having given up the argument over legitimacy, after all, that it never occurred to the Obama administration not to Mirandize the Christmas Bomber. Baseline perceptions of legitimacy have consequences. ¶ Nor is the campaign to delegitimize targeted killing only about the United States. Legal moves in European courts have already been made against Israeli officials involved in targeted killing against Hamas in the Gaza war. Unsavory members of the U.N. act alongside the world’s most fatuously self-regarding human rights groups to press for war crimes prosecutions. All of this is merely an opening move in a larger campaign to stigmatize and delegitimize targeted killing and drone attacks. What can be done to Israelis can eventually be done to CIA officers. Perhaps a London bookmaker can offer odds on how soon after the Obama administration leaves office CIA officers will be investigated by a court, somewhere, on grounds related to targeted killing and Predator drone strikes. And whether the Obama administration’s senior lawyers will rise to their defense—or, alternatively, submit an amicus brief calling for their prosecution. ¶ Thus it matters when the U.N. special rapporteur on extrajudicial execution, Philip Alston, demands, as he did recently, that the U.S. government justify the legality of its targeted killing program. Alston, a professor at New York University, is a measured professional and no ideologue, and he treads delicately with respect to the Obama administration—but he treads. Likewise it matters when, in mid-January, the ACLU handed the U.S. government a lengthy FOIA request seeking extensive information on every aspect of targeted killing through the use of UAVs. The FOIA request emphasizes the legal justification for the program as conducted by the U.S. military and the CIA. ¶ Legal justification matters, partly for reasons of legitimacy and partly because the United States is, and wants to be, a polity governed by law. This includes international law, at least insofar as it means something other than the opinions of professors and motley member-states at the U.N. seeking to extract concessions. International law, it is classically said, consists of what states consent to by treaty. Add to this “customary law”—as evidenced by how states actually behave and as provided in their statements, their so-called opinio juris. Customary law is evidenced when states do these things because they see them as binding obligations of law, done from a sense of legal obligation—not merely habit, policy, or convenience, practices that they might change at any moment because they did not engage in them as a matter of law. ¶ What the United States says regarding the lawfulness of its targeted killing practices matters. It matters both that it says it, and then of course it matters what it says. The fact of its practices is not enough, because they are subject to many different legal interpretations: The United States has to assert those practices as lawful, and declare its understanding of the content of that law. This is for two important reasons: first to preserve the U.S. government’s views and rights under the law; and second, to make clear what it regards as binding law not just for itself, but for others as well. ¶ Other states, the United Nations, international tribunals, NGOs, and academics can cavil and disagree with what the United States thinks is law. But no Great Power’s consistently reiterated views of international law, particularly in the field of international security, can be dismissed out of hand. It is true of the United States and it is also true of China. It is not a matter of “good” Great Powers or “bad.” Nor is it merely “might makes right.” It is, rather, a mechanism that keeps international law grounded in reality, and not a plaything of utopian experts and enthusiasts, departing this earth for the City of God. It remains tethered to the real world both as law and practice, conditioned by how states see and act on the law. ¶ The venerable U.S. view of the “law of nations” is one of moderate moral realism—the world “as it is,” as the president correctly put it in his Nobel Prize address. It is not the vision of radical utopians and idealists; neither is it that of radical skeptics about the very existence of law in international affairs. On the contrary, the time-honored American view has always been pragmatic about international law (thereby acting to preserve it from radical internationalism and radical skepticism). But upholding the American view requires more than simply dangling the inference that if the United States does it, it means the United States must intend it as law. Traditional international law requires more than that, for good reason. The U.S. government should provide an affirmative, aggressive, and uncompromising defense of the legal sense and sensibility of targeted killing. The U.S. government’s interlocutors and critics are not wrong to demand one, even those whose own conclusions have long since been set in stone. ¶ A clear statement of legal position need not be an invitation to negotiate or alter it, even when others loudly disagree. In international law, a state’s assertion that its policies are lawful, particularly such an assertion from a great power in matters of international security, is an important element all by itself in making it lawful, or at least not unlawful. But in vast areas of security, self-defense, and the use of force, the U.S. government has in recent years left a huge deficit as to how its actions constitute a coherent statement of international law. ¶ For once, Washington should move to get ahead of a contested issue of international legal legitimacy and “soft law.” Why else have an Obama administration, if not to get out in front on a practice that it has ramped up on grounds of both necessity and humanitarian minimization of force? The CIA has taken a few baby steps by selectively leaking some collateral damage data to a few reporters. But the CIA is going to have to say more. The U.S. government needs to defend targeted killings as both lawful, and as an important step forward in the development of more sparing and discriminating—more humanitarian—weaponry.

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

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

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

#### Publicly disclosing the legal basis for targeted kills establishes broad legitimacy---reject their solvency deficits because critics will never be satisfied---the CP’s at least sufficient to solve the case

Kenneth Anderson 11, Professor of International Law at American University, 6/6/11, “Targeted killing is legitimate and defensible,” The Weekly Standard, <http://www.weeklystandard.com/print/articles/law-and-order_571630.html>

Much more important, however, but also much harder to convey, is the importance of engagement with international law. The time for saying with a shrug, of course it’s illegal or extralegal, is long gone. Needed, rather, is for the United States to articulate on a regular basis its views of why it thinks its counterterrorism programs are consistent with international law. State Department legal adviser Harold Koh, to his credit, has done so both in the case of targeted killing using drone warfare, in a widely remarked speech last year, and more recently in a short statement on the bin Laden killing to the international law blog Opinio Juris.

The United States does not believe it is acting extralegally, let alone illegally, in its counterterrorism programs, and it should be willing to say why. The U.S. government believes, as former State Department lawyer Ashley Deeks observed in a recent, influential paper, that states that are unable or unwilling to deal with terrorists in their midst lose claims of sovereignty, thus allowing other states to reach inside to deal with them. The U.S. government believes, moreover, in Koh’s formulation, that even covert operations undertaken outside of an armed conflict must still adhere to international law principles of necessity, distinction, and proportionality in their conduct; there are limiting principles of international law that the U.S. recognizes and abides by.

The problem is, such public, official articulations are rare. Without question, lawyers at Defense, Justice, the CIA, and other agencies closely scrutinize U.S. practices and operations for legality under both domestic and international law. This is good and proper, particularly as secret opinions can address facts that must remain secret. But it is not enough, because secret opinions, however persuasive, do not convey legitimacy. Public legitimacy does not require that the government reveal secret facts, programs, activities, and other things that ought to remain secret. But there is much that can be shared about the basic interpretations of domestic and international law that inform the necessarily secret work.

It is quite true that wide swaths of critics won’t be satisfied; that’s not the point. The international law community will never be satisfied, and whatever one gives them, if it’s done merely to appease them, they will take as weakness. International law critics will speak with utter confidence and great bluster. “International law” is better understood not so much as a unified field with definitive answers but as a set of more and less “plausible” interpretations, in a world of sovereign states in which there is no final adjudicator to say yes or no. It is fused with diplomacy, politics, and real-world consequences.

The United States should seek to convey that it has a considered, plausible view of the law, whether shared by the critics or not. That view will achieve public legitimacy in no small part because the U.S. government has the confidence to articulate it and defend it as such. This is an approach to the public articulation of international law begun by then-State Department legal adviser John Bellinger in the later years of the Bush administration, and while it requires being willing to weather a great deal of criticism and sometimes abuse, it is the right approach.

Moreover, as current legal adviser Harold Koh has been careful to note in his speeches, these legal views are connected in their claim of plausibility to a long line of jurisprudence articulated by the State Department over decades. One might disagree with the conclusions, but this jurisprudence cannot be dismissed out of hand. The decades-old views of the United States on international law matter more than those of Bolivia or Tajikistan, or subcommittees of the United Nations, or congeries of NGOs. Which is to say, the U.S. view of its counterterrorism activities is that they are not truly “extralegal” but have a legal basis, including limits upon them, even if they are not the limits sought by Washington’s critics.

This call for the U.S. government to put forward its genuine view of the legality of its use of force in the war on terror is not what it might sound like​—​a foolish and misguided call to “engage” with an “international community” that will never approve of such actions. The U.S. government should be utterly clear that in articulating its international law positions, it is not seeking permission. It is not granting anyone in the international community a veto on U.S. action. It has no reason, for example, to engage with the U.N., its special rapporteurs, or the Human Rights Council on this issue.

The United States should, on the contrary, assert its considered view of what it believes is a legal and essential category for the use of force in combating transnational terrorism​—​as well as its limits. It is happy to entertain debate, discussion, and disagreement, but after due consideration of other views and taking them as it thinks proper, it finally abides its own counsel. Washington’s bedrock position on international law, after all, is that the views of a core international actor such as the United States might not be decisive in determining international law​—​no one is​—​but neither can its views ever be merely dismissed, either.

These “intelligence-driven” covert operations are not going away. Integration of military and civilian assets will make them easier and more effective. The United States will conduct such operations more frequently and more visibly than anyone else. A consistent and unapologetic public stance on the basic principles of their legality by counselors to the United States government​—​including lawyers in the CIA​—​is an important mechanism to defend their legitimacy within this country and abroad, and on something more than merely their functional utility. It is hard to imagine that Director Petraeus would settle for less.

#### Transparency solves allied perception, blowback, and drone norms while maintaining the counter-terror benefits of targeted killings

Michael Aaronson 13, Professorial Research Fellow and Executive Director of cii – the Centre for International Intervention – at the University of Surrey, and Adrian Johnson, Director of Publications at RUSI, the book reviews editor for the RUSI Journal, and chair of the RUSI Editorial Board, “Conclusion,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

The Obama administration faces some tough dilemmas, and analysts should be careful not to downplay the security challenges it faces. It must balance the principles of justice and accountability with a very real terrorist threat; and reconcile the need to demonstrate a credibly tough security policy with the ending of a long occupation of Afghanistan while Al-Qa’ida still remains active in the region. Nevertheless, more transparency would provide demonstrable oversight and accountability without sacrificing the necessary operational secrecy of counter-terrorism. It might also help assuage the concern of allies and their publics who worry about what use the intelligence they provide might be put to. A wise long-term vision can balance the short-term demands to disrupt and disable terrorist groups with a longer-term focus to resolve the grievances that give rise to radicalism, and also preclude inadvertently developing norms of drone use that sit uneasily with the civilised conduct of war. Drones are but one kinetic element of a solution to terrorism that is, ultimately, political.

#### Disclosure demonstrates a credible commitment to the rule of law and doesn’t link to the flexibility disad

Major John C. Harwood 12, J.D., The University of Utah College of Law (2001); LL.M., The Judge Advocate General's Legal Center and School, United States Army, (2011), Judge Advocate in the United States Air Force and is presently posted as a legal exchange officer with the Royal Australian Air Force, assigned to the Directorate of Operations and International Law, Defence Legal, Australian Defence Force, Fall 2012, “ARTICLE: KNOCK, KNOCK; WHO'S THERE? ANNOUNCING TARGETED KILLING PROCEDURES AND THE LAW OF ARMED CONFLICT,” Syracuse Journal of International Law & Commerce, 40 Syracuse J. Int'l L. & Com. 1

While the law may not require states to publicly disclose their targeting procedures and an analysis for each individual targeted killing during armed conflict, as a matter of policy the U.S. should provide enough information to allow the public to be satisfied that the government is fulfilling its international obligations. The speeches of the nation's prominent national security lawyers are a good start; however, the government should continue to provide information on the processes and procedures of the targeted killing program, where operational and intelligence considerations allow.

As a beginning point, now that the existence of the targeted killing program is an acknowledged fact, the government should disclose whether the legal structures of aerial targeting are being followed by all the departments and agencies of the government who are engaged in targeted killings. The legal principles that the Air Force and the Department of Defense follow in aerial targeting are well-known and publicly available. While our enemies have occasionally sought to use our adherence to lawful targeting procedures to their benefit, n114 this openness has not been shown to be a hindrance to air-based military operations. n115

Second, the government should discuss in general terms the process of vetting targets and approving them for targeted killing. While covertness and operational security should protect the disclosure of the details of any individual strike, a general description of the procedures would "credibly convey to the public that [the government's] decisions about who is being targeted - [\*26] especially when the target is a U.S. citizen - are sound." n116 The basis of these disclosures, however, should be rooted in policy - as shown, there is no requirement under LOAC to divulge military targeting procedures during an armed conflict.

VI. Conclusion

International observers and human rights groups have rightly scrutinized targeted killing programs for compliance with international law. All programs, procedures, and operations should be subject to rigorous scrutiny; as noted by Mr. Brennan, "there is no more consequential a decision than deciding whether to use lethal force against another human being." n117 Because the subject matter is so weighty, there are no sacred cows in armed conflict. Too often, however, IHRL has been the prism through which criticism of the targeted killing program has come. Rather than providing a license to kill, as is feared by Alston and others, LOAC provides a robust legal framework for analyzing the legality of targeted killings.

To its credit, the Obama administration has taken steps to reassure the public that the targeted killing program is being conducted in a lawful manner; most notably by dispatching high-level officials and attorneys to speak openly and publicly. There is more that could be done, however, without compromising intelligence and ongoing operations. The administration could begin by requiring the CIA to conduct all aerial targeting in accordance with the well-established principles of military aerial targeting, and then publicize this requirement. This would rebut the claim that the CIA's operational-level targeting decisions are being made in a lawless vacuum.

Also, the administration could provide a basic, on-the-record description of the strategic-level target vetting process, rather than the non-specific "just trust us" statements previously made by Mr. Brennan and others. n118 While these steps may not placate the [\*27] critics of targeted killing, and fall far short of what Professor Alston calls for, they would help to reassure the public and the international community that the U.S. is committed to the rule of law during armed conflict.

RPA-based targeted killing has become one of the most frequently used weapons in the ongoing armed conflict against the Taliban and al Qaeda in Afghanistan and Pakistan. n119 This technological leap forward is coming at a time when the U.S. finds itself engaged against an enemy that is not limited by geography or nationality. Considering the current administration's increased reliance on RPA-based targeted killings over the past four years, n120 RPAs are likely to continue to be used to combat al Qaeda, the Taliban, and other insurgents. This growth in the use of RPAs is almost certain to increase in future armed conflicts.

#### Legitimacy of targeted killing is determined by the administrative procedures that produce target lists---transparency and narrow criteria solve

Amos Guiora 12, professor of law at the SJ Quinney College of Law, University of Utah; and Laurie Blank, director of Emory Law's International Humanitarian Law Clinic, 8/10/12, “Targeted killing's 'flexibility' doctrine that enables US to flout the law of war,” The Guardian, http://www.theguardian.com/commentisfree/2012/aug/10/targeted-killing-flexibility-doctrine-flout-law-war

Targeting individuals who pose an imminent threat to the US is a lawful exercise of self-defense. But the current US targeted killing program – using unmanned aerial vehicles (UAVs, or drones) to strike terrorist operatives wherever we find them – raises a big red flag.

This is not simply because the policy uses UAVs – remotely piloted combat aircraft are not inherently unlawful. Nor simply because of civilian deaths: although horrible and tragic, not all civilian deaths from military operations are unlawful. Nor simply because most strikes are in countries with whom we are not at war: states have a right to act in self-defense to protect their national security, even outside of armed conflict. Nor is it simply because intelligence personnel carry out many of the strikes: nothing in international law mandates that only military personnel can engage in combat.

Although important, these critiques do not strike at the heart of the issue. It is the characterization of who we target and when – and how that determination is made – that raises serious questions of law and morality. In a nutshell: are we killing the right people?

Effective counterterrorism requires the nation state to apply self-imposed restraint. Otherwise, violations of international law and morality are inevitable. How counterterrorism is carried out will determine its legality under governing international instruments.

Among the many important international law principles applicable to targeted killing, the obligation of distinction sits at the pinnacle. The notion of counterterrorism as self-defense against imminent threats of harm means that the state must know, in a detailed manner, who poses such a threat, in what circumstances, and how and when such persons can be targeted. This information and analysis lies at the heart of the legitimate target determination.

Decision-makers must then conduct the necessary proportionality analysis: will civilians be harmed and if so, how many? To minimize the number of innocent civilians killed during conflict, the attacking party must refrain from any attacks where the expected civilian casualties will be excessive in relation to the anticipated military gain.

Recent debates have highlighted questions regarding the justness of the US use of targeted strikes as a method of warfare, focusing on the "unmanned" nature of the strikes. But just war concerns do not get to the heart of the issue. Similarly, there is little doubt that UAVs offer extraordinary accuracy and precision in targeting identified targets. Rather, the central issue is the accuracy in identifying those targets in the first place, and identifying those who will also suffer as a result of the attack if launched.

Ultimately, the lawfulness of targeted killing depends, in large part, on the efficacy of the internal administrative measures adopted to identify targets and minimize civilian casualties. Only when those procedures are effective and discriminating will targeted killing be both legal and moral.

Why? Because targeted killing is not about encountering a division of the enemy's forces on the battlefield and stopping it from advancing across the front towards your borders or essential infrastructure. That is the stuff of traditional conflict, of trench warfare and tank warfare and state versus state conflict. Instead, targeted killing rests on the specific identification of individuals who pose an imminent threat to the state's national security and are therefore legitimate targets within the framework of lawful self-defense. The state thus needs a method and a process for figuring out who poses a threat, why they pose a threat, and how that threat can be deterred or eliminated.

The current US approach, however, is far too suggestive of "guilt by association" – targeting individuals whose involvement in terrorism is broadly defined, potentially without reliance on criteria, standards and limits. In a recent speech, President Obama's counterterrorism adviser, John Brennan, stated:

"We are finding increasing recognition in the international community that a more flexible understanding of "imminence" may be appropriate when dealing with terrorist groups, in part because threats posed by non-state actors do not present themselves in the ways that evidenced imminence in more traditional conflicts." [Our italics.]

Brennan's words – whoever his audience and whatever the purpose – drastically undermine American morality and commitment to the rule of law. A "flexible understanding of imminence" ultimately produces an approach that can only be defined as "kill all the bad guys". If everyone who constitutes "a bad guy" is automatically a legitimate target, then careful analysis of threats, imminence, proportionality, credibility, reliability and other factors simply goes out the window.

Expansiveness and flexibility eliminate any sense of what is proportional, in the broadest sense of the term. If all threats are always imminent, then all responses are always proportionate. Self-defense becomes a mantra that justifies all action, regardless of method or procedure.

Flexibility regarding imminence and threat-perception means that the identification of legitimate targets – the true essence of moral operational counterterrorism – becomes looser and less precise. In turn, expanded notions of legitimate target and the right of self-defense introduce greater flexibility with regard to collateral damage – both in terms of who constitutes collateral damage and how much collateral damage is justified in the course of targeting a particular threat.

The result: flexibility plus the absence of criteria, process and procedure means that the notion of proportionality that should guide decision-making and operations ends up entirely out of proportion. In the high-stakes world of operational counterterrorism, there is no room for imprecision and casual definitions. The risks, to innocent civilians on both sides and to our fundamental values, are just too high.

#### Criteria disclosure solves credibility exactly as much as the aff---it’s clearly sufficient

Avery Plaw 12, associate professor of political science at the University of Massachusetts, Dartmouth, 11/14/12, “Drones Save Lives, American and Other,” http://www.nytimes.com/roomfordebate/2012/09/25/do-drone-attacks-do-more-harm-than-good/drone-strikes-save-lives-american-and-other

This is a tough call. Drone warfare has done a lot of good for the U.S., and could cause Americans a lot of harm. But my best judgment is that from the U.S. perspective, drone strikes have done more good than harm and should be continued, provided that the Obama administration can offer more clarity on what’s being done and can provide a sound legal justification for doing it.

One point in favor of drone strikes is that they are weakening Al Qaeda, the Taliban and affiliated groups, and hence protecting lives, American and other. Also, there don’t seem to be better means of doing so.

Points against drone strikes are the cost in civilian lives, the alienation of parts of the Islamic world, potential harm to the authority of international law, and the possibility that drone use will spread around the world, generating more conflict and harming long-term U.S. interests.

These are all valid points, and I respect that reasonable people could be convinced by either set. My own reasoning turns on four arguments.

First, states have a primary responsibility for the protection of their own citizens. If drone strikes are the best way to remove an all-too-real threat to American lives, then that is an especially weighty consideration.

Second, I doubt that ending drone strikes would substantially reduce anti-Americanism in the Islamic world or put a dent in radical recruitment.

Third, the U.S can do a lot to moderate some harms caused by its use of drones. By being clearer about what it’s doing and offering detailed legal justification, the U.S. could mitigate damage to international law and the threat of uncontrolled proliferation.

Finally, there is evidence that drone strikes are less harmful to civilians than other means of reaching Al Qaeda and affiliates in remote, lawless regions (for example, large-scale military operations). And that is what is required of states in armed conflict, legally and ethically: where civilian casualties cannot be avoided, they must be minimized.

#### Publicly releasing the legal rationale for targeted killings solves credibility---resolves perception of double-standards

Philip Alston 11, the John Norton Pomeroy Professor of Law, New York University School of Law, was UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010, 2011, “ARTICLE: The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283

1. Credibility

This argument can be succinctly stated. If the United States firmly believes, as the State Department's Legal Adviser insists it does, that it is acting in full compliance with international law, it should not hesitate to provide the evidence thereof. Because its dealings with other states regularly reflect a "trust, but verify" approach, n594 it can hardly expect that it will be held to a lower standard. Similarly, the United States attaches great importance in its overall foreign policy to the promotion of the rule of law. Thus the 2010 National Security Strategy commits it to "working to strengthen national justice systems" around the world, especially because "[t]hose who intentionally target innocent civilians must be held [\*439] accountable." n595 Civil society groups have also called for the United States government to play a leading role in helping other countries to develop national-level accountability mechanisms. n596 Similarly, in specific cases, such as the alleged killing of a journalist by Pakistan's Inter-Services Intelligence (ISI), the United States n597 and American media outlets have called for transparency and accountability and effective civilian oversight in the ISI's activities. n598 While the human rights violations of which the CIA and its Pakistani counterpart have been accused are very different in nature, it is difficult not to note the parallels in the resistance met by such calls. The CIA would greatly enhance its own credibility and that of the United States if it were to follow the advice given by the United States to the intelligence agencies of other countries.

#### Public disclosure is the obvious solution to international perception---most critics problem is not with the practice but the lack of transparency

Aram Roston 13, investigative journalist, a correspondent at Newsweek Magazine and The Daily Beast, 1/29/13, “Editorial: Targeted Killings and Transparency,” Defense News, http://www.defensenews.com/article/20130129/C4ISR02/301290015/Editorial-Targeted-Killings-Transparency

It’s the latest confounding development in an issue crucial to the C4ISR community. Today’s counterinsurgency operations have driven a profound shift in targeting, away from self-evident military targets, such as headquarters, barracks and anti-aircraft emplacements, to listing, finding and tracking individuals, in some cases even U.S. citizens.

The Obama administration has adopted a legally nuanced practice in the war on terror, generally shunning the capture of suspected terrorists overseas and instead turning to its signature national security tactic: targeted killing with missiles launched from Predator and Reaper UAVs. The Long War Journal tallies 532 people killed by drone strikes in Yemen and Pakistan in 2012 alone, a staggering death toll for a secret program.

Credible critics of drone strikes, such as former Director of National Intelligence Dennis Blair, have argued for years that, in a strategic sense, the tactic is backfiring.

“As the drone campaign wears on, hatred of America is increasing in Pakistan,” he wrote in 2011. “The Hellfires may kill some terrorists, but they certainly sow widespread animosity to the U.S. among the general population.”

But it’s difficult to have a productive debate about a program kept so tightly under wraps. The White House has refused to release the legal opinion upon which it bases its decisions to kill suspected terrorists, among them Anwar al-Awlaki, the American citizen at the center of the case before McMahon. While everything about the program has been treated with obsessive secrecy, lawyers find the legal murkiness the most troubling aspect of the strategy. The closest the White House has come to describing the process for picking drone targets was a speech last March by Attorney General Eric Holder at Northwestern University.

“The president may use force abroad against a senior operational leader of a foreign terrorist organization with which the United States is at war — even if that individual happens to be a U.S. citizen,” Holder said. Killing an American without due process could be lawful, he argued, if the “U.S. government has determined, after a thorough and careful review,” that the American posed an imminent threat, and that capture wasn’t possible.

In her opinion, McMahon called Holder’s remarks “a road map of the decision-making process that the government goes through before deciding to ‘exterminate’ someone ‘with extreme prejudice.’”

The issue isn’t America’s right to use force against enemies in a country where we are an established combatant force. Rather, it is the targeted killing program in other countries, such as Pakistan and Yemen, that is inflaming international public opinion and drawing scrutiny from the international legal community.

The U.N. special rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, and New York University law professor Sarah Knuckey make this argument in this issue of C4ISR Journal. They call on the administration to answer key questions about its targeting killing program.

“Should there be an international legal order,” they ask, “that permits governments around the world to operate ‘secret’ and unaccountable programs to eliminate their enemies wherever they are with few binding limits and no meaningful international scrutiny?”

The solution is simple: more disclosure and clearer explanations by the administration. But that’s a solution the White House continues to resist. It is possible that there are valid reasons for keeping legal opinions secret, but the U.S. is the first nation to carry out a program like this on such a scale. The White House has the moral obligation to explain — to American citizens, to the global community and to U.S. allies — the legal underpinnings of its actions.

#### Self-imposed transparency is highly effective at building executive credibility

Eric A. Posner 7, the Kirkland & Ellis Professor of Law, University of Chicago Law School; and Adrian Vermuele, Professor of Law, Harvard Law School, 2007, “The Credible Executive,” https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/74.3/74\_3\_Posner\_Vermeule.pdf

The well-motivated executive might commit to transparency as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will tend to exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.

Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus, George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency—no one expects meetings of the National Security Council to appear on C-SPAN—but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong. 96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward sources who give them access by portraying their decisionmaking in a favorable light.97

We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.

#### Internal executive procedures solve the case---particularly credibility and perception

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

What is my alternative prescription? I offer three things:

First, continued efforts at transparency, as an important government interest in and of itself – and not just to keep the press, Congress and the courts off its back, when its back is against the wall. That is easier said than done. Transparency is hard. The reality is that it is much easier to classify something than it is to de-classify it, and there are huge bureaucratic biases against de-classifying something once it is classified. Put 10 national security officials in a room to discuss de-classifying a certain fact, they will all say I’m for transparency in principle, but at least 7 will be concerned about second-order effects, someone will say “this is really hard, we need to think about this some more,” the meeting is adjourned, and the 10 officials go on to other more pressing matters.

Last year we declassified the basics of the U.S. military’s counterterrorism activities in Yemen and Somalia and disclosed what we were doing in a June 2012 War Powers report to Congress. It was a long and difficult deliberative process to get there, but certain people in the White House persevered, we said publicly and officially what we were doing, and, so far as I can tell, the world has not come to an end.

Second, in my view targeted lethal force is at its least controversial when it is on its strongest, most traditional legal foundation. The essential mission of the U.S. military is to capture or kill an enemy. Armies have been doing this for thousands of years. As part of a congressionally-authorized armed conflict, the foundation is even stronger. Furthermore, the parameters of congressionally-authorized armed conflict are transparent to the public, from the words of the congressional authorization itself, and the Executive Branch’s interpretation of that authorization, which this Administration has made public.

Lethal force outside the parameters of congressionally-authorized armed conflict by the military looks to the public to lack any boundaries, and lends itself to the suspicion that it is an expedient substitute for criminal justice.

Third, the President can and should institutionalize his own process, internal to the Executive Branch, to ensure the quality of the decision-making. In this regard I will note the various public reports that the Obama Administration is considering doing exactly that.[15]

This brings me to my final point. Let’s not lose sight of the reality that in this country we have for some time entrusted the President with awesome powers and responsibilities as Commander in Chief; he controls the nuclear arsenal and he alone has the authority to use it; he alone has the constitutional authority, with certain limits, to deploy thousands of men and women in the U.S. military into hostilities on the other side of the world.

Further, as we entrust the President to conduct war and authorize lethal force against an individual, that presidential-level decision brings with it a whole cadre of cabinet and subcabinet-level national security advisers from across the Defense, State and Justice Departments and the intelligence community who, in my experience, bring to the table different perspectives and engage in very lively, robust debate.

I say only half-jokingly that in 2009, in the existing structure, one of the most aggressive things the new President could do to promote credibility and ensure robust debate within the Executive Branch was add to the mix, as State Department Legal Advisor, a certain progressive human rights law professor from Yale, give him access to all our counterterrorism activities, and give him a voice and a seat at the table. And, over the first four years of the Administration, Harold Koh made me and others work a lot harder.

Now, those who hear or read this will ask “what about the future? Koh is back at Yale. The answer is that the President we entrust with the ultimate responsibility is elected by the people and accountable to them; his legal and policy advisors are chosen just like a federal judge, appointed by the President and confirmed by the Senate. If the Senate is not satisfied that a nominee for a legal position in the national security element of our government will provide independent advice and follow the rule of law, it should exercise its prerogative to withhold its advice and consent. These days, the Senate delays the confirmation of a presidential nominee for a lot less.

I am confident that the man we elected to be President for the next four years, Barack Obama, is sensitive to these issues.

I also have a lot of faith in the new CIA director John Brennan, who happens to be an alumnus of this university. Over the first four years of the Obama Administration, I probably sat with him through somewhere between 50-100 situation room meetings. I believe I know his mind and his values, and in my opinion John Brennan embodies what the President talks about when he says that aggressive counterterrorism policies, the rule of law and American values are not trade-offs, and can co-exist.

#### Legal rationale disclosure boosts legitimacy while checking executive power

Cheri Kramer 11, J.D., Santa Clara University School of Law, 1/1/11, “The Legality of Targeted Drone Attacks as U.S. Policy,” Santa Clara Journal of International Law, http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1105&context=scujil

The heart of the debate over the legality of targeted drone attacks concerns policy considerations. Under both domestic and international law, the use of targeted killing of legal targets is permissible. However, is it good policy?89 And, more urgently, do the targeted killings carried out by the U.S. actually qualify as legal killings?

The answer to both questions is a disappointingly vague "maybe." The definition of good policy is inherently a fact-driven and opinion-based determination. As to the second question, like the notorious three monkeys, the U.S. government seems to have engaged in a "see no evil, hear no evil, speak no evil" policy strategy regarding the use of drones. This is particularly true of its Central Intelligence Agency (CIA), which, until recently, did not officially recognize its drone program, yet employs it extensively to eliminate terrorist targets in northern Pakistan.90

It is no secret that the U.S. relies on drones in its war strategy against the insurgency in Afghanistan.91 Yet the administration repeatedly refuses to produce publicly any guidelines that would set forth the procedures and safeguards used by U.S. forces in determining the legality of a target.92 Given the importance of transparency in international rule of law, and its role as a check on executive power, as well as the political legitimacy to be gained by identifying the procedures used in targeting, President Obama's administration has much to gain by being more forthcoming with the procedures engaged to ensure compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Transparency solves allied perception, blowback, and drone norms while maintaining the counter-terror benefits of targeted killings

Michael Aaronson 13, Professorial Research Fellow and Executive Director of cii – the Centre for International Intervention – at the University of Surrey, and Adrian Johnson, Director of Publications at RUSI, the book reviews editor for the RUSI Journal, and chair of the RUSI Editorial Board, “Conclusion,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

The Obama administration faces some tough dilemmas, and analysts should be careful not to downplay the security challenges it faces. It must balance the principles of justice and accountability with a very real terrorist threat; and reconcile the need to demonstrate a credibly tough security policy with the ending of a long occupation of Afghanistan while Al-Qa’ida still remains active in the region. Nevertheless, more transparency would provide demonstrable oversight and accountability without sacrificing the necessary operational secrecy of counter-terrorism. It might also help assuage the concern of allies and their publics who worry about what use the intelligence they provide might be put to. A wise long-term vision can balance the short-term demands to disrupt and disable terrorist groups with a longer-term focus to resolve the grievances that give rise to radicalism, and also preclude inadvertently developing norms of drone use that sit uneasily with the civilised conduct of war. Drones are but one kinetic element of a solution to terrorism that is, ultimately, political.

#### Executive-driven transparency clearly solves all their precedent args---if it’s true that current practices by the executive set bad precedents, then reforming them has to resolve that precedent

Laura Twomey 13, Cambridge Journal of International and Comparative Law, 3/14/13, “Setting a Global Precedent: President Obama's Codification of Drone Warfare,” http://www.cjicl.org.uk/index.php/cjicl-blog/setting-a-global-precedent-president-obamas-codification-of-drone-warfare

Rules codified by this Administration, vesting authority in the Executive branch, will play an important part of any future administration's counterterrorism framework. Such rules also set a precedent for leaders in other States, to the effect that it is acceptable for the executive to enjoy unchecked control over their respective targeted killing programmes.

3. Absence of geographic limits in invoking the law of armed conflict (‘LOAC’)

The White Paper argues that the AUMF gives the President authority to target those outside of the area of active hostilities, holding that there is no legal precedent for the proposition that the application of the LOAC is limited in geographical scope. The Paper therefore posits that in the course of a non-international armed conflict, the LOAC follows the participants (members of al-Qaeda or 'associated forces'). This is so, even in instances where the criteria determining the threshold for armed conflict set out in Prosecutor v Tadic are not fulfilled in a territory, that is, where there is no paradigm of hostilities (evidence of protracted armed violence and the presence of organised armed groups). Therefore, the Paper grants authority to conduct targeted killing operations across a much wider geographic scope than previously existing under international humanitarian law.

The White Paper further invokes the 'unwilling or unable' justification to deploy a drone strike where there has not been express or tacit permission on the part of a State's Government to operate on its sovereign territory. This justification has the potential to become problematic in the future. For example, at the moment the US is operating in Pakistan within an understanding of 'implied consent', an approach that may not be acceptable to other States, who may view a drone strike on their territory by another State as an act of war.

4. The temporal scope of the armed conflict with al-Qaeda has not been addressed.

The Administration has not clarified how long this Executive authority to target individuals under the AUMF and Article 51, UN Charter, may last. Is it the case that the authority will expire when armed conflict in Afghanistan comes to an end? Former Attorney General to the Department of Defence, Jeh Johnson, alluded in a November 2012 speech to a 'tipping point' wherein law enforcement methods of apprehension may become the default mode of operation against al-Qaeda operatives, as opposed to the LOAC. However, this matter has not been addressed by the Administration. The codification of the programme's rules suggest this method of conducting perpetual covert warfare is becoming 'the new normal.' However, a long term covert mechanism for conducting war operations sets a similar covert precedent for other States to follow, which is not desirable.

5. An extremely broad interpretive ability is vested in the Executive as to who may be targeted.

The White Paper outlines that a "senior operational leader" of al-Qaeda may be targeted, even if they are an American citizen. The memo does not define how these criteria may be fulfilled. Capture must not be “feasible”, however this term is again not elaborated upon. A “high level official” may make the decision to target if an “imminent threat” has been determined. This imminent threat is later expounded as equivalent to the “continuous plotting of attacks”, a radical redefinition of the word “imminent.” Furthermore, what constitutes an "associated force" of al-Qaeda also remains undefined.

The adoption of similarly broad targeting criteria by other States would lead to an unprecedented reshaping of traditional LOAC enshrined in the Geneva Conventions and found in the relevant customary international law rules. If such broad targeting criteria were to be adopted, it would indicate a marked departure from current ICRC criteria on "direct participation."

Conclusion: The Drone 'Rule Book' and its significance for international law

It is clear that, as the first State to deploy remote targeting technology in a non international armed conflict, the legal framework forged by the US during President Obama's second term will set significant precedent for the future practice of the estimated 40 States developing their own drone technology.

On 7 March 2013, members of the European Parliament expressed deep concern about the “unwelcome precedent” the programme sets, citing its “destabilising effect on the international legal framework” that “destroys ... our common legal heritage.” This 'destabilising effect' arises from the classified and seemingly amorphous substantive legal basis for the programme and the apparent lack of procedural standards in place. It remains to be seen if the classified 'rulebook' will be released for public scrutiny, and allay these concerns.

Reliance on international law in world order is based on consent, consensus, good faith and, crucially in this instance, reciprocity. The US programme may harbour short term gains in the pursuit of al-Qaeda operatives, however, if the aforementioned substantive legal justifications continue to be invoked, it risks engendering long term disadvantages. Pursuing this policy encourages other States to adopt similar policies. Administration officials have cited particular concern about setting precedent for Russia, Iran and China, all of which are developing their own remote targeting technology.

It is therefore suggested that the Administration should take this opportunity to codify the rules, clarify terms where ambiguity may currently allow for broader interpretations, and to bring its regulations in line with the existing framework of international law. This legal framework should then be made available to the public, with covert operational necessities redacted. This could set a valuable legal precedent, of particular importance at this turning point wherein international law must adapt to the 21st century model of warfare, a model which lacks a clear enemy and a demarcated battlefield.

#### Only the CP solves the case---moving too fast to restrict targeted killing’s ineffective---starting with the CP’s legal transparency’s more effective

Afsheen John Radsan 12, Professor, William Mitchell College of Law, Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004; and Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, 2012, “The Evolution of Law and Policy for CIA Targeted Killing,” Journal of National Security Law & Policy, Vol. 5, p. 439-463

A thorough review of the arguments against the CIA drone campaign, however, shows that most critics invoke laws that do not bind American officials or laws that are vague. In a zone of ambiguity, one expects those responsible for protecting the United States to interpret their authority broadly. The President and his advisers – notably Harold Koh, the Dean of Yale Law School, currently the State Department Legal Adviser and a human rights specialist of the first order – have argued and concluded that CIA drone strikes are legal.3 The rules of armed conflict and the laws of interstate force permit the United States reasonably to assert the right to use the CIA to fire missiles from unmanned drones to kill “fighting” members of al Qaeda and the Taliban located in countries that are unable (or perhaps unwilling) to control the threat these armed groups pose.

Although critics of the CIA drone program do not demonstrate that its strikes are clearly illegal, some raise important points on how the law, drifting into policy, should constrain drone strikes. As noted, the CIA drone campaign and any similar campaigns pose acute dangers of mistakes and abuses. The law, in response to this type of problem, seeks to ensure accuracy, fairness, and accountability by insisting on regular, responsible procedures. Yet the laws of war, generally speaking, merely require reasonable precautions before striking.4 A simple rule-of-reason seems inadequate for targeted killing that, by its terms, demands “intelligence-driven use of force.”5

To facilitate the evolution of a “due process” of targeted killing, in two earlier pieces, we have attempted to tease controls from the U.S. Constitution and from international humanitarian law’s insistence on reasonable precautions.6 Whether for us or for other commentators, creating fine-grained constraints will not be straightforward. If the constraints are to evolve at all, they are likely to come from a long dialogue among many interested parties. The United States could add to this conversation by publicly adopting standards for its use of drones that ensure accuracy and accountability. The CIA, accordingly, could acknowledge a general role in the drone program without mentioning the names of any participating countries. By giving up a thin veil of secrecy, the CIA would benefit from more informed public scrutiny and might receive more support from some American citizens and allies. But that increased transparency could carry costs, including offending those concerned about the level of collateral damage. Residents of foreign countries closest to the locations of CIA strikes are likely to be the most sensitive. Take Pakistan as one possible example.

We do not expect opponents of CIA drones to give up their rhetorical weapon claiming illegality. Their rhetoric, however, tends to obscure how the law should evolve to result in good policy. The relevant substantive law governing resort to deadly force by states is and necessarily will remain vague. In contrast, the specific procedures for CIA targeted killing cry out for scrutiny and improvement. At the level of specificity that matters to actual drone operators, good law blurs into good policy. At this level, all of the President’s national security team, lawyers and non-lawyers alike, are welcome to advise him on drones.

### AT: Circumvention

#### Circumvention’s impossible---the administration can only do one thing while saying another now because of the lack of transparency

Adrian Johnson 13, Director of Publications, Royal United Services Institute, 5/3/13, “Mr Emmerson Takes on Washington,” http://www.rusi.org/publications/newsbrief/ref:A5183D24D108B9/#.UizUn9L\_l8E

It is difficult to assess the conduct of the drone campaign with reasonable certainty, Foust points out, if the debate relies on anecdote and data smuggled out of areas in which the traditional organs of civil society, like journalists and NGOs, cannot easily operate. And without more clarity on the administration’s targeting criteria, it is hard to reach definitive judgements on whether it is indeed respecting the principles of proportionality, discrimination and imminence.

### 2NC—Condo Good

#### Counter-interpretation—one conditional CP/one conditional critique.

Standards—

Argument Innovation—debaters are risk-averse—a fallback strategy encourages introduction of new positions—solves research skills.

Neg Flex—in-round testing is critical to balance aff prep.

Nuanced Advocacy—contradictory positions force aff defense of the political middle-ground through specific solvency deficits—prevents ideological extremism.

Strategic Thinking—causes introduction of the best arguments—necessitates intelligent coverage decisions—key to info processing and argument evaluation.

[If Dispo] Logic—a decision maker can always chose the status quo.

Substance crowd-out—re-appropriating time spent on condo solves fairness offense.

High Threshold—the 2AR is reactive and persuasive—theory has a 1-to-5 time trade-off—unless we make debate impossible, vote neg.

Defense—

Fairness impossible—resource and coaching differentials—no terminal impact—no one quits b/c of the process CP.

Skew inevitable—DAs and T

Contradictions inevitable—Security K and Deterrence DA

2NR collapse solves depth.

Cheating strategies lose to theory & competition args.

Judge is a referee—potential abuse isn’t a voter—blaming us for other teams behavior is unfair—voting down abuse solves their offence.

## Drone Prolif

### 2NC Doesn’t Set Precedent

#### US policy doesn’t control drone use—

UAVs are cheap, safe, and reliable—they will be used because they are easy to use, regardless of what the US does—that’s Anderson

#### Our evidence is comparative with the plan—

Even if the US restrained itself, other countries see them as so useful that there’s no way they give them up—that’s Boot

#### The ‘drone precedent’ arg is incoherent---their claim is that other states will use drones in far different ways than the U.S. does---proves our drone policies are irrelevant, and pretexts at best for what states will inevitably do

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

This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: "America's drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama's doctrines to Tibetan activists holding meetings in Nepal?"

The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and entirely within the bounds of international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom -- these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.

#### No ‘global precedent’ is affected by anything the U.S. does---states will inevitably pursue drones

Robert Wright 12, “The Incoherence of a Drone-Strike Advocate,” 11/14/12, http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond.

Boot started out with this observation:

I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.

That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right?

As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said:

You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

#### Zero risk of global drone prolif or U.S. policies setting precedents

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

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones.

As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings.

Marked

Indeed, critics seem overly-focused on the domestic implications of drone use.

In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.”

Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, there remain equally serious diplomatic and political costs that emanate from beyond a fickle electorate, which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey.

Most recently, the serious diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane in June illustrated the very serious risks of operating any aircraft in foreign territory.

States launching drones must still weigh the diplomatic and political costs of their actions, which make the calculation surrounding their use no fundamentally different to any other aerial engagement.

This recent bout also illustrated a salient point regarding drone technology: most states maintain at least minimal air defenses that can quickly detect and take down drones, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active.

What the U.S. also learned, however, was that drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy.

In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region.

### 2NC U.S. Can’t Solve Precedent

#### States that deploy drones will never also adopt U.S. standards---they don’t care, they only want the tech to enable them to do shit they want to do anyways

Paul J. Saunders 13, executive director of the Center for the National Interest, 3/4/13, “We Won't Always Drone Alone,” http://nationalinterest.org/commentary/we-wont-always-drone-alone-8177?page=show

When and how the executive branch can employ drones—and what oversight from the legislative and judicial branches is required—are important and serious matters. They become especially significant when they intersect with the rights of American citizens, whether in domestic surveillance or in international counterterrorism strikes. In emotional terms, drones collide with some of America’s most fundamental values. For these reasons, the existing debate over drones should continue.

That said, the United States has well-established rules for the use of lethal force in war and in law enforcement operations. There are extensive rules governing surveillance, too. From this perspective, drones represent a new way of doing things that the executive branch has done for some time and do not pose a radical challenge to existing policies and procedures—except, perhaps, for strains imposed by the sheer number of strikes. Ultimately, however, America has had the drone debate before in various guises and will eventually find a way forward that satisfies legal and oversight concerns.

A broader and deeper challenge is how others—outside the United States—will use drones, whether armed or unarmed, and what lessons they will draw from Washington’s approach. Thus far, the principal lesson may well be that drones can be extremely effective in killing your opponents, wherever they are, without risking your own troops and without sending soldiers or law enforcement personnel across another country’s borders. It seems less likely that others will adopt U.S.-style legal standards and oversight procedures, or that they will always ask other governments before sending drones into their airspace.

## Pakistan

### Civilian Casualties

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

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

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

#### Tech advances and tighter rules of engagement are substantially reducing civilian casualties---alternatives to drones are worse

Rosa Brooks 13, Professor of Law, Georgetown University Law Center and Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23/13, “The Constitutional and Counterterrorism Implications of Targeted Killing,” <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>

\*We do not endorse gendered language

First, critics often assert that US drone strikes are morally wrong because the kill innocent civilians. This is undoubtedly both true and tragic -- but it is not really an argument against drone strikes as such. War kills innocent civilians, period. But the best available evidence suggests that US drone strikes kill civilians at no higher a rate, and almost certainly at a lower rate, than most other common means of warfare. ¶ Much of the time, the use of drones actually permits far greater precision in targeting than most traditional manned aircraft. Today's unmanned aerial vehicles (UAVs) can carry very small bombs that do less widespread damage, and UAVs have no human pilot whose fatigue might limit flight time. Their low profile and relative fuel efficiency combines with this to permit them to spend more time on target than any manned aircraft. Equipped with imaging technologies that enable operators even thousands of miles away to see details as fine as individual faces, modern drone technologies allow their operators to distinguish between civilians and combatants far more effectively than most other weapons systems.¶ That does not mean civilians never get killed in drone strikes. Inevitably, they do, although the covert nature of most US strikes and the contested environment in which they occur makes it impossible to get precise data on civilian deaths. This lack of transparency inevitably fuels rumors and misinformation. However, several credible organizations have sought to track and analyze deaths due to US drone strikes. The British Bureau of Investigative Journalism analyzed examined reports by "government, military and intelligence officials, and by credible media, academic and other sources," for instance, and came up with a range, suggesting that the 344 known drone strikes in Pakistan between 2004 and 2012 killed between 2,562 and 3,325 people, of whom between 474 and 881 were likely civilians.1 (The numbers for Yemen and Somalia are more difficult to obtain.) The New America Foundation, with which I am affiliated, came up with slightly lower numbers, estimating that US drone strikes killed somewhere between 1,873 and 3,171 people overall in Pakistan, of whom between 282 and 459 were civilians. 2¶ Whether drones strikes cause "a lot" or "relatively few" civilian casualties depends what we regard as the right point of comparison. Should we compare the civilian deaths caused by drone strikes to the civilian deaths caused by large-scale armed conflicts? One study by the International Committee for the Red Cross found that on average, 10 civilians died for every combatant killed during the armed conflicts of the 20th century.3 For the Iraq War, estimates vary widely; different studies place the ratio of civilian deaths to combatant deaths anywhere between 10 to 1 and 2 to 1.4¶ The most meaningful point of comparison for drones is probably manned aircraft. It's extraordinarily difficult to get solid numbers here, but one analysis published in the Small Wars Journal suggested that in 2007 the ratio of civilian to combatant deaths due to coalition air attacks in Afghanistan may have been as high as 15 to 1.5 More recent UN figures suggest a far lower rate, with as few as one civilian killed for every ten airstrikes in Afghanistan.6 But drone strikes have also gotten far less lethal for civilians in the last few years: the New America Foundation concludes that only three to nine civilians were killed during 72 U.S. drone strikes in Pakistan in 2011, and the 2012 numbers were also low.7 In part, this is due to technological advances over the last decade, but it's also due to far more stringent rules for when drones can release weapons.¶ Few details are known about the precise targeting procedures followed by either US armed forces or the Central Intelligence Agency with regard to drone strikes. The Obama Administration is reportedly finalizing a targeted killing “playbook,”8 outlining in great detail the procedures and substantive criteria to be applied. I believe an unclassified version of this should be should be made public, as it may help to diminish concerns reckless or negligent targeting decisions. Even in the absence of specific details, however, I believe we can have confidence in the commitment of both military and intelligence personnel to avoiding civilian casualties to the greatest extent possible. The Obama Administration has stated that it regards both the military and the CIA as bound by the law of war when force is used for the purpose of targeted killing. 9 (I will discuss the applicable law of war principles in section IV of this statement). What is more, the military is bound by the Uniform Code of Military Justice. ¶ Concern about civilian casualties is appropriate, and our targeting decisions, however thoughtfully made, are only as good as our intelligence—and only as wise as our overall strategy. Nevertheless, there is no evidence supporting the view that drone strikes cause disproportionate civilian casualties relative to other commonly used means or methods of warfare. On the contrary, the evidence suggests that if the number of civilian casualties is our metric, drone strikes do a better job of discriminating between civilians and combatants than close air support or other tactics that receive less attention.

#### Civilian casualties are way down because of tech improvements

Elinor June Rushforth 12, J.D. candidate, University of Arizona, James E. Rogers College of Law, Class of 2013, Fall 2012, “NOTE: THERE'S AN APP FOR THAT: IMPLICATIONS OF ARMED DRONE ATTACKS AND PERSONALITY STRIKES BY THE UNITED STATES AGAINST NON-CITIZENS, 2004-2012,” Arizona Journal of International and Comparative Law, 29 Ariz. J. Int'l & Comp. Law 623, p. lexis

Third, proponents of drone use also argue that this technology can "ensure both that the best intelligence is available for planning operations, and that civilian casualties are minimized in carrying out such operations." n183 This is by far the most complex argument (made by both critics and proponents of the program) regarding drone efficacy and collateral damage. Because most civilian casualty reports are based on media and informant reports, the difficulty of defining an allegedly lawful target and a civilian becomes paramount. n184 Officials maintain that the drones' ability to linger above a target for days and observe a "pattern of life," means that the pilot or operator can study their target, identify civilians in the area, and, if necessary, change the plan. n185 According to the New America Foundation, whose study is based on media sources, the civilian casualty estimate since 2004 is approximately twenty percent and in 2012, approximately ten percent. n186 The military and CIA share the opinion that though it is highly improbable that no civilians have been killed, "our coverage has improved so much since the beginning of this program, it really defies logic that now we would start missing all these alleged noncombatant casualties." n187

# 1NR

### Alts worse

#### Alternatives to signature strikes are worse for all their advantages

Dan Trombly 13, National Security/International Affairs Analyst, Caerus Analytics, LLC, 5/29/13, “I Might Need You To Kill: Signatures, Patterns, and Alternatives,” http://www.cnas.org/blogs/abumuqawama/2013/05/i-might-need-you-kill-signatures-patterns-and-alternatives.html

Of course, it is important to note these violent dynamics are hardly unique to signature strikes or aerial assassinations. Though improper targeting and munitions selection can rapidly magnify the danger of collateral damage in those operations, it is important to remember the enormous potential costs of seeking to kill or capture militants with any instruments that are unable to ensure security for civilians.

Night raids, such as the infamous botched Gardez raid, can easily falter on poor intelligence and the mistaken use of force against civilians. While the U.S. has learned much since Black Hawk Down, compare the amount of force the U.S. has had to bring down to ensure adequate force protection in operations on or across the border with Pakistan. In 2008, the Angor Ada raid, involving dozens of US ground troops and multiple aircraft, killed at least several civilians, and meant that the next raid provoked a major standoff that threatened to cause large-scale firefights and civilian displacement. Or take the example of 2011, NATO and Afghan forces reported fire from Pakistani positions. The result was that NATO unleashed more airpower to protect its troops in contact than MQ-1s or MQ-9s ever could. Two Apache attack helicopters, two F-15Es, and an AC-130 gunship pummeled targets on the Pakistani border, killing as many as two dozen Pakistani soldiers.

Even then, a regime of raiding into territories where we are not willing to actually create a sustained military presence does nothing to mitigate the dangerous dynamics for civilian cooperation and intelligence collection. Raids that leave territorial control an open question for host governments and militants do not give civilians much incentive to provide the intelligence necessary for more precise targeting, leaving them to try their luck at the dangerous game of avoiding militant counterintelligence efforts. The solution to such a quandary, especially when providing security to positively incentivize informers, is to remove potential informers from enemy retaliation through detention or concentration, and the use of high-tempo raiding operations to generate as much actionable intelligence as possible through the raiding process itself.

The face of a robust capture program is not the FBI effort which retrieved the 1993 CIA shooter, which in the relatively sanguine climate of 1997, the Pakistani government was unwilling to publicly admit its role in handing over a citizen to the US. American law enforcement wisely worked with the ISI to lure the suspect into Punjab. In today’s climate, against targets part of active militant networks, an operation that relies on relatively unsavvy suspects and highly compliant host government security and intelligence seems less than forthcoming.

The face of a capture program in Pakistan’s border regions with Afghanistan, Yemen, Somalia, and similar environments, is not going to be law enforcements, but the types of programs that, past and present, we praise with intimidation or decry with disgust as “industrial-scale killing machines” or “executive assassination rings.” Wartime friction ensures that any well-intentioned capture program in denied or contested areas will live on as an assassination program. Just ask those involved in the Phoenix Program, who had even their own President thinking they were running a massive assassination machine.

Of course, programs like the CIA-Vietnamese Provincial Reconnaissance Units, for all the reputation they gained as an unstoppable assassination machine, pale in comparison to the sanguinary behavior of other paramilitary efforts to dismantle insurgent infrastructure and disrupt irregular opponents. While the Anbar Awakening receives massive praise, enlisting irregular forces with relatively little opportunity to control their behavior, and far less “skin in the game” with regard to the political situation on the ground, frequently results in incredibly excessive killing and the incorporation of civilian populations into horrific, racket-like forms of extortive governance. Even relatively antiseptic terms such as extending the reach of governance and strengthening the state, in the context of civil wars or internal conflict against irregular opponents, frequently involves the tacit or explicit cooperation between host government and paramilitary forces to purge not just insurgent infrastructure, but political sympathizers and threats to elite interests. Extending the reach of the state under such conditions is frequently a nasty thing, and while it is in vogue to speak of the death or decline of counterinsurgency, the clean language of empowering local partners and expanding state capacity is still counterinsurgency, just of a much different sort than the kind wealthy liberal 3rd-party interventions might try to steer their clients towards.

#### Whatever replaces signature strikes will be just as bad

Dan Trombly 13, National Security/International Affairs Analyst, Caerus Analytics, LLC, 5/29/13, “I Might Need You To Kill: Signatures, Patterns, and Alternatives,” http://www.cnas.org/blogs/abumuqawama/2013/05/i-might-need-you-kill-signatures-patterns-and-alternatives.html

There are, of course, other, significant changes afoot. The implication that “threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted” will force a renegotiation in the terms of cooperation through which the Yemeni and Pakistani governments privately bless or at least tolerate American strikes. If the U.S. is no longer targeting groups of militants who do not pose a threat to Americans, or Nek Muhammad-types who are primarily a threat to partners, the targeted killing program is, in some ways, listing towards more unilateralism, just as the emphasis on precision (versus signature) quietly further entrenches assassination and targeted killing. Lastly, if and when the U.S. finally ceases signature strikes, it marks basically the end of an air-policing like attempt to conduct anti-infrastructure attacks with standoff weapons. If ending such operations is an admirable and necessary goal - and there is plenty of evidence to suggest it is - we ought think about what will replace those efforts, or what strategy will allow us to bypass such operations. The targeted killing program grew out of a strong but fuzzy commitment to taking the war to al Qaeda, frustrations with capture, detention, and trial, and bureaucratic maneuvering and inertia unleashed through dissatisfaction with the flaws plaguing the counterinsurgency campaign. So long as the basic dynamics of policy and strategy that animate our counterterror campaign today remain - agent-principal relationships with some of our least-savory allies, a murky and frequently flawed view of the adversary we seek to vanquish, and the skewed incentives of our domestic political system, the problems which afflict policies past are soon to manifest themselves anew to afflict their successors.

### AT sig strikes

#### Signature strikes are far worse for all of their impacts---this turns the case on a grand scale

David Hastings Dunn 13, Reader in International Politics and Head of Department in the Department of Political Science and International Studies at the University of Birmingham, UK, and Stefan Wolff, Professor of International Security at the University of Birmingham in the UK, March 2013, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6¶ Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7¶ Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9¶ The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists.¶ Counter-insurgency as a strategy works best by providing security on the ground (deploying soldiers amongst the community that they are intended to protect) and establishing and sustaining a sufficiently effective local footprint of the state and its institutions providing public goods and services beyond just security (water, food, sanitation, healthcare, education and so forth). This strategy is often encapsulated in the formula ‘clear, hold, build’,10 and it needs to go hand-in-hand with pursuing a viable political settlement that addresses what are the, in many cases, legitimate concerns of those fighting, and supporting, an insurgency. By living among the communities they seek to secure, soldiers can win their trust, stem support for the insurgents, and understand who their enemies are, what their demands and objectives are, and how best to single out those who represent an irreconcilable threat to the community. In other words, in a context in which the objective is to protect innocent civilians, win over reconcilable insurgents and their supporters, and eliminate those who are irreconcilable, drones can deliver specific contributions to an overall counter-insurgency policy. Yet this can only happen if drones target individuals for a reason, rather than being used, and perceived, as a blanket approach against an entire community.

#### Signature strikes are key to thin the ranks of Al-Qaeda---they make it impossible for militants to keep pace with their rates of losses

Philip Mudd 13, was a senior official at the CIA and the FBI, now director of global risk at SouthernSun Asset Management, 5/24/13, “Fear Factor,” http://www.foreignpolicy.com/articles/2013/05/24/fear\_factor\_signature\_strikes

The impact of armed drones during the decade-plus of this intense global counterterrorism campaign is hard to overestimate: Without operational commanders and visionary leaders, terror groups decay into locally focused threats, or disappear altogether. Targeted strikes against al Qaeda leaders and commanders in the years immediately after 9/11 deprived the group of the time and stability required to plot a major strike. But the London subway attacks in July 2005 illustrated the remaining potency of al Qaeda's core in the tribal areas of Pakistan. The threat was fading steadily. But not fast enough.

So-called signature strikes -- in which target selection is based not on identification of an individual but instead on patterns of behavior or unique characteristics that identify a group -- accelerated this decline for simple reasons. Targeting leadership degrades a small percentage of a diffuse terror group, but developing the tactical intelligence required to locate an individual precisely enough to stage a pinpoint strike, in a no-man's land half a world away, is time-consuming and difficult. And it's not a perfect science; the leaders of groups learn over time how to operate more securely. Furthermore, these leaders represent only a fraction of the threat: Osama bin Laden might have been the public face of al Qaeda, but he was supported by a web of document-forgers, bombmakers, couriers, trainers, ideologues, and others. They made up the bulk of al Qaeda and propelled the apparatus that planned the murder of innocents. Bin Laden was the revolutionary leader, but it was the troops who executed his vision.

Signature strikes have pulled out these lower-level threads of al Qaeda's apparatus -- and that of its global affiliates -- rapidly enough that the deaths of top leaders are now more than matched by the destruction of the complex support structure below them. Western conceptions of how organizations work, with hierarchal structures driven by top-level managers, do not apply to al Qaeda and its affiliates. These groups are instead conglomerations of militants, operating independently, with rough lines of communication and fuzzy networks that cross continents and groups. They are hard to map cleanly, in other words. Signature strikes take out whole swaths of these network sub-tiers rapidly -- so rapidly that the groups cannot replicate lost players and their hard-won experience. The tempo of the strikes, in other words, adds sand to the gears of terror organizations, destroying their operational capability faster than the groups can recover.

#### Signature strikes are key to prevent terror plots from succeeding on a global scale

Philip Mudd 13, was a senior official at the CIA and the FBI, now director of global risk at SouthernSun Asset Management, 5/24/13, “Fear Factor,” http://www.foreignpolicy.com/articles/2013/05/24/fear\_factor\_signature\_strikes

There are other rationales for these attacks, though. Part of the reason signature strikes have become so prominent in this global counterterror war is, simply put, geography. Local terrorist groups only become international threats if they have leadership that can execute a broad, globalist vision, and if that leadership has the time and space to plot without daily distractions from armies and security services -- as in safe havens like Yemen, Somalia, the Sahel, and the tribal areas of Pakistan. These are exactly the places where the United States cannot apply conventional force and where local governments lack the capability or will to counter the threat. Exactly the places where drones offer an option to eviscerate a growing terror threat that has a dispersed, diffuse hierarchy. The places where signature strikes have proven effective.

With more capable security partners, the brutal destruction from drones above might come from more conventional operations on the ground. But, by definition, safe havens aren't penetrable by capable security services.

There is an intangible factor that reinforces the effectiveness of signature strikes: the fear factor, coupled with the suspicions and paranoia that result from organizations searching desperately among their ranks to find out who is providing the Americans information so detailed that we can wreak such havoc over such a long period of time. Time and again, intelligence has clearly told us that the adversary dreads these operations -- lethal strikes that come anytime, anywhere, and that eliminate entire swaths of organizations. And these same organizations then turn around and further degrade their operational capability by engaging in savage hunts for leaks.

Despite such success, questions about how we should employ them -- or whether we should use them at all -- are coming to dominate debates about signature strikes. When do they end? And is it appropriate to strike groups of people not because we can identify a dangerous individual terrorist among them, but instead simply because a cluster of people bears clear hallmarks -- the "signature" -- that is associated with a terror group. This emerging debate will be colored, rightly, by the fact that, in just a decade, drone technology has proliferated. The technology and its use has far outpaced the development of policy that balances national security, morality, and the certainty that whatever precedent we set will be used, and abused, by the rogues and despots who no doubt will acquire this capability.

Before the pendulum swings too far in the other direction, though, away from the unquestionably aggressive use of drones by two consecutive presidents and toward a model that imposes tight limits, we are going to have to answer a simple question or two: When the president receives information that a new group -- maybe not a terror organization, but an evolving militant group -- is plotting to strike America at home or abroad, what do we do? If we strike too soon, we risk alienating a local population and increasing its motivation to target New York. If we strike too late, a nascent group of violent extremists will become operational, a lesson we learned too well 12 years ago. So take off the table the 20th-century notion that drones will become part of a more conventional military structure; they won't. The question for the 21st century is easy to state but hard to answer: Given the lessons of 9/11 and Iraq, when should a president choose preemption? And where? What are the rules for this new war?

#### Signature strikes are a key demonstration of resolve that creates deterrence against terrorism

Uri Fisher 7, PhD candidate in the Department of Political Science at the University of Colorado-Boulder, February 2007, “Deterrence, Terrorism, and American Values,” Homeland Security Affairs Journal, Vol. III, No. 1, http://www.hsaj.org/?fullarticle=3.1.4

The primary goal of the U.S. should usually be to arrest terrorist leaders and operatives. These individuals can be interrogated to obtain intelligence about other members of the organization and plans for future attacks. However, it is often too risky or even impossible to apprehend or capture terrorist operatives. If apprehending a member of a terrorist organization significantly endangers U.S. personnel, and there are no other feasible alternatives, then targeted killings are an option. Many Islamic fundamentalist groups are currently located in areas of the Middle East, Southeast Asia, Central Asia, and Africa where it would be dangerous for U.S. forces to try and apprehend them. A declared policy of targeted killing is vital, although controversial, to establishing a deterrent mechanism.

Some commentators have suggested that one of the main reasons that deterrence is irrelevant when it comes to fighting terrorists is that many of these individuals are prepared to die for their cause. Therefore, it is assumed that retaliatory threats of punishment mean little to individuals who are willing to give their lives in the first place. However, this reflects a narrow view of terrorist organizations. Besides suicide bombers, who may be impelled by the promise of martyrdom, other elements who comprise a group such as al-Qaeda are more risk-averse. Osama bin Laden, and other members of al-Qaeda’s leadership, for instance, have not carried out suicide bombing missions nor attempted to engage U.S. forces in Afghanistan’s mountains. Indeed, many members of al-Qaeda’s leadership have literally been running for their lives since the September 11 attacks. Some analysts have pointed to the 2002 surrender of hundreds of members of the Palestinian Islamic Jihad to Israeli forces during large-scale military engagements in Jenin as evidence that many members of terrorist groups are not willing to give their lives.

Because the lives of individuals within a terrorist organization represents one of the few assets that the U.S. may be able to hold at risk, the U.S. must maintain the option of carrying out targeted killing operations. A declared U.S. policy of selective killings may compel terrorist leaders to consider the utility of engaging in terrorist activities. However, establishing an effective deterrent mechanism against potential actors will require the U.S. to be *much* more forthright in its intent to carry out targeted killing operations. It is essential that the U.S. explicitly affirm that it will kill members of terrorist groups that U.S. intelligence analysts believe are responsible for carrying out terrorist attacks against its assets or interests. The U.S. should also make clear that it will target members of a terrorist organization other than just senior leaders, such as those responsible for providing financial or logistical support to a terrorist organization. Broadening the scope of targeted killings beyond just senior leaders may serve to deter individuals who are merely “casual sympathizers” from committing to groups like al-Qaeda. To make these threats credible the U.S. should continue to seek and, when it cannot capture alive, kill all senior leaders of al-Qaeda who played a role in orchestrating the September 11 attacks. The U.S. has successfully tracked and killed a number of al-Qaeda leaders since September 11. However, to deter terrorism the U.S. must expand its capabilities to kill terrorist operatives. The Predator program represents but one option the U.S. can explore to credibly threaten the lives of individual al-Qaeda members. Current political constraints, however, impede the ability of U.S. intelligence agencies and the military from carrying out focused covert operations to hunt down and kill terrorist transgressors. Until the constraints on these operations are relaxed even further, the U.S. will be unable to establish a deterrent mechanism that is functional, effective, and forthcoming with deterrent results.

[Italics in original]

### AT offense from others

#### Signature strikes don’t violate the letter or the spirit of international law

Dan Trombly 13, National Security/International Affairs Analyst, Caerus Analytics, LLC, 5/29/13, “I Might Need You To Kill: Signatures, Patterns, and Alternatives,” http://www.cnas.org/blogs/abumuqawama/2013/05/i-might-need-you-kill-signatures-patterns-and-alternatives.html

Whether strong critics or general proponents of targeted killing, drone strikes, the war on terror, or however one prefers to frame it, very few are willing to come out in support of the signature strike. They are a fitting symbol for everything wrong at the current iteration of the war - the remote and reckless killing of individuals under the auspices of what is supposedly a targeted and surgical campaign, rendered anonymous not simply in the media reports the public consumes but even in the bureaucratic and operational processes that bring about their deaths. Yet we should know by now that rehabilitating or discarding a symbol is no substitute for addressing its underlying causes. Signature strikes, as with most other representation of the policy problems that seem to extend beyond comprehensible scale, are easy to digest as moral wrongs, yet they arise from a fundamental frictions between the laws of war, the behavior or insurgent and terrorist groups, and the constraints on American operations in its global battlefield. There are many good cases for reducing or ending signature strikes, but doing the most good requires assessing why we conduct signature strikes and appraising the likely alternatives for replacing them or abandoning the objective they sought outright.

From a conventional military perspective, anonymous killing, in and of itself, is not the issue with signature strikes. Behavior, not your personal identity, provide the bedrock for established distinctions between combatants and non-combatants. Tactics and technology dictate that combatants often, at best, know they’re shooting at someone acting like somebody it’s permissible to shoot at.

The problem is what behavior qualifies you as a target. In a classic military conflict, it is simple enough to know that the enemy is bearing arms and distinctive markings. Distinguishing yourself from a civilian is an important tradition for militaries seeking legitimate authority to engage in violence. That many militant groups, such as Colombia’s FARC or the Philippine MILF consciously adopt semblances of uniforms to counteract government claims that they are merely terrorists rather than legitimate combatants in civil wars, is an important reinforcement of this norm. A wide number of insurgent or irregular groups adopt some overt type of combatant markings, whether they be helmets, camouflage fatigues, or even masks, in addition to simply openly carrying arms and engaging in hostilities.

Of course, even groups such as FARC which place a conscious priority on legitimating themselves as combatants still employ operatives who do not openly present themselves as combatants, such as those which assemble and plant bombs in populated areas where wearing a uniform would quickly call the attention of Colombian security forces. More broadly, insurgent infrastructures rarely seek to identify themselves to the enemy or population. Even in countries with traditional militaries, logistics, intelligence, propaganda, and political command and control are all areas which blur the line between what combatants may and may not target, where civilians play a great role in facilitating the war effort.

It is telling when we use the Phoenix Program and the associated anti-infrastructure efforts as shorthand historical analogies for modern military and paramilitary counterterrorism operations. As William Rosenau and Austin Long point out, what we frequently call the Phoenix Program consisted of a variety of interrelated efforts, ranging from intelligence sharing to CIA-South Vietnamese paramilitary units to carry out kill/capture raids, to sophisticated electronic and human surveillance of border regions. It was not an effort to decapitate the high leadership of communist movements in Indochina. It was an effort to sever the lines of support to Viet Cong insurgents at the most local level possible.

We do not know much about the criteria for signature strikes. The most recent leak at time of writing suggests that those which will continue in Pakistan will target “groups of unidentified armed men presumed to be extremists.” Nevertheless, in heavily armed areas and militia-ridden areas of the world, such as the tribal areas of Pakistan, this alone does not explain how stringent or broad signature strikes are. The real issue with distinction, though, is that basically no current U.S. target wants to readily offer one. How do you ethically and practically target the behavior of entities that already deliberately obfuscate and submerge as much of their activity as possible within civilian lifestyles and populaces? I understand when people far wiser on the laws of war than I, such as Kenneth Anderson, sound concerned over perversely increasing the incentives for AQAP leaders to use civilians as shields. Yet as Gregory Johnsen warns, AQAP goes out of its way to exploit civilian deaths from U.S. causes, and AQAP efforts to ingratiate itself among the local populace (though very often unsuccessful) frequently benefit from lethal U.S. errors as is. In Pakistan, where not just al Qaeda leadership and affiliates but Taliban insurgents (who can easily target Americans across the border), the criteria for these types of strikes are even wider. Nevertheless, even groups with relatively little local popularity require and establish complex infrastructures to sustain their operations.

Without multiple types of intelligence collected over an extended period of time, it is difficult to ascertain whether individuals are even directly involved in infrastructure operations for a hostile group. Even then, it’s not entirely clear international humanitarian law provides wide enough scope to target civilians engaging in the full range of infrastructure activities. As one scholar skeptical of the targeted killing program puts it:

In his view, two types [of 14 strikes examined] are legally justified: strikes against unknown individuals who are transporting weapons and attacks on known Al Queda compounds....

Finally, Heller claimed that one signature — “facilitating terrorist activity” — was inherently neither legally adequate or inadequate, as it depended on how the United States interpreted the conditions in question.

In his view, direct participation in hostilities, gathering military intelligence in enemy territory, acting as a guide for an organized armed group, or providing ammunition during hostilities fulfilled the requirements of legal adequacy for this signature. However, “war-sustaining activities” such as recruitment, propaganda, fighters, financing, or providing fighters food, lodging, or logistical support, did not.

In essence, the problem is not actually anonymous killing, it’s what it’s permissible for the U.S. government to kill you for, period. Of course, in most cases of internal conflict, domestic laws open up a much wider scope of authority for local or allied forces. Nevertheless, it is important to recognize a fundamental problem with why signature strikes exist - an attempt to navigate an area where terrorist and insurgent perfidy is rampant and political-military barriers to effective intelligence collection and capture programs are frequently limited.

Additional Protocol I of the Geneva Convention arguably does not apply to Non-International Armed Conflict, but there is a case that Additional Protocol II’s civilian protections amount to roughly equivalent prohibitions on claiming noncombatant status. Nevertheless, the notion that governments need to know the names or even the affiliations of non-state actors they target is not an accurate reading of either the letter or custom of international humanitarian law. While establishing somebody not immediately engaging in hostile behavior as a legitimate target requires corroborating intelligence and surveillance, it does not necessarily entail a targeted killing seeking out a specific personality.

The difficulty of targeting an enemy which lives among the population compounds the dangers that insurgents and terrorists already pose to civilians by blurring the distinction between combatant and noncombatant. Manhunting and assassination, especially by remotely-piloted aircraft, seem, for whatever reason, distasteful and cowardly to some. Yet it is hardly an act of technological cowardice for the infiltrators, informants, and other spies whose job it is to impart a degree of precision upon these strikes. They enjoy virtually no substantial protections under the laws of war, and even then, insurgent groups and terrorists are manifestly unlikely to extend them to spies or traitors anyway. Faced with an enemy disguised as civilians, counterinsurgents frequently seek to leverage civilian information, defectors, or infiltrate civilian communities and insurgent networks to generate intelligence for strikes.

### AT D not this

#### No Pakistani collapse

AP 10 (Pakistan's stability, leadership under spotlight after floods and double dealing accusations, 6 August 2010, http://www.foxnews.com/world/2010/08/06/pakistans-stability-leadership-spotlight-floods-double-dealing-accusations/, AMiles)

Not for the first time, Pakistan appears to be teetering on the edge with a government unable to cope. Floods are ravaging a country at war with al-Qaida and the Taliban. Riots, slayings and arson are gripping the largest city. Suggestions are flying that the intelligence agency is aiding Afghan insurgents. The crises raise questions about a nation crucial to U.S. hopes of success in Afghanistan and to the global campaign against Islamist militancy. Despite the recent headlines, few here see Pakistan in danger of collapse or being overrun by militants — a fear that had been expressed before the army fought back against insurgents advancing from their base in the Swat Valley early last year. From its birth in 1947, Pakistan has been dogged by military coups, corrupt and inefficient leaders, natural disasters, assassinations and civil unrest. Through it all, Pakistan has not prospered — but it survives. “There is plenty to be worried about, but also indications that when push comes to shove the state is able to respond," said Mosharraf Zaidi, an analyst and writer who has advised foreign governments on aid missions to Pakistan. "The military has many weaknesses, but it has done a reasonable job in relief efforts. There have been gaps in the response. But this is a developing a country, right?" The recent flooding came at a sensitive time for Pakistan, with Western doubts over its loyalty heightened by the leaking of U.S. military documents that strengthened suspicions the security establishment was supporting Afghan insurgents while receiving billions in Western aid. With few easy choices, the United States has made it clear it intends to stick with Pakistan. Indeed, it has used the floods to demonstrate its commitment to the country, rushing emergency assistance and dispatching helicopters to ferry the goods. The Pakistani government's response to the floods has been sharply criticized at home, especially since President Asif Ali Zardari departed for a European tour. With so many Pakistanis suffering, the trip has left the already weak and unpopular leader even more vulnerable politically. The flooding was triggered by what meteorologists said were "once-in-a-century" rains. The worst affected area is the northwest, a stronghold for Islamist militants. Parts of the northwest have seen army offensives over the last two years. Unless the people are helped quickly and the region is rebuilt, anger at the government could translate into support for the militants. At least one charity with suspected links to a militant outfit has established relief camps there. The extremism threat was highlighted by a suicide bombing in the main northwestern town of Peshawar on Wednesday. The bomber killed the head of the Frontier Constabulary, a paramilitary force in the northwest at the forefront of the terror fight. With authorities concentrating on flood relief, some officials have expressed concern that militants could regroup. The city of Karachi has seen militant violence and is rumored to be a hiding place for top Taliban and al-Qaida fighters. It has also been plagued by regular bouts of political and ethnic bloodletting since the 1980s, though it has been calmer in recent years. The latest violence erupted after the assassination of a leading member of the city's ruling party. More than 70 people have been killed in revenge attacks since then, paralyzing parts of the city of 16 million people. While serious, the unrest does not yet pose an immediate threat to the stability of the country. Although the U.S. is unpopular, there is little public support for the hardline Islamist rule espoused by the Taliban and their allies. Their small movement has been unable to control any Pakistani territory beyond the northwest, home to only about 20 million of the country's 175 million people.

#### No collapse- loyalty

Lieven 11—professor in the War Studies Department of King's College London and a senior fellow of the New America Foundation. PhD in pol sci (Anatol, A Mutiny Grows in Punjab, http://nationalinterest.org/article/mutiny-grows-punjab-4889, AMiles)

And while the prospects for any sort of real success in Afghanistan look gloomy indeed, if saving Pakistan is the real priority, then things do not look so desperate, despite all the bad news from that country. This is because while getting large numbers of Pakistanis to help America is virtually impossible, getting enough Pakistanis to preserve their existing state is much easier. To a great extent, this is for negative reasons: the elites, and indeed many of the masses, have an acute sense of the horrors that would result from the country’s collapse. However, a degree of positive loyalty is also present in one key institution and in one key province: namely the military and the Punjab.

#### Stability high - growth rates prove

Pakistan Insider 11 (3/10/11, “ Growing Pakistan Economy”, <http://insider.pk/business/growing-pakistan-economy/>)

In absolute dollar terms, Pakistan’s economy is 27th largest in the world. The semi-industrialized economy encompasses textiles, chemicals, food, and agriculture. Karachi and Punjab’s urban centers are home to diversified economies. Past internal politics, population booms, and confrontation with India has taken its toll on the economy in past decades. The recent government policies, foreign investment, and access to global markets have positively poised the country. Pakistan has seen solid macroeconomic recovery in the last decade. Privatizing the banking sector and gains in the industrial and service sectors have spurred growth of the gross domestic product. In 2005 World Bank named Pakistan top reformer in its region and among the top 10 globally. Fiscal deficits are manageable. Economic History The first five decades following Pakistan’s independence from the UK in 1947 saw higher than average economic growth rates. The 1960s saw Pakistan as a model of economic growth and the country received praise for its economic progression. South Korea copied Karachi’s second “Five-Year Plan.” The World Financial Center in Seoul was designed and modeled after the city. Public debt led to slower growth in the 1990s. War in 1965 and 1971 adversely affected growth. Nationalization in the mid-1970s brought a sharp rebound. Recovery was felt in the 1980s from deregulation, remittances from expatriates, and an increase of foreign aid. Risks Historically, Pakistan’s GDP has grown every year since 1951. Though viewed by parts of the world as unstable, the economy has proven unexpectedly resilient against adversity. The biggest threat to the Pakistan economy is inflation. At more than 9% in 2005 and nearly 8% in 2006, that was just the beginning. A surge in global petrol prices led to 2008 inflation as high as 25%. Tighter monetary policy is in pursuit to preserve growth. Foreign exchange reserves are bolstered by steady worker remittances. Few resources have been devoted to socio-economic development and infrastructure (though this is changing). Social services are considered inadequate. Combine that with high birth rates and immigration; you’ll find that a very large number of young people are entering the labor market. Political red tape has led many businesses to operate underground. More women are also entering the workforce. Outlook The Pakistani government has made substantial economic reforms since 2000. Medium-term prospects for job creation and poverty reduction are the best in nearly a decade. Government revenues have greatly improved as a result of growth and tax reforms. Pakistan is cutting tariffs and improving infrastructure to assist exports. Islamabad doubled development spending from the 1990s to 2003. Pakistan’s relative strength in low labor cost has the country poised to replace China as the largest textile manufacturer. Pakistan will benefit from freer trade in agriculture as well. Reduction in money market interest rates, expansion in credit quantity, and changing investment patterns have resulted from stability in monetary policy. Pakistan is pursuing an export-driven model of economic growth. Pakistan’s Economy Today Current inflation and economic crises felt worldwide are felt in Pakistan. There is a crisis in Balance of Payment. Despite this Goldman Sachs identified Pakistan as “The Next Eleven,” having a high potential of becoming one of the world’s largest economies in the 21st century. In 2007 Pakistan’s foreign reserve was a respectable $16.4 billion. Trade deficit was controlled; exports boomed. Things went stagnant in 2008. Security concerns created instability. High global commodity prices and capital flight from Pak to the Gulf took a double blow to Pakistan’s economy. The value of the Rupee fell quickly to the US Dollar. Inflation is expected to drop soon and growth is scheduled to pick up in 2011. Once again Pakistan looks as if it will overcome crisis. A strong and growing middle class (30-35 million people) have promising purchasing power. The upper-middle class and upper class have grown as well. Pakistan ranks better than the median on measures of income inequality. Poverty levels have decreased. As Pakistan’s informal economy continues to document and assess more improvements will be seen.

#### Regional politics have changed – cooperation is more likely than proxy war

Reuters 12 (Myra MacDonald, “Amid Afghan gloom, a glimmer of hope on regional front”, 3/12, http://blogs.reuters.com/pakistan/2012/03/03/amid-afghan-gloom-a-glimmer-of-hope-on-regional-front/)

ISTANBUL PROCESS Of the other regional powers with a stake in Afghanistan, Russia has been working on building up the role of the Shanghai Cooperation Organization (SCO) — which also includes China and Central Asia states. While supporting full membership for Pakistan of the SCO, Russia also has also been able to draw in India, with which it has ties which long predate their more recent association as BRIC economies. It was during an SCO meeting in Yekaterinburg, Russia in 2009that the leaders of India and Pakistan held their first talks since the November 2008 attack on Mumbai by Pakistan-based militants. And Iran, which has the potential to act as a spoiler to U.S. plans in Afghanistan if there is any spillover of its nuclear dispute, held its own trilateral meeting with Afghanistan and Pakistan in Islamabad last month. Foreign ministers from countries involved in Afghanistan, including those with troops there and regional powers, will also meet in Kabul in June to follow up on the so-called Istanbul Process – a commitment to regional cooperation launched at an international conference in Turkey last year. In short, the faultlines which led to Russia, Iran and India backing the then Northern Alliance in Afghanistan in a proxy war with Pakistan in the 1990s, are far more fluid today than they were then. And while the often tedious business of international diplomacy rarely makes headlines, it has some hope for success if nothing else but because all countries involved have an interest in Afghan stability.

#### Major powers won’t fight over Afghanistan --- cooperation is more likely and investments check

Panda 11—Associate Professor at the premier Institute for Defense Studies and Analyses, New Delhi. PhD from the School of International Studies of the Jawaharlal Nehru University, New Delhi. (12 August 2011, Jagannath, China or the SCO: Who will supervise Afghanistan?, http://www.jamestown.org/programs/chinabrief/single/?tx\_ttnews%5Btt\_news%5D=38320&cHash=afaeb1ed23f08164135f71c2b41ba0aa)

In Afghanistan, most powers’ strategic interests converge, whether China, the United States or India: create and maintain stability so Afghanistan’s metal and mineral reserves can be extracted. Extracting Afghanistan’s mineral resources also aids stability by providing Afghan youths job opportunities and creating tax revenues. The China Metallurgical Corporation’s (MCC) investment of roughly $4 billion in Afghanistan’s Aynak copper mine is the largest foreign direct investment so far in that country. If fully implemented, it will be a larger commercial investment than all other current foreign investments put together. The proposal includes the construction of a freight railway, a power plant, housing, a mosque and a hospital. (Defensestudies.org, May 14, 2010; Xinhua, May 22).

#### Cooperation solves

Innocent and Carpenter, 9 **-** \*foreign policy analyst at Cato who focuses on Afghanistan and Pakistan AND \*\*vice president for defense and foreign policy studies at Cato (Malou and Ted, “Escaping the Graveyard of Empires: A Strategy to Exit Afghanistan,” http://www.cato.org/pubs/wtpapers/escaping-graveyard-empires-strategy-exit-afghanistan.pdf)

Additionally, regional stakeholders, especially Russia and Iran, have an interest in a stable Afghanistan. Both countries possess the capacity to facilitate development in the country and may even be willing to assist Western forces. In July, leaders in Moscow allowed the United States to use Russian airspace to transport troops and lethal military equipment into Afghanistan. Yet another relevant regional player is the Collective Security Treaty Organization, made up of Russia, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan, Armenia, and Belarus. At the moment, CSTO appears amenable to forging a security partnership with NATO. CSTO secretary general Nikolai Bordyuzha told journalists in March 2009 of his bloc’s intention to cooperate. “The united position of the CSTO is that we should give every kind of aid to the anti-terror coalition operating in Afghanistan. . . . The interests of NATO and the CSTO countries regarding Afghanistan conform unequivocally.”83 Mutual interests between Western forces and Afghanistan’s surrounding neighbors can converge on issues of transnational terrorism, the Caspian and Central Asia region’s abundant energy resources, cross-border organized crime, and weapons smuggling. Enhanced cooperation alone will not stabilize Afghanistan, but engaging stakeholders may lead to tighter regional security.