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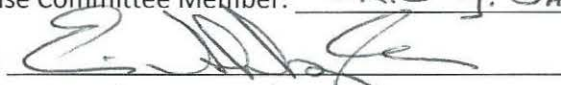
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Draft Executive Summary

Title: How to Mitigate the Negative Perception of the Drone Program

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Thesis: Increasing the transparency for legal justification, targeting criteria, and developing proliferation constraints provides the best means to counter the negative perception of the U.S drone program.

Discussion: Unmanned Aerial Vehicles otherwise known as drones have become the weapon of choice for the United States to conduct counterterrorism operations around the world. While drones have been effective in locating and eliminating high level al ‘Qaeda and Taliban operatives, the American people and the international community are at odds surrounding the secrecy of the program by the Obama administration. As a result the approval ratings by Americans and several other countries have declined, and critics have constantly accused the Obama administration of operating an irresponsible drone program that does not set the standard for aspiring countries to emulate. The legality, targeting criteria, and proliferation restraints are key issues requiring an analyst to determine why this program has a negative perception. The research confirms that the Obama administration needs to develop and publish more policy that mandates accountability in reporting the process of drone attacks to include the results and what proliferation measures are in place to ensure that drone technology has proliferation restraints.

Conclusion: Developing policies that explain the Obama administration’s interpretation of international law, how targets are determined, and what measures are taken to protect this technology is necessary to demonstrate transparency and mitigate the negative perception of the drone program. While some information regarding the program is classified, drone attack processes, results of attacks including collateral damage, and the protection of the technology is necessary, lest the program remains under scrutiny. Long term scrutiny of the program could limit the capacity for growth and threaten the effectiveness of protecting American soil and interests against future attacks from terrorist networks.

Introduction

Over the past decade, the use of unmanned aerial vehicles (UAV) commonly referred to as drones by the United States (U.S.) Government has expanded exponentially in scope, location, and frequency.¹ The U.S. has employed its drones in many scenarios where they have proven to be a key technological asset for Intelligence, Surveillance, and Reconnaissance missions, and as a critical counterterrorism tool. Since the September 11, 2001 (9/11) terrorist attacks on America, counterterrorism operations are a top priority for the security of the U.S. Homeland and national interest around the globe. Drones are playing a major role in achieving these U.S. objectives; however, the use of armed drones has sparked many debates surrounding the secrecy of their use to target and kill al ‘Qaeda and Taliban members in countries such as Pakistan, Yemen, and Somalia in which the U.S. is not at war with. Over the past decade an estimated 300 drones strikes have taken place outside Iraq and Afghanistan where U.S. troops were on the ground, resulting in more than 2000 militants being killed.²

Debates by American and international critics threaten to limit U.S. freedom of action if the required framework is not developed and revealed by the U.S. Government.³ These debates have placed an enormous amount of pressure on the Obama administration to remove the veil of secrecy and reveal more details of how the program is managed and what measures are in place to control the proliferation of the technology. The arguments of “not enough information” regarding the program have caused the confidence and approval of the program to suffer at the hands of the American public and some members of the international community.⁴

Several surveys were developed to measure the perception of the U.S. drone program in order to support claims of declining confidence. In February and June 2012, U.S. support for

drone strikes against suspected terrorists fell from 83 percent to 62 percent.⁵ While a 62 percent approval rating is acceptable, the decline from 83 percent is enough to trigger a negative response from critics. Questions could be raised regarding the American public's drop in support since the American culture has a zero tolerance for terrorist attacks on U.S. soil and less of a tolerance for the shedding of American blood on foreign soil. A 2011 Pew Poll indicated that 61 percent of Americans felt that the ability of terrorists to launch another major attack on U.S. soil was the same or greater than in 2001.⁶ If Americans feel that terrorists have the same ability to launch another major attack on U.S. soil as in 2001, then why the drop in support if the drone program has proven to be an effective counter terrorism tool. The data in these polls is significant because they indicate that while Americans are not completely confident that the U.S. is safe from terrorist attacks, support for an effective counter terrorism tool is declining. In order to help mitigate a negative perception of the drone program, legal justification, targeting criteria, and proliferation measures will be analyzed because revealing deficiencies surrounding transparency and offering solutions will help counter the claims of secrecy and preserve the good points of the program that is a major contributor in keeping America and its national interest secured.

Legal Justification

Transparent legal justification of drone attacks builds trust with the American people and the international community because it provides assurance that the drone program is operating according to international law and not in secrecy.

U.S. drone strikes against al 'Qaeda and the Taliban are justified because United Nations (UN) Charter Article 51 states that countries who are members of the UN have the right to self-

defense. Article 51 of the charter states: “Nothing in the present Charter shall impair the inherent right of the individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”⁷ The language of this article is significant because it justifies the action taken by the U.S. in response to the acts of terrorism on September 11, 2001. Further, United Nations Security Council Resolution 1368 called on all nations “to work together urgently to bring to justice the perpetrators, organizers, and sponsors of these terrorist attacks” and stresses that those responsible for aiding, supporting, or harboring, the perpetrators, organizers, and sponsors of these acts will be held accountable.⁸ Another important factor to point out is that the Security Council reaffirmed “the inherent right of the individual or collective self-defense” in accordance with the Charter.⁹ While Article 51 serves as the international law that legally justifies and authorizes drone attacks, U.S. officials go further to mitigate the negative perception of the drone program by pointing out the domestic law that authorizes the President to use military force. Congress passed the Authorization for Use of Military Force (AUMF) because it authorizes the President to take military action to deter and prevent acts of international terrorism against the United States.¹⁰ The AUMF was passed several days after the 9/11 attacks and remains in effect today empowering the president to continue pursuing enemies that threaten America’s security.

Since 9/11 U.S. lawmakers have considered the United States to be in an armed conflict with al ‘Qaeda. Therefore, the drone attacks against al ‘Qaeda continue to be carried out under the directive published by the Bush Administration on November 13, 2001. President Bush declared that “International terrorist including al ’Qaeda have carried out attacks on the United States on a scale that has created a state of armed conflict that requires the use of the United

States Armed Forces.”¹¹ A point of contention for critics opposed to drone strikes is that the United States is not engaged in an armed conflict with al ‘Qaeda that is recognized by international law; therefore, using lethal force is not justified.¹² Here lies a contributing factor to the gap of understanding or interpreting differently the legality of the actions by the United States against al ‘Qaeda. The difference of opinions between government officials and critics must be considered as a contributing factor for the accusation of a non-transparent drone program.¹³

One reason for the disconnect is that neither the Geneva Conventions nor their Additional Protocols define “armed conflict” or set a threshold of violent activity that must be present for an armed conflict to be deemed to exist between two belligerents.¹⁴ If there is no legal stipulation regarding the level of violence or measure of engagement between two belligerents that would legally define armed conflict, then the belligerents have the right to determine if they are in fact at war with one another, which al ‘Qaeda and the United States have both publicly declared.¹⁵ The arguments that critics make surrounding this gap contribute to the negative perception of the U.S. drone program that is credited with engaging a persistent enemy with intentions to attack the United States and kill American citizens. Since September 11, 2001, the United States has thwarted more than fifty terrorist plots designed to inflict grave damage to people and property in the U.S.¹⁶ Many of these foiled plots did not originate from Afghanistan, where some critics argue should be the boundary for U.S. drone attacks, but from other locations such as Yemen and Pakistan.

Critics such as Mary O’Connell argue that self-defense for the U.S. ended in 2002 when the Afghans set up their own government.¹⁷ Taking this position demonstrates a narrow view of the constant threat that the United States is subjected to by a determined enemy that is not restricted by or belonging to a state such as Afghanistan. The terrorists’ abilities to maneuver

across borders into other countries while continuing tactical operations against the United States should not negate the right to self-defense since the threat still exists. While the right for self-defense remains valid other international laws regarding sovereignty and legality of operating in other countries exist.

Drones strikes carried out by the U.S. have been deemed as “targeted killings.” Targeted killings are defined as premeditated acts of lethal force employed by states in times of peace or during armed conflict to eliminate specific individuals outside their custody.¹⁸ To counter the claims of a non-transparent drone program and quell the efforts by critics to expand a negative perception in regards to violations of international and domestic law, the Obama administration laid out the justification for targeted killings in public speeches from legal advisors such as Harold Koh, legal advisor of the U.S. Department of Justice. Koh publicly addressed issues that some critics have expressed regarding drone attacks authorized under the AUMF. This action served as a primary example of transparency and willingness to share how the Obama administration’s interpretation of the law contributes to how drones are used in certain situations and environments. Koh addressed questions such as how the U.S. interprets the principles of international law of distinction and proportionality and what measures are taken to ensure compliance. According to Article 48 of the Protocol Additional to the Geneva Convention (AP I, 1977), the principle of distinction requires that attacks be limited to military objectives and that civilians or civilian objects shall not be the object of the attack.¹⁹ Proportionality complements distinction in that launching attacks resulting in a possible incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof, would be excessive in relation to the concrete and direct military advantage.²⁰

First, Koh argues that “al ‘Qaeda is an organized terrorist organization that has not abandoned its intent to attack the United States and that while this enemy does not have conventional forces, they plan and execute attacks against the U.S. and its allies while hiding among civilian populations.”²¹ Terrorists operating and hiding among civilians are a by-product of asymmetric warfare and raise many questions regarding law of war principles distinction and proportionality specific to drone attacks. Koh reiterates that the U.S. carefully reviews the rules that govern targeting operations to ensure that drone attacks are conducted consistently with law of war principles.²² In a counterterrorism environment enemy participants often wear civilian clothing rather than distinct emblems that make the enemy recognizable at a distance. The challenges that the U.S. and the international community have with non-state actors is making appropriate distinctions on an integrated battlefield of an individual who is a direct participant in hostile activities and therefore, is a legitimate target and indirect participants who are protected civilians.²³

International organizations such as International Committee of the Red Cross (ICRC) have conducted extensive research regarding this topic and concluded that the difference between direct and indirect participation in hostilities can be difficult to establish.²⁴

Intermittent involvement is also difficult to determine. Does a single instance of a direct participation mean that the individual at that point becomes and remains a legal target although he may cease to participate? The findings from the ICRC research are intended to show the results of an unbiased assessment in determining distinction and proportionality in combating non-state actors.

In order to answer critics, lawyers, and others who debate the authority, legality, and necessity of the drone program, the President must institute specific standards of lethal force to

counter the allegation that the U.S. operates in secrecy and under vague standards in the application of drone's attacks. These standards at a minimum must specifically address two key questions often asked by critics: Who will the U.S. target and where? An example of an appropriate answer would include the following: (1) The United States will use lethal force only against targets identified as an imminent threat to U.S. persons.²⁵ Many international scholars assert that the U.S. never defines the term imminent and that many of the drone attacks outside combat zones have attacked lower-level foot soldiers just - two percent are "high-level targets."²⁶ This view suggests that some critics and scholars have a restricted view of how al 'Qaeda and the Taliban are organized and that targeting a "low-level" foot soldier has a similar effect as the high-level target depending on the activity the individual is currently involved in. While the high-level targets are usually found at the strategic and operational planning levels, the low-level targets such as foot soldiers are those who in many situations carry out the tactical level attacks that kill; hence, they can pose an equal level of threat to the American people as the high-level operatives at the strategic level. (2) In order for lethal action to be taken, government authorities in the country where action is contemplated cannot or will not effectively address the threat to US persons.²⁷ In this context the U.S. must negotiate with the country for an appropriate response to the threat.

It is widely known that countries such as Yemen, Somalia, and Pakistan are territories where terrorists seek safe havens while continuing to carry out plans to attack the U.S. and other countries. The inability of these countries to address the threat posed by terrorist groups does not negate the U.S. right to self-defense under Article 51 of the UN Charter nor UN Security Council Resolution 1368. Robert Chesney, a legal scholar, concurs with the U.S. interpretation of the law according to his "continuous threat model" in which "a terrorist attack triggered Article 51

and the resulting right to use force remains in effect over time insofar as the perpetuating organization intends to strike again.”²⁸ This position is often countered referencing Article 2 (4) under the UN Charter that using force in another country without consent is a violation of international law. A violation of Article 2 would be a valid argument if the U.S. conducted any type of military operations in another country without consent. A key concern in this context that complicates the transparency issue is when a country privately gives consent for the U.S. to conduct drone operations under an agreement that their consent would not be made public.

In this armed conflict, item 5 under the same article (Article 2 (5)) directs that all members shall refrain from giving assistance to any state against which the United Nations is taking preventive action or enforcement action.²⁹ Item 5 is worth mentioning since UN Resolution 1368 (2001) “*Calls* on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks and *stresses* that those responsible for aiding, supporting, or harboring the perpetrators, organizers and sponsors of these acts will be held accountable.”³⁰

The type of tactics employed by non-state actors makes the application of self-defense in the framework of international law challenging and reveals the antiquity of some of the laws such as in the brief comparison in the application of Articles 2 and 51. In order to demonstrate transparency, answer critics, and mitigate a negative perception of the U.S. drone program, the President must publish U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities.³¹ Publishing a standard of lethal force is the best method of educating and informing the American people and the international community that the U.S. is using drones responsibly and in

accordance with international and domestic law. Another area that would add credibility to the program is transparency in the establishment of specific targeting criteria.

Targeting Criteria

Clarification of targeting criteria for drone strikes provides accountability for the program because it validates the justification and effectiveness for target selection. Target selection for the drone attacks is another popular debate since drones have become the weapon of choice for U.S. Counter terrorism operations. Since 9/11, over 95 percent of all non-battlefield targeted killings have been conducted by drones and the frequency of strikes continues to rise.³² George W. Bush authorized 50 more non-battlefield drone attacks than any of his predecessors while President Obama approved more than 350.³³ Under the Obama administration, U.S. drones have killed an estimated 3,300 al ‘Qaeda, Taliban, and associated operatives. This number includes 50 senior leaders of al ‘Qaeda and the Taliban who are not easily replaced.³⁴ In contrast, many critics of the drone program perceive the number of attacks to be excessive and question the targeting criteria. One complaint by scholars, journalists, and some lawyers is the detail of clarity on target selection. Common questions include the following: How does someone make the target list? Is there an age limit restriction for combatants? Who identifies and approves the target? The consequences of these questions going unanswered contribute to public suspicion regarding the legitimacy of drone attacks.

A sizable challenge to resolving this issue is that the Obama administration maintains that all targeted killings in non-battlefield settings are classified as covert.³⁵ The consequence of holding back information based upon the covert classification facilitates the American public and international community in grossly misunderstanding how drones are used ultimately leading to

a negative perception and decline in approval rating.³⁶ Operating covertly is not illegal, but using covert as a reason to not account for collateral damage, report civilian casualties, and targeting selection creates negative connotations and political pressure that impedes the growth of the program or negates the requirement. The covert classification does not solely affect public knowledge but is negatively impacting congressional oversight. According to senior staff members on the Senate Foreign Relations Committee and House of Foreign Affairs Committee, many of their peers have very little understanding of how drone strikes are conducted within countries for which they are responsible for exercising oversight.³⁷

One way to build more credibility for the program is to reveal some specific details regarding target selection. Below is an example of a targeting checklist list for the Obama administration to consider: (1) Individuals fitting the description of internationally posted photos identifying them as known terrorists who have publicly stated that they are in an armed conflict with the U.S. and is planning or have carried out an attack against the U.S. or its interest. (2) Individuals or groups who are observed through U.S. or host nation intelligence actively training in preparation for attacks against the U.S. or its interest. (3) Individuals or groups who are responsible for U.S. citizens or service member's deaths as a result of hostile action. (4) High value targets such as first, second, and third tier operatives of al'Qaeda. The second and third level members should be targeted because they are experienced and have the trust of the leader which makes them hard to replace. If these members are subjects of successful drone strikes, the second and third tiers affects would include a disruption of planning and execution because trust has to be established among new members with direct access to the top leadership. While its unlikely that the targeting criteria detailed in any specific checklist will be agreed upon by all interested parties, it will answer the transparency issues clouding the U.S. drone program. These

types of checklist are invaluable for several reasons. One worth mentioning is it provides assistance to the authorizing agents in making that deadly decision to release a hellfire missile to eliminate targets. A solution to improve transparency with the international community is to establish targeting criteria with the country where drone operations will be conducted. While this suggestion does not exempt operating in accordance with international laws, it does model bilateral agreement to drone operations. The U.S. should also be more vocal regarding drone operations instead of only commenting when the collateral damage is an American citizen. Further, the U.S. can take intentional steps to educate the public on the laws of distinction and proportionality. While drones strike with precision and great accuracy the success of the strike is highly dependent upon the intelligence from the ground or surveillance from the air. Being transparent regarding the true nature of these operations would be advantageous and may garner helpful input from critics instead of negative rhetoric and complaints.

Frustrating for many academic lawyers and members of the international community seeking answers to the drone targeting criteria is what they deem to be a frequent disconnect between who the Obama administration claims to target with drones and who has actually been killed.³⁸ Individuals targeted by drones are reportedly limited to “high-level al ‘Qaeda leaders who are planning attacks”, “individuals who are a threat to the United States”, individuals involved in some sort of operational plot against the United States”, and specific operational leaders of al ‘Qaeda and associated forces.”³⁹ Some argue that individuals not meeting these criteria are being targeted. An example of this point is the U.S. conducts signature strikes in order to target suspicious activity relevant to terrorist training programs. Signature strikes are drone attacks not based on identity of people but on the activity in insurgent-controlled areas that the U.S. perceives to be relevant to militants.⁴⁰ One point worth noting is that there is no

requirement in International Humanitarian Law (IHL) to know the identity of targeted individuals.⁴¹ Although routine, this method of targeting is problematic for people who are not familiar with this tactic because they mainly see the consequences resulting in a high count of civilian deaths and that the attacks far outweigh the potential benefits.⁴²

Since signature strikes have a vague definition and no clear criteria the door is open for the Obama administration to approve strikes with “near certainty” that the target meets the criteria of distinction and proportionality.⁴³ Moreover, the consequence of these types of strikes increases the probability of non-militant civilian deaths. Extreme caution must be used when executing a signature drone strike because unwarranted civilian deaths that may violate proportionality and property destruction risk tarnishing the drone program which has a valid role in counterterrorism.

Drone strikes are opposed by many citizens of U.S. allies, emerging powers, and local populations in states where strikes occur.⁴⁴ Several states have an overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 Percent), Turkey (81 Percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).⁴⁵ Although drone strikes opposition is relatively high in several states, others are willing to allow it under the right conditions. In Yemen, where drone attacks are regular and hated by the public, the government is still not in complete opposition to the attacks. The Yemenis admit that they would support targeted killings if there is clear intelligence that an individual is a senior operative of al ‘Qaeda in the Arabian Peninsula (AQAP) and plotting a specific and imminent attack against Americans.⁴⁶ These surveys are indicators that the U.S. needs to focus more on public support from abroad in order to garner more acceptances for the program. Seeking acceptance for the program does not advocate that the U.S. shift its main priority from searching for al ‘Qaeda and

Taliban leaders but to make prioritizing the availability of information of targeting criteria procedures for drone strikes equally important. The decision to take this course of action is significant because drone strikes require tacit and overt support of host nations.⁴⁷ The Obama administration can increase the probability of uninterrupted support from allies by conducting drone operations in accordance with an agreed upon targeting criteria and the laws of distinction and proportionality. Taking this action will contribute to a decrease of drone strikes, limit collateral damage, provide justification for targets, and facilitate the releasing of non-classified reports to congress.⁴⁸

Conducting and releasing information on post-strike analysis to include collateral damage casualties will reinforce transparency and validate target selection. Arguments continue to rage alleging that the U.S. does not release information on casualty and collateral damage reporting. One particular report asserts that, “it is not consistent with American values that the U.S. carry on a broad, multiyear program of targeted strikes in which the United States has acknowledged the deaths of only four U.S. citizens, despite clear evidence that thousands of others besides Americans have also been killed.”⁴⁹ If the Obama administration desires to eliminate allegations of a veil of secrecy over drone attacks, one course of action is to intentionally and promptly report all civilian casualties. One major problem that qualifies as a root cause of the delay is the lack of a definitive process for reporting civilian casualty estimates resulting from drone strikes.⁵⁰ The U.S. government has never released any comprehensive data on civilian casualties while independent estimates are significantly larger than the U.S. claims of a few to zero casualties.⁵¹ In contrast, independent researchers report that from 2004-2015, drones strikes have claimed the lives of 959 civilians in Pakistan; from 2002-2015, from 96 civilians in Yemen, and 2007-2015, 47 civilians in Somalia.⁵² Although the importance of covert operations to U.S.

national security is recognized, the immediate and accurate reporting of civilian deaths resulting from drone strikes is necessary. The reporting of civilian deaths will not compromise the secrecy of the operations, but instead will remove the stain of alleged inhumanity.

To facilitate a reversal in public opinion regarding drone targeting criteria the U.S. government needs to take several courses of action simultaneously: First, publish a targeting criteria policy limiting targeted killings to individuals who U.S. officials claim to be legitimate targets.⁵³ The development of this policy should include members from the Senate Foreign Relations Committee and House of Foreign Affairs Committee because these members represent an increase in knowledge of the program and will help counter the claim of random targeting. This is significant because independent agencies often report the results of drone strikes and report specific categories of the dead such as age, gender, civilian, or militant. If the U.S. refuses to provide data from bomb damage assessments (BDA) the public will feed on the independent researcher's data without taking into account any margin of error. Second, to demonstrate tighter controls, signature strikes must only be authorized by the president. Signature strikes are high risk drone attacks and the responsibility for the attack should be authorized at highest level.⁵⁴ Third, develop a process to conduct post-strike analysis for the purpose of evaluating any civilian deaths and collateral damage. Evaluate how independent agencies are collecting data and mirror the process for accuracy and feasibility. Fourth, develop appropriate preventive measures for follow on drone strikes and provide the results to congress for public distribution of any unclassified information.⁵⁵

The drone program has the technological capability to grow and become even more effective. In other words, the drone program is not going anywhere; therefore, addressing public concerns is relevant to its existence. Another method that would facilitate transparency of the

program while sustaining the effectiveness is to maintain the separation of the program between the Central Intelligence Agency (CIA) and Joint Special Operations Command (JSOC), a subunit under the Department of Defense (DOD). The JSOC is a U.S. Code Title 10 entity which allows the Obama administration to legally discuss some elements of drone strikes carried out by this organization, in contrast to the CIA, that operates under U.S. Code Title 50 that prohibits the U.S. government from legally acknowledging covert actions that it undertakes.⁵⁶ While this may be a course of action in progress by the U.S. government today, this recommendation is intended to advocate that the majority of drone strikes must be conducted under DOD. Drone strikes under DOD have several advantages that facilitate transparency: (1) Strikes conducted under DOD are conducive to legal transparent reporting under Title 10. (2) DOD would have the option to coordinate strikes in areas where assessments can be conducted that would facilitate reporting unclassified information to the public. Although the demand for transparency is high, critics must recognize that the CIA should, however, retain the ability to conduct drone strikes in special situations such as an immediate threat to the U.S. homeland or diplomatic outpost and that this information will not be made public.⁵⁷ Conducting more drone strikes under DOD provides the Obama administration with the best opportunity to increase accountability and transparency of targeting criteria, access collateral damage, and report casualties.

Since the United States is the leader in drone technology, transparency and responsible use is the critical standard that the global community must observe. The world's perception of U.S. drone use will influence the application of drones by other nations seeking the technology. While drones have constructive uses such as self-defense of a nation, intelligence, surveillance, and reconnaissance, the concern is that some countries will use them to threaten their neighbors and the international community. Therefore, restrictions to limit the spread of drone technology

are a global consideration. Since the United States is the outright leader in developing and applying this technology, the American public expects the spread of this technology to be regulated by the U.S. government. In the next 10 years controlling drone proliferation will be a major challenge. Developing policies to control the manufacturing and exportation of drones to other countries is a responsible course of action for the U.S. and would answer the critics as to what's being done to control the spread of drones.

Proliferation Measures

A drone proliferation policy will provide constraints on U.S. drone exports and contribute to controlling global proliferation. This action is necessary because for the past decade the United States has enjoyed a sizable gap in drone technology over the rest of the world and has exported drones to other countries. The issue with the spreading of drone technology is that there is currently no global standard or precedence for drone use. The only nation capable of setting such precedence is the United States. The manner in which the U.S. employs its armed drones has some critics and U.S. officials concerned with the manner in which others will use drones once they either develop or purchase the technology from other countries. As the leader in drone technology, it is incumbent upon the United States to establish a policy for drone proliferation that the rest of the world can model.

The Missile Technology Control Regime (MTCR) facilitates accountability of drones because it provides regulations for exporting drones to other countries. In 2010, US-based drone developer General Atomics received an export license to sell unarmed versions of the predator drone to Egypt, Morocco, Saudi Arabia, and the United Arab Emirates.⁵⁸ In March 2012, the U.S. Government armed Italy's six reaper drones but rejected the request from Turkey.⁵⁹ Drone

export transactions by General Atomics and the U.S. Government illustrate that drones are steadily proliferating and that strict controls must be implemented to ensure that this technology remains with the authorized associate. If not, an uncontrolled spread of drones is another aspect of the drone program that would feed a negative perception. On the contrary, the U.S. limiting the spread of drones and maintaining the technological advantage demonstrates the characteristics of a responsible drone program.

The MTCR is a voluntary association of thirty-four countries that controls the spread of ballistic missiles, cruise missiles, and drones.⁶⁰ In 2015 and for the foreseeable future the MTCR will strictly enforce regulations of category I Unmanned Aerial Vehicles (UAV), which are drones that can travel more than 300 kilometers with a payload of more than 500 kilograms.⁶¹ This regulation is significant and must be closely monitored because class I UAV's are comparable to the Reaper and Global Hawk drones that have played a major role in U.S. aerial attacks on militants in Pakistan, Somalia, and Yemen.⁶² From this perspective, drones can be viewed holistically as the complete vehicle, but the MTCR must go even further to restrict proliferation. While some countries may be restricted from purchasing category I UAV's, critical components to manufacture drones to meet the category I restriction have to be added to the control list. Equipment that converts manned aircraft to drones, drone guidance and control systems, and engines that power a drone above 50,000 feet require restrictions because they are critical components that non MTCR members would require to advance their drone building programs.⁶³ These restrictions are not to assert that other countries do not have the right to own drones but the restrictions are focused more towards countries that have high probabilities of drone misuse.⁶⁴

While the MTCR is recognized as a regulatory body of proliferation it is not the end all to the problem. This organization has several strengths and weaknesses. The weaknesses will be highlighted first to reinforce the need for the U.S. to take the lead in limiting drone proliferation. First, the MTCR is a voluntary organization which means it has no jurisdiction over nonmembers such as China and Russia who often pursue their own ambitions contrary to the international community. Second, drones often contain dual-use technologies that are used for commercial and military applications making them difficult to add to the MTCR control list because of their commercial applications.⁶⁵ Dual use technologies multiply the challenges for the MTCR to regulate the proliferation of drone technology. According to the U.S. Government Accountability Office “only 7 percent of UAV systems are subject to the MTCR’s strictest controls.”⁶⁶ While other weaknesses may exist, the points illustrated in this paper are critical to the public’s perception of U.S. major involvement in limiting proliferation.

The U.S. and Israel as primary producers and exporters of drones is significant towards the MTCR’s efforts because they control the technology and export market. While this advantage may not offer a foolproof proliferation solution it closes the gap for non-members seeking to obtain critical drone technology to produce lethal drones such as the Reaper or Predator. It is also worth mentioning that the United States also restricts the successive transfer of drones from countries it authorizes to export them (such as the United Kingdom) to other countries such as China.⁶⁷ This restriction is instituted from a U.S. unilateral law that controls the transfer of various items including UAV technology to other countries such as Iran, North Korea, Syria, and China.⁶⁸ This action by the United States strengthens the credibility of the MTCR and confirms that measures are in place to control this critical aspect of the drone program. The control measures are not shielded by classification; therefore, including it in a

voluntary document of drone policy and procedures will provide quality information to the public that demonstrates transparency and not secrecy. Since the U.S. Government is aware of the gaps in the MTCR's effort to limit the proliferation of drones the opportunity exists for a global leader to set a global standard for exporting and responsible use. Most Americans understand the size, power, and influence the U.S. has in the international community, so there's no reason to anticipate that the U.S. public and political pressure to set a global standard will decrease until more information is made available regarding restraint and global security.

Proliferation of drones threatens global security because conflict prone nations will have the ability to destabilize regions and threaten U.S. allies and interests. The United States and Israel are the largest exporters of drones. Between 2005 and 2012 the United States exported between \$2-3 billion compared to Israel at \$4.6 billion mostly to Europe, Asia, and Latin America.⁶⁹ These numbers reveal a gap in the ability of the MTCR to control drone proliferation because Israel along with China and Russia are not members of the MTCR. Although Israel is not a member of the MTCR, out of respect for the long term relationship with the U.S., Israel complies with the regulations of the MTCR.

In contrast, Russia and China set their own regulatory guidelines which causes a major concern for the United States and the international community because Russia and China have demonstrated aggressive behavior toward their neighbors in the past. Most recently Russia's irresponsible behavior is witnessed in the invasion of the Ukraine in August 2014.⁷⁰ China continues its aggressive behavior by continuing to claim key territory in the South China Sea (SCS) fully aware that their claims encroach on neighbors such as the Philippines' Economic Exclusion Zones (EEZ) mandated by the United Nations Convention on the Law of the Seas (UNCLOS).⁷¹ There is reason to believe that if China and Russia obtained the technology to

manufacture armed drones they would have very few limits on proliferation. A Chinese aerospace spokesman remarked, “The United States doesn’t export many attack drones, so we’re taking advantage of that hole in the market.”⁷² Concerning to the U.S. is that China has demonstrated the ability to carry out its ambition to sell armed drones. China sold two of its smaller armed drones to the United Arab Emirates and Pakistan, raising concerns about whether China would export its larger Predator-equivalent drone (CH-4) to countries such as Iran.⁷³

There are several courses of action that would limit global drone proliferation and mitigate the U.S. public’s negative perception of the drone program. First, the U.S. needs to apply political pressure on Israel to become a member of the MTCR. This is essential because 80 percent of Israel’s drone production goes to consumers in the international market.⁷⁴ Since Israel is currently adhering to the regulations of the MTCR formal membership should be a requirement to display a positive position towards proliferation. Second, the US should work with Israel to develop the same standards as the U.S. towards countries that purchase their drones. For example, Israel currently allows the United States to veto transfers of weapons with US-origin technology to select states such as China.⁷⁵ Third, the U.S. should take the lead on developing a drone-specific international organization similar to the Nuclear Suppliers Group (NSG). This international organization would invite drone manufacturers from around the world to contribute to setting guidelines for manufacturing and most importantly restrictions on the distribution of armed drones.⁷⁶ This is a multilateral approach; therefore, being the leader of this technology and main international distributor, the U.S. is in the best position to influence the global standards for drone use and proliferation. These actions are not all-inclusive, but will communicate to the American people that drones will be regulated for the security and safety of not just the U.S. but also the international community.⁷⁷

Conclusion

The technologically advanced armed drone weapon system has greatly increased the United States' capability to fully engage in counterterrorism operations across the globe. For this reason the U.S. has made drones the weapon of choice to defend American soil and its national interest around the world against imminent threats presented by terrorist networks such as al 'Qaeda and the Taliban.

Drone technology continuing to evolve primarily in the U.S. adds more credibility to the claim that the program cannot be shrouded in secrecy but must set the standard for application and accountability. The Obama administration must make its interpretation of international laws, targeting criteria, and proliferation measures public knowledge by developing an all-encompassing policy or standard operating procedure that outlines his guidance for drone attacks. Taking this course of action will answer the critics and earn the confidence of the American people and the international community. This action would also provide a credible defense for the United States to publicly defend drone attacks against known terrorists that present an imminent threat to the American people and the international community.

If the Obama administration took these actions to provide more information, would it be enough to silence the critics is an additional question that surfaced during this research? Many critics are basing their arguments around international laws that do not cover the mobility and unique threats transnational actors such as al 'Qaeda and the Taliban present today. What will it take to amend the international laws to address the tactics of non-state actors who move across borders while continuing hostile operations? Although critics may present new arguments in

dissatisfaction to the current recommendations, implementation of this plan will help mitigate the negative perception of the U.S. drone program.

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