### Resolved: The United States Government ought to curtail the Commander-in-Chief Powers of the President.

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### Topic Overview

Curtailing the commander-in-chief powers of the president brings back a classic checks and balances debate among the branches of the United States Federal Government, but it also begs the question of the importance of the president’s role in terms of foreign policy. Throughout this section of the brief we will examine exactly what the resolution is arguing, as well as study some background information before we explore affirmative and negative strategies.

What are commander-in-chief-powers? This is left somewhat vague, and thus the reason it becomes so intriguing. [Article II](http://topics.law.cornell.edu/constitution/articleii) Section 2 of the [U.S. Constitution](http://www.law.cornell.edu/constitution/constitution.overview.html), the Commander in Chief clause, states that "[t]he President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." While this is left to be interpreted, the War Powers Resolution of 1973 functions to limit (or at least attempt to limit) the extent of the executive branches authority within the matter, and will no doubt play an important aspect in rounds on the topic.

It is also important to note that arguably commander-in-chief-powers apply to the governors of states as well. Although the use of the word “president” largely eliminates this ground, it could be very strategic for a tricky affirmative to play around that. The phrasing “ought” in most cases, and just for topic clarity would be defined as a moral decision, or a moral obligation, however that could still be framed in different ways. Lastly, “curtail” also becomes an interesting debate as it could stretch from 1% to 99%, thus establishing affirmative framings which require proving curtailing war powers in one circumstance would be enough to win the debate. A last note that is worthwhile to mention is how the upcoming presidential election could reflect upon the commander-in-chief-powers debate, and would surely provide intriguing argumentation.

### Affirmative Strategies

Affirmative debaters can gain access to ground in a myriad of ways. It could be suggested that most of the good offense coming to affirmative debaters on this topic would lie within the realm of foreign policy. Historically, the United States has a terrible track record in terms of coup’s and other actions which would require the powers of the commander and chief. Coups in places such as; Iran, Guatemala, Chile, the assassination of the South Vietnamese president, the invasion of Hawaii, among others. The damaging impacts of more modern military actions can also carry a lot of offense for affirmative debaters. Affirmative debaters have access to several different scenarios including the recent Iraq war mixed with its relation to the gulf war, recent actions in Libya, the increasing use of drone policy, the treatment of prisoners at Abu Ghraib as well as the linking of these military actions to the creation of resentment and ultimately creating breeding grounds which foster terrorism.

Domestically, affirmative debaters have access to lots of different types of ground as well. Arguments could be made about the importance of checks and balances within the federal system, the usage of different court cases proving executive action unconstitutional, the backlash from executive actions made by the president. The argument of the function of democracy could also be made, concerning that actions abroad are often non-transparent to the American public, as well as polls showing that military action is unfavorable, and thus military action goes against the wishes of the people. In addition, arguments in terms of international safety could also be safe, America is comparatively less safe now after September 11th, and perhaps that attack never would have happened if the United States were less involved in the middle east in the 1980’s and 1990’s.

### Negative Strategies

Ground for negative debaters is somewhat limited in comparison to routes for affirmative ground, however there are still plenty of strategic negative options. Debates about the importance of hegemony are crucial to negative ground, giving links to the provision of safety, the stability of markets, human rights, U.S hegemony is key to the prevention of great power wars, etc. Another important facet of this form of argument would be the focus on the important of quick action, something which becomes unavailable when commander-in-chief-powers become revoked. In addition, the negative could also argue the importance of secrecy to guarantee that missions like the raid on Osama Bin Laden are successful. Constitutional framing, is another strategic option for negative debaters to make. Arguments would focus on the importance of the constitution and how it might be key to democracy, stability, and other things of importance.

The value/criterion debate on the negative is also one of multiple opportunities. Deontology is a strategic criterion as it allows the negative to block out historical offense coming from the affirmative, coupled with a value of just war theory (which is outlined in the negative sample case) provide a very strong negative framework. Other strategic possibilities could focus on the framing of the importance of international cohesion in an increasingly interconnected world. Other routes could take the framing of safety and security, something which quick action is essential to.

### Additional Reading

**Additional Resources**

* <http://www.cfr.org/united-states/balance-war-powers-us-president-congress/p13092>
* [*http://blogs.cfr.org/lindsay/2011/04/05/is-operation-odyssey-dawn-constitutional-part-v/*](http://blogs.cfr.org/lindsay/2011/04/05/is-operation-odyssey-dawn-constitutional-part-v/)
* http://www.latimes.com/la-op-dustup6apr06-story.html
* <http://www.cnn.com/2003/LAW/07/15/findlaw.analysis.carter.security/#carter>)
* <https://www.law.cornell.edu/wex/commander_in_chief_powers>
* <http://www.georgemasonlawreview.org/wp-content/uploads/2014/03/13-1_Skibell.pdf>
* <http://www.fed-soc.org/publications/detail/the-war-on-terrorism-and-the-commander-in-chief-clause-delegation-of-the-presidents-command-authority>
* <https://theintercept.com/drone-papers/>
* <http://www.colorado.edu/geography/class_homepages/geog_2002_s06/laptop_s06/current%20projects/Cox_Low%20Robinson%20Book%20chapter/Cox_Low%20Book%20chapter/Goldstein%20-%20Gender%20and%20war.pdf>
* <https://wpsa.research.pdx.edu/meet/2012/hallett.pdf>
* <http://scholarship.law.berkeley.edu/californialawreview/vol84/iss2/1>
* <http://www.unive.it/media/allegato/dep/n24-2014/Ricerche/05_Hun.pdf>
* <http://thehill.com/blogs/pundits-blog/defense/241703-should-there-be-a-new-war-powers-resolution>.
* <https://en.wikipedia.org/wiki/War_Powers_Resolution#Implementation.2C_1993.E2.80.932002>

**Critical Literature**

* Ian Graham Ronald Shaw; PhD in Philosophy from University of Arizona; “The Spatial Politics of Drone Warfare, 2011. <http://arizona.openrepository.com/arizona/bitstream/10150/145131/1/azu_etd_11524_sip1_m.pdf>

Shaw takes a critical approach as he makes the argument that the use of drones in warfare signifies the drone as its own autonomous object that reweaves the very fabric of society by completely rearranging relations, institutions, and everything that structures society.

* Chris J. Cuomo, "War Is Not Just an Event: Reflections on the Significance of Everyday Violence." Hypatia 11.4 (1996): 30-45.

Cuomo criticizes the concept of war as a singular event and proposes the importance of understanding that war is continually surrounding humanity and is a complex event.

### Affirmative Case

#### I Affirm, Resolved: The United States Government ought to curtail the Commander-in-Chief Powers of the President.

#### My Value for today’s debate will be Justice, to be viewed through the criterion of Consequentialism, which states that the ends justify the means.

#### Contention 1: Actions of war and violence are entrenched with sexism

#### The creation of man came with the creation of war. War is a manifestation of the gendered notions of domination.

Workman 1996, Thom Workman, Pandora’s Son’s: The Nominal Paradox of Patriarchy and War. University of New Brunswick, Political Science Professor. <http://yciss.info.yorku.ca/files/2012/06/OP31-Workman.pdf> (BFI WL)

The practices of war emerge within gendered understandings that inflect all spheres of social life. As we created "man" and "woman" we simultaneously created war. Contemporary warfare, in complementary terms, emerges within the inner-most sanctums of gendered life. Gender constructs are constitutive of war; they drive it and imbue it with meaning and sense. War should not be understood as simply derivative of the masculine ethos, although it numerous facets accord with the narratives and lore of masculinity. The faculty of war is our understanding of man and women, of manliness and womanliness, and particularly of the subordination of the feminine to the masculine. It is the twinning of the masculine and the feminine that nourishes the war ethic. This can be illustrated by examining the infusion of the language of war with heterosexual imagery typically of patriarchy, that is, with ideas of the prowess-laden male sexual subject conquering the servile female sexual object. Both sex and war are constituted through understandings of male domination and female subordination. The language is bound to be mutually reinforcing and easily interchangeable. War is a metaphor for sex and sex is a metaphor for war. A recent study of nicknames for the penis revealed that men were much more inclined to metaphorize the penis with reference to mythic or legendary characters (such as the Hulk, Cyclops, Genghis Khan, The Lone Ranger, and Mac the Knife), to authority figures and symbols (such as Carnal King, hammer of the gods, your Majesty, Rod of Lordship, and the persuader), to aggressive tools (such as screwdriver, drill, jackhammer, chisel, hedgetrimmer, and fuzzbuster), to ravening beasts (such as beast of burden, King Kong, The Dragon, python, cobra, and anaconda), and to weaponry (such as love pistol, passion rifle, pink torpedo, meat spear, stealth bomber, destroyer, and purple helmeted love warrior).11 The intuitive collocation of sexuality with domination, conquering, destruction, and especially instruments of war is confirmed by this study. Both sex and war, however, are manifestations of the gendered notions of power-over, submission, inequality, injury, contamination, and destruction. Both practices are integral expressions of patriarchal culture and proximate to its reproduction. It is hardly surprising that the language of sexuality and war is seamless.

#### Misogyny is the theory, war is the practice.

Workman 1996, Thom Workman, Pandora’s Son’s: The Nominal Paradox of Patriarchy and War. University of New Brunswick, Political Science Professor. <http://yciss.info.yorku.ca/files/2012/06/OP31-Workman.pdf> (BFI WL) (Italics indicate word change which may have been offensive.)

These motifs shade into outright loathing. War may be hell indeed; but it is driven by an ideology of hatred. Misogyny is the theory; war is the practice. Myths surrounding woman as the enemy of man (and the things men do) lay at the heart of war-thought. Modern war is connotatively inseparable from the dehumanizing representations of woman. The drive "to war" is recessed within the myth of woman as man's worst enemy. Modern warfare is a relentlessly Pandoran affair. Its abundant coital imagery is organically inspired by its mysogynistic cradle. Common parlance routinely asserts that an enemy that has been consigned to ignominious defeat is an enemy that has been "thoroughly *screwed.”* (which resonates culturally as being reduced to a woman). It has been observed that the construction of a soldier requires the killing of the woman within. The training of the soldier is replete with a litany of disciplining epithets regarding the feminine. The transformation from boy-recruit into man-soldier requires the extirpation of any feminine traits and identities; it demands the vanquishing of any lurking womanliness. War is femicidal. This foreshadows, moreover, the vigilance with respect to the subversive feminine being looming within the warring fabric. Soldier and policymakers guard against the association of their actions or ideas with feminine traits. Regardless of its particular manifestation or definition of a practice, ritual, or goal linked to militaries and to battle, the ideology of war requires a strict, unrelenting overcoming of anything understood as womanly. Its discourse of identity and achievement, in other words, repudiates and disavows the feminine as much as it is embraces the masculine. This mysogynistic reflex undergirds the representation of opponents (on the war front and the "home" front) as women. Those opposing war routinely are dismissed in feminine terms, as being too emotional, too sentimental, as lacking in firmness and determination, as naïve, unthoughtful, weak, confused, and, in the branding coup de grâce, as unmanly (it is commonly suspected that peaceful people or doves, after all, don't "have balls"). There is a common and essential association between women and peace, an association that has permeated a share of social activism and scholarly research.18 Military enemies, moreover, typically are represented as woman. Military targets, especially the ground or earth itself, also are connotatively feminized in war-think.

#### Contention 2: Sexual Violence by United States Servicemen abroad

#### **United States involvement in Iraq has created widespread poverty which has led to the creation of prostitution circles. The United States military has also on numerous documented occasions sexually assaulted and raped citizens.**

Chew 2007 Huibin Amee Chew Published on: June 16, 2007 Women and War: Reclaiming a Feminist Perspective. <http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/3429_women-war.pdf> (BFI WL)

Unsurprisingly, economic hardship and oppressive gender relations combine to fuel sexual commodification. Following a pattern observed across different conflict regions by feminist scholars, Iraqi women have faced increasing pressures to earn their subsistence from men by bartering their sexuality. The United Nations Development Fund for Women documented that in Baghdad, prostitution became widespread between the fall of the Hussein administration in April 2003 and November 2003, as women disproportionately suffered growing poverty. By 2005, reports surfaced of Iraqi teens working in Syrian brothels, after being displaced from Fallujah, where US forces had launched brutal offensives and chemical weapons attacks on civilians. US bases foment a sex trade around the globe that often draws poor, rural girls and women. Military leaders play a role in informally managing this industry to motivate their largely male workforce, exploiting global wealth disparities. Recently, reports have surfaced of contractors shipping in Filipinas to work as prostitutes at US bases in Iraq—for $200 per month. Women have returned home pregnant, unable to track down the fathers. GABRIELA, a mass women’s organization in the Philippines, has decried how the country now has the largest number of prostituted women and children in Southeast Asia—a direct legacy of its use as a “rest and recreation” base for GI’s during the Vietnam War. Imperialism enables collusion between foreign and indigenous patriarchies in aggravating women’s oppression. Sexual violence, as well as the trafficking of Iraqi women and girls, rose horrifically after the invasion, and continue unabated to this day while these initial rapes and abductions were perpetrated largely by Iraqi men, the occupation force’s disruption of security and disregard provided them the occasion—the US priority, after all, was to secure the oil. Moreover, the international women’s human rights organization MADRE has reported that since at least 2005, the Pentagon has armed, supported, and trained “death squad-style” militias in Iraq, known to use sexual violence and targeted femicide as tactics for consolidating their power. As the occupation persists, and contact between military forces and civilians grows, sexual brutality at the direct hands of both US troops and Iraqi police under occupation authority has proliferated. In March 2006, 14-year-old Abeer Qassim was gang raped and murdered by US soldiers; her family and 7-year-old sister were executed in the next room. Soon after, several other women publicly came forward, reporting gang rapes by US-trained Iraqi police. Sadly, it took over three years of occupation to break the mainstream media silence on atrocities which are truly just the tip of the iceberg as reported by Chris Shumway in The New Standard.

Examples within Japan further prove this, in addition to the recent gathering of thousands of protestors in early June the Associated Press in 2014 reports:

#### Service Members in Japan commit horrible acts of sexual violence against local populations and rarely go punished.

Associated Press 2014, "Sexual assaults by US military in Japan unlikely to end in prison," Guardian, <https://www.theguardian.com/world/2014/feb/09/sexual-assaults-us-military-japan-prison-unlikely> (BFI WL)

At US military bases in [Japan](https://www.theguardian.com/world/japan), most service members found culpable in sex crimes in recent years did not go to prison, according to internal Department of Defence documents. Instead, in a review of hundreds of cases filed in America’s largest overseas military installation, offenders were fined, demoted, restricted to their bases or removed from the military. In about 30 cases, a letter of reprimand was the only punishment. More than 1,000 records, obtained by the Associated Press through the Freedom of Information Act, describe hundreds of cases in graphic detail, painting a disturbing picture of [how senior American officers prosecute and punish troops accused of sex crimes](https://www.theguardian.com/world/2014/jan/25/obama-highlights-military-and-colleges-in-effort-to-tackle-sexual-violence). The handling of allegations verged on the chaotic, with seemingly strong cases often reduced to lesser charges. In two rape cases, commanders overruled recommendations to court-martial and dropped the charges instead. Even when military authorities agreed a crime had been committed, the suspect was unlikely to serve time. Of 244 service members whose punishments were detailed in the records, only a third were incarcerated. The analysis of the reported sex crimes, which were filed between 2005 and early 2013, shows a pattern of random and inconsistent judgments. The marines, for example, were far more likely than other branches to send offenders to prison, with 53 prison sentences out of 270 cases. By contrast, of the navy’s 203 cases, more than 70 were court-martialled or punished in some way. Only 15 were sentenced to time behind bars. The air force was the most lenient. Of 124 sex crimes, the only punishment for 21 offenders was a letter of reprimand. Victims increasingly declined to cooperate with investigators or recanted, a sign they may have been losing confidence in the system. In 2006, the Naval Criminal Investigative Service, which handles the navy and marine corps, reported 13 such cases; in 2012, the figure was 28. In two cases, both adjudicated by the 1st Marine Aircraft Wing, the accusers said they were sexually abused after nights of heavy drinking, and both had some evidence to support their cases. One suspect was sentenced to six years in prison, but the other was confined to base for 30 days instead of getting jail time. Taken together, the cases illustrate how far military leaders have to go to reverse a spiraling number of sexual assault reports. The records also may give weight to members of Congress pushing to strip senior officers of their authority to decide whether serious crimes, including sexual assault cases, go to trial. “How many more rapes do we have to endure to wait and see what reforms are needed?” asked Senator Kirsten Gillibrand, chair of the Senate armed services personnel subcommittee. She leads [a vocal group of lawmakers from both political parties who argue that further reforms to the military’s legal system are needed](https://www.theguardian.com/world/2013/nov/18/senators-reject-gillibrand-military-sex-assault-bill). Air Force Colonel Alan Metzler, deputy director of the Defence Department’s sexual assault prevention and response office, said the department “has been very transparent that we do have a problem”. He said a number of changes in military law is creating a culture where victims trust that their allegations will be taken seriously and perpetrators will be punished. The number of sexual assault cases taken to courts martial has grown steadily – from 42% in 2009 to 68% in 2012, according to DOD figures. In 2012, of the 238 service members convicted, 74% served time. That trend is not reflected in the Japan cases. Out of 473 sexual assault allegations within navy and marine corps units, just 116, or 24%, ended up in courts martial. In the navy, one case in 2012 led to court martial, compared to 13 in which commanders used non-judicial penalties instead.

#### Contention 3: Drones

#### Obama has institutionalized war powers with respect to drone operations.

Dunlap 2015, Charles J. Dunlap, Jr., 10-14-2015, "Drones versus their Critics: A Victory for President Obama’s War Powers Legacy?," Charles J. Dunlap Jr., the former deputy judge advocate general of the United States Air Force, joined the Duke Law faculty in July 2010 where he is a professor of the practice of law and Executive Director of the Center on Law, Ethics and National Security. <http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy> (BFI WL)

Few things have been more emblematic of the military and, indeed, political aspects of the Obama War Powers [legacy](http://www.theguardian.com/us-news/2015/sep/09/obama-drone-strikes-counterterror-uk-pakistan) than drones.[[ii]](http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy" \l "_edn2" \o ")  As many have noted, [the use of this novel weapon’s system has vastly increased](https://www.thebureauinvestigates.com/2015/02/02/almost-2500-killed-covert-us-drone-strikes-obama-inauguration/) during the Obama Administration, particularly in areas outside of active combat zones directly involving U.S. forces. Moreover, although there has been robust criticism by significant parts of the legal, academic, and political communities, neither the [courts](https://www.law.upenn.edu/live/files/1928-baileynasir-al-alawki-v--obama--court-orderpdf) nor [Congress](http://www.defenseone.com/politics/2015/04/congress-drone-strikes-are-here-stay/111067/) have evinced much inclination to curtail or even publically scrutinize the Administration’s use of drones.  Most importantly for any democracy, the support of the American electorate for drones remains very strong, even after the tragic deaths of two hostages (including an American) in a strike in early in 2015.  In effect, the President has – de facto – institutionalized (if not expanded) War Powers with respect to drone operations. How and why did this happen?  This brief essay will attempt to outline the answer, and to suggest why the critics have been largely unsuccessful in efforts to limit or ban drone strikes.  It will also offer some thoughts as to the meaning of (and limitations to) the President’s War Powers legacy as it relates to drone operations

#### Curtailing war powers reduces drone capabilities which create numerous civilian casualties.

Ofek 10 (Hillel, 2010, <http://www.thenewatlantis.com/docLib/20100504_TNA27Ofek.pdf>) (BFI WL)

Second, while U.S. drones have impressive surveillance and targeting capabilities, the intelligence they rely on is never infallible; many Predator strikes are planned in response to tips from local informants who have their own agendas. This can result in the deaths of innocent civilians. As Jane Mayer put it in The New Yorker, “The history of targeted killing is marked by errors.” According to a New America Foundation report assessing reliable press accounts of the strikes, the 123 reported drone attacks in northwest Pakistan from 2004 to March 29, 2010 have killed between 871 and 1,285 individuals, about a third of whom were civilians. The Long War Journal, a blog that tracks terrorist groups, calculates a much lower civilian casualty rate, with 1,114 militants and 94 civilians killed in Pakistan since 2006. (Of course, it should go without saying that the real blame for innocent deaths will, at bottom, always lie with terrorists, who refuse to follow the laws of war that require combatants to separate themselves from civilians.)

#### 90% of people killed by drone strikes in Afghanistan were not the intended targets.

Fang 15, Marina Fang, 10-15-2015, "Nearly 90 Percent Of People Killed In Recent Drone Strikes Were Not The Target," Huffington Post, <http://www.huffingtonpost.com/entry/civilian-deaths-drone-strikes_us_561fafe2e4b028dd7ea6c4ff> (BFI WL)

The controversial U.S. drone strike program in the Middle East aims to pinpoint and kill terrorist leaders, but new documents indicate that a staggering number of these “targeted killings” affect far more people than just their targets. According to a [new report](http://www.huffingtonpost.com/entry/drone-papers_561ed361e4b0c5a1ce61f463?v4w019k9" \t "_blank) from The Intercept, nearly 90 percent of people killed in recent drone strikes in Afghanistan “were not the intended targets” of the attacks. Documents detailing a special operations campaign in northeastern Afghanistan, Operation Haymaker, show that between January 2012 and February 2013, U.S. special operations airstrikes killed more than 200 people. Of those, only 35 were the intended targets. During one five-month period of the operation, according to the documents, nearly 90 percent of the people killed in airstrikes were not the intended targets. In Yemen and Somalia, where the U.S. has far more limited intelligence capabilities to confirm the people killed are the intended targets, the equivalent ratios may well be much worse. The report, compiled from classified documents released by a source in the intelligence community, corroborates the [many news accounts](http://www.huffingtonpost.com/2014/01/23/obama-drone-program-anniversary_n_4654825.html" \t "_blank) of civilian deaths caused by drone strikes. U.S. drone strikes have killed [scores of civilians](http://www.huffingtonpost.com/2014/10/31/naming-the-dead_n_6082954.html" \t "_blank) in Afghanistan, Pakistan, Yemen and Somalia since 2009. [In December 2013](http://www.cnn.com/2013/12/12/world/meast/yemen-u-s-drone-wedding/" \t "_blank), a drone strike in Yemen killed 14 people returning from a wedding. Government officials mistook their vehicles for those of al Qaeda militants. Parents in Pakistan have [reported](http://www.bbc.com/news/world-asia-19704981" \t "_blank) taking their children out of school to protect them from possible strikes. The U.S. government has implemented [targeted killings](http://www.cfr.org/counterterrorism/targeted-killings/p9627" \t "_blank) since the Sept. 11 attacks as a counterterrorism measure and as retribution against al Qaeda and the Taliban. Under the Obama administration, many of these targeted killings have been carried out using unmanned drones. Despite the high number of civilian casualties and criticism that the program lacks transparency, President Barack Obama has repeatedly defended the strikes. “The terrorists we are after target civilians, and the death toll from their acts of terrorism against Muslims dwarfs any estimate of civilian casualties from drone strikes,” he said in 2013. While government officials claim the drone strikes are accurate and rarely harm innocent civilians, strikes can kill or injure anyone in the area, even if they are only meant to kill a targeted individual. “Anyone caught in the vicinity is guilty by association,” the source of the documents told The Intercept. When “a drone strike kills more than one person, there is no guarantee that those persons deserved their fate. … So it’s a phenomenal gamble.”

#### Current use of drone warfare could leave Obama being responsible for multiple war crimes.

Bowcott 12 Owen Bowcott, 6-21-2012, "Drone strikes threaten 50 years of international law, says UN rapporteur," Guardian, <https://www.theguardian.com/world/2012/jun/21/drone-strikes-international-law-un> (BFI WL)

The US policy of using aerial drones to carry out targeted killings presents a major challenge to the system of international law that has endured since the second world war, a [United Nations](https://www.theguardian.com/world/unitednations) investigator has said. Christof Heyns, the UN special rapporteur on extrajudicial killings, summary or arbitrary executions, told a conference in Geneva that President Obama's attacks in [Pakistan](https://www.theguardian.com/world/pakistan), Yemen and elsewhere, carried out by the CIA, would encourage other states to flout long-established human rights standards. In his strongest critique so far of drone strikes, Heyns suggested some may even constitute "war crimes". His comments come amid rising international unease over the surge in killings by remotely piloted unmanned aerial vehicles (UAVs). Addressing the conference, which was organised by the American Civil Liberties Union (ACLU), a second UN rapporteur, Ben Emmerson QC, who monitors counter-terrorism, announced he would be prioritising inquiries into drone strikes. The London-based barrister said the issue was moving rapidly up the international agenda after China and Russia this week jointly issued a statement at the UN Human Rights Council, backed by other countries, condemning drone attacks. If the US or any other states responsible for attacks outside recognised war zones did not establish independent investigations into each killing, Emmerson emphasised, then "the UN itself should consider establishing an investigatory body". Also present was Pakistan's ambassador to the UN in Geneva, Zamir Akram, who called for international legal action to halt the "totally counterproductive attacks" by the US in his country. Heyns, a South African law professor, told the meeting: "Are we to accept major changes to the international legal system which has been in existence since world war two and survived nuclear threats?" Some states, he added, "find targeted killings immensely attractive. Others may do so in future … Current targeting practices weaken the rule of law. Killings may be lawful in an armed conflict [such as Afghanistan] but many targeted killings take place far from areas where it's recognised as being an armed conflict." If it is true, he said, that "there have been secondary drone strikes on rescuers who are helping (the injured) after an initial drone attack, those further attacks are a war crime". Heyns ridiculed the US suggestion that targeted UAV strikes on al-Qaida or allied groups were a legitimate response to the 9/11 attacks. "It's difficult to see how any killings carried out in 2012 can be justified as in response to [events] in 2001," he said. "Some states seem to want to invent new laws to justify new practices. “The targeting is often operated by intelligence agencies which fall outside the scope of accountability.

#### For these reasons, I affirm.

### Negative Case

#### I negate the resolution, Resolved: The United States Government ought to curtail the Commander-in-Chief Powers of the President.

#### The Value for this round will be Morality, and the criterion will be Just War Theory.

#### Just War Theory, is important within the context of this debate, as, as long as the president adheres to it, actions should be justified. Just war theory indicates 5 criterion, 1. War is waged by proper authority, 2. Carried out with the right intentions, 3. Probability of success, 4. Action must be proportional, 5. A last resort.

#### Observation 1: Any harms indicated by the affirmative can be checked within a moral world. The congress has the power to control the purse and thus cut off executive action, problematic examples that the aff may bring up are not a problem of the executive branch, but are a product of the lack of congressional action. Thus, there is no need to curtail presidential war powers, but there is need for congress to act which it repeatedly fails to do. As a result the harms indicated by the affirmative are non-unique within the context of the resolution.

#### Contention 1: The Constitution

#### Congress has the power to declare war, not the president, we should not encourage federal branches to lie to one another.

Ackerman 2007, 4-2-2007, "Congress at war," latimes,Bruce Ackerman is Sterling professor of law and political science at Yale, and the author of "Before the Next Attack: Protecting Civil Liberties in an Age of Terrorism" (Yale, 2006). <http://www.latimes.com/la-op-dustup2apr02-story.html> (BFI WL)

The Constitution was written by revolutionaries who had fought a war against the abuse of power by a king. The very notion of royal prerogative was repugnant and so it should remain. The text gives Congress the power to "declare war," and no less importantly, the authority "to make all laws which shall be necessary and proper for carrying" out the war power. If the [Iraq war](http://www.latimes.com/topic/unrest-conflicts-war/wars-interventions/iraq-war-%282003-2011%29-EVHST000043-topic.html) was begun on false pretences, it is certainly "necessary and proper" for Congress to require [President Bush](http://www.latimes.com/topic/politics-government/government/presidents-of-the-united-states/george-w.-bush-PEPLT000857-topic.html) to withdraw the troops. A contrary view would create perverse incentives. Future presidents could lie to Congress to gain a declaration and know that Congress could not respond effectively once it had learned the truth. It is necessary and proper for Congress to cut off this form of deceit when it occurs. This argument doesn't require me to claim that President Bush consciously misrepresented the intelligence reports in arguing for war. Even if he was the victim of a good-faith mistake, the next president will have an incentive to lie if Congress can't respond effectively when it learns the truth. The Constitution should not be interpreted to encourage the branches to lie to one another. There were no weapons of mass destruction; no plausible links to Al Qaeda; therefore, it is "necessary and proper" for Congress to order a responsible withdrawal, on the ground that it would never have authorized the war in the first place. This is just common sense and we should beware of any interpretation of Congress' war powers that sets the Constitution at war with common sense. The Constitution also expressly grants Congress the authority "to make rules for the government and regulation of the land and naval forces." It is hard to imagine a clearer authorization for proposals, like Rep. John Murtha's (D-PA), which exercises this "regulatory" power to assure that our troops come to Iraq in good physical condition, and with adequate equipment, to succeed in their mission.

#### Contention 2: Quick action via war powers is good for both the United States and the International Community

#### Sub-point A: Military power equates with economic leadership – The United States potential for quick military action abroad is key to the stability of the global economy.

Brooks et al 12 “Don’t Come Home, America: The Case Against Retrenchment” Stephen G. Brooks, G. John Ikenberry, and William C. Wohlforth. <https://scholar.princeton.edu/sites/default/files/gji3/files/dont_come_home_america.pdf> (BFI WL)

To be sure, the sheer size of its economy would guarantee the United States a significant role in the politics of the global economy whatever grand strategy it adopted. Yet the fact that it is the leading military power and security provider also enables economic leadership. The security role figures in the creation, maintenance, and expansion of the system. In part because other states—including all but one of the world’s largest economies—were heavily dependent on U.S. security protection during the Cold War, the United States was able not only to foster the economic order but also to prod other states to buy into it and to support plans for its progressive expansion. Today, as the discussion in the previous section underscores, the security commitments of deep engagement support the global economic order by reducing the likelihood of security dilemmas, arms racing, instability, regional conflicts and, in extremis, major power war. In so doing, the strategy helps to maintain a stable and comparatively open world economy—a long-standing U.S. national interest. In addition to ensuring the global economy against important sources of in security, the extensive set of U.S. military commitments and deployments helps to protect the “global economic commons.” One key way is by helping to keep sea-lanes and other shipping corridors freely available for commerce. 88 A second key way is by helping to establish and protect property/sovereignty rights in the oceans. Although it is not the only global actor relevant to protecting the global economic commons, the United States has by far the most important role given its massive naval superiority and the leadership role it plays in international economic institutions. If the United States were to pull back from the world, protecting the global economic commons would likely be much harder to accomplish for a number of reasons: cooperating with other nations on these matters would be less likely to occur; maintaining the relevant institutional foundations for promoting this goal would be harder; and preserving access to bases throughout the world—which is needed to accomplish this mission—would likely be curtailed to some degree. Advocates of retrenchment agree that a flourishing global economy is an important U.S. interest, but they are largely silent on the role U.S. grand strategy plays in sustaining it. 89 For their part, many scholars of international political economy have long argued that economic openness might continue even in the absence of hegemonic leadership. 90 Yet this does not address the real question of interest: Does hegemonic leadership make the continuation of global economic stability more likely?

#### Sub-point B: The benefits America receives from the international community are directly tied to their military presence and countries such as Australia and South Korea say that they feel safer with the U.S presence.

Brooks et al 12 “Don’t Come Home, America: The Case Against Retrenchment” Stephen G. Brooks, G. John Ikenberry, and William C. Wohlforth. <https://scholar.princeton.edu/sites/default/files/gji3/files/dont_come_home_america.pdf> (BFI WL)

Deep engagement not only helps to underwrite the global economy in a general sense, but it also allows the United States to structure it in ways that serve the United States’ narrow economic interests. Carla Norrlof argues persuasively that America disproportionately benefits from the current structure of the global economy, and that its ability to reap these advantages is directly tied to its position of military preeminence within the system. One way this occurs is via “microlevel structuring”—that is, the United States gets better economic bargains or increased economic cooperation on some specific issues than it would if it did not play such a key security role. As Joseph Nye observes, “Even if the direct use of force were banned among a group of countries, military force would still play an important political role. For example, the American military role in deterring threats to allies, or of assuring access to a crucial resource such as oil in the Persian Gulf, means that the provision of protective force can be used in bargaining situations. Sometimes the linkage may be direct; more often it is a factor not mentioned openly but present in the back of statesmen’s minds.” 93 Although Nye is right that such linkage will generally be implicit, extensive analyses of declassified documents by historians shows that the United States directly used its overseas security commitments and military deployments to convince allies to change their economic policies to its benefit during the Cold War. The United States’ security commitments continue to bolster the pursuit of its economic interests. Interviews with current and past U.S. administration officials reveal wide agreement that alliance ties help gain favorable outcomes on trade and other economic issues. To the question, “Does the alliance system pay dividends for America in nonsecurity areas, such as economic relations?,” the typical answer in interviews is “an unequivocal yes.” 95 U.S. security commitments sometimes enhance bargaining leverage over the specific terms of economic agreements and give other governments more general incentives to enter into agreements that benefit the United States economically—two recent examples being the 2012 Korea–United States Free Trade Agreement (KORUS FTA) and the United States–Australia FTA (which entered into force in 2005). 96 Officials across administrations of different parties stress that the desire of Korea and Australia to tighten their security relationships with the United States was a core reason why Washington was able to enter into free trade agreements with them and to do so on terms favorable to U.S. economic interests. As one former official indicates, “The KORUS FTA—and I was involved in the initial planning—was attractive to Korea in large measure because it would help to underpin the US-ROK [South Korea] alliance at a time of shifting power in the region.” 97 Korean leaders’ interest in maintaining a strong security relationship with the United States, another former official stressed, made them more willing to be flexible regarding the terms of the agreement because “failure would look like a setback to the political and security relationship.

#### Sub-point C: United States military action internationally keeps the world a better place and prevents great power wars. Conflicts such as arms races and nuclear proliferation are more detrimental than the small skirmishes the United States may invoke.

Brooks et al 12 “Don’t Come Home, America: The Case Against Retrenchment” Stephen G. Brooks, G. John Ikenberry, and William C. Wohlforth. <https://scholar.princeton.edu/sites/default/files/gji3/files/dont_come_home_america.pdf> (BFI WL)

Even if deep engagement’s costs are far less than retrenchment advocates claim, they are not worth bearing unless they yield greater benefits. We focus here on the strategy’s major security benefits; in the next section, we take up the wider payoffs of the United States’ security role for its interests in other realms, notably the global economy—an interaction relatively unexplored by international relations scholars. A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war.

#### For these reasons, I negate.

### Aff Cards

#### Abu Ghraib included the torture and inhumane treatment of many female prisoners, In addition at least 70% of those detained in 2006 were mistakenly incarcerated.

Chew 2007 Huibin Amee Chew Published on: June 16, 2007 Women and War: Reclaiming a Feminist Perspective. <http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/3429_women-war.pdf> (BFI WL)

Unbeknownst to the US public, the Abu Ghraib debacle included the torture of female detainees also, as covered by Chris Harding in the UK Gaurdian. In fact, the first evidence of abuse was a letter from a female prisoner reporting gang rape. Our own Congress has perused the photos documenting such atrocities, though the only images widely disseminated involve male victims because Congress refuses to release the other pictures. Interestingly, the only pictures of US soldiers assaulting Iraqi women to circulate were hard-core pornography images, later discredited as frauds; the rape of women abounds in our consciousness, yet has no “real” existence. The total number of detained women in Iraq is unknown. In 2005, Iman Khamas of the International Occupation Watch Center reported 625 females in Al-Rusafah Prison and 750 in Al-Kadhmiya alone, ranging from age 12 to 60. Women are subject to torture and degrading humiliation; they are dragged by their hair, burned with electricity, forced to eat from dirty toilets, and urinated on. Haifa Zangana wrote in the UK Guardian that according to Iraqi MP Mohamed al-Dainey, there were 65 documented cases of women’s rape in occupation detention centers during 2006. A May 2004 Red Cross report disclosed that 70 to 90 percent of 43,000 Iraqis detained in the last year were arrested by mistake. Today, US forces continue to routinely imprison the female relatives and even alleged lovers of male suspects—as hostages and bargaining chips, in a form of collective punishment. Women are physically and sexually abused at checkpoints and during house searches. Even after Abeer’s grisly murder came to light, coverage in the US press repeatedly insulted and devalued the victims’ humanity, focusing instead on the “tears” of their US attackers! Anti-war organizers cannot allow these acts to be treated as mere aberrations. We must oppose the hierarchy of lives that glorifies rapists and murderers in US uniform—and that ignores the systemic forces producing them. Women may serve as soldiers, but the US military is a misogynist, homophobic institution that relies on patriarchal ideologies and relations to function—with far-reaching effects within US society as well as in occupied lands. The US military conditions men to devalue, objectify, and demean traits traditionally associated with women. Furthermore, soldiers are purposefully trained to eroticize violence—from a heterosexual, male-aggressor perspective. As reported by Kari Lydersen on Alternet in Rape Nation, the widespread sexual abuse of female soldiers by male colleagues, with overwhelming impunity, is a symptom of this institution’s workings. After brutalizing Iraqis, soldiers often bring rape and domestic violence home. Phoebe Jones of Global Women’s Strike has traced a prison-military complex of abuse—torture in Abu Ghraib was outsourced to personnel from US prison companies, and former soldiers return to become abusive guards. The connection extends to both sides of the bars: in 1997, the number one reason for veterans to be in jail was for sexual assault A full exploration of the effects of militarism on gendered violence in the US is out of the scope of this essay. However, such violence cannot be understood in isolation from economics, racism, and state violence.

#### Males must fight wars to protect the “vulnerable” women.

Tickner 1997 J. Ann. “You Just Don't Understand: Troubled Engagements between Feminists and IR Theorists” International Studies Quarterly, Vol. 41, No. 4. (BFI WL)

In spite of the fact that many women do work outside the household, the association of women with housewife, care-giver, and mother has become naturalized, thereby decreasing women's economic security and autonomy. While these issues may appear irrelevant to the conduct of international politics, feminists claim that these gender-differentiated roles actually support and legitimate the international security-seeking behavior of the state. For example, feminists have argued that unequal gender relations are important for sustaining the military activities of the state. Thus, what goes on in wars is not irrelevant to their causes and outcomes. The notion that (young) males fight wars to protect vulnerable groups such as women and children who cannot be expected to protect themselves has been an important motivator for the recruitment of military forces and support for wars. Feminists have challenged this protector/protected relationship with evidence of the high increase in civilian, casualties documented above.35 As feminists have pointed out, if women are thought to be in need of protection, it is often their protectors who provide the greatest threat. Judith Stiehm (1982) claims that this dependent, asymmetric relationship leads to feelings of low self-esteem and little sense of responsibility on the part of women. For men, the presence of able-bodied, competent adults who are seen as dependent and incapable can contribute to misogyny. Anne Orford (1996) tells us that accounts of sexual assault by peacekeepers have emerged in many UN peacekeeping operations. However, such violence against women is usually dismissed as a "natural" outcome of the right of young soldiers to enjoy themselves. This type of behavior may also be aggravated by the misogynist training of soldiers who are taught to fight and kill through appeals to their masculinity; such behavior further erodes the notion of protection. Whereas feminist analysis of military security has focused on the gendered structures of state institutions, issues of economic security and insecurity have emphasized the interrelationship between activities in markets and households. Feminists claim that women's particular economic insecurities can only be under- stood in the context of patriarchal structures, mediated through race, class, and ethnicity, which have the effect of consigning women to households or low-paying jobs.

#### The economic costs of war disproportionately effect women.

Chew 2007 Huibin Amee Chew Published on: June 16, 2007 Women and War: Reclaiming a Feminist Perspective. <http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/3429_women-war.pdf> (BFI WL)

Women are disproportionately affected by the economic harms of war, both in the US and Iraq. Globally, women make up 70 percent of those starving or on the verge of starvation. Imperialism helps intensify the gender gap in poverty, a situation reflected in indicators from health to literacy. During the sanctions period, female literacy in Iraq plummeted disproportionately. After the 2003 US invasion, women were the hardest hit by unemployment, since men are preferred for the few available jobs. Formerly 72 percent of salaried Iraqi women were public employees, and many lost their jobs when government ministries were dismantled. The destruction of basic infrastructure, like food rationing, impacts the indigent most—including poor women, many of them widows or single heads of households. Iraq’s economic woes will stretch far into the future, under the regime of IMF Structural Adjustment Programs (SAPs) that industrialized nations plan to impose on the country because of its sovereign debt. Feminist scholars have documented how SAPs disproportionately harm Third World women across the globe in terms of health, education, and overwork. Likewise, in the US, most families in poverty are headed by single mothers, and poor women bear the brunt of public service cuts. In Massachusetts, for example, most Medicaid recipients, graduates of state and community colleges, welfare, and subsidized childcare recipients, are women—and all these programs have undergone budget slashes as the war budget has grown. The economics of women’s unpaid labor, performed in their traditional gender roles, must also be considered. As hospitals are destroyed or become unavailable, it’s women in both Iraq and the US who disproportionately shoulder responsibility for their families’ healthcare. Childcare, healthcare, homemaking all become heavier on women without public sector aid—whether due to economic collapse in occupied lands, or budget austerity in the aggressor nation. Mass incarceration increases the burden on women of color, who manage households alone while workfare-welfare programs keep an underclass from decent jobs. Military wives and mothers are saddled with double duty to enable soldiers’ extended tours.

#### Military actions, particularly the dropping of depleted uranium has had negative effects on reproductive health.

Chew 2007 Huibin Amee Chew Published on: June 16, 2007 Women and War: Reclaiming a Feminist Perspective. <http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/3429_women-war.pdf> (BFI WL)

The denial of reproductive healthcare is an issue of women’s equality—affecting women’s control over our labor, bodies, and futures. Over 340 tons of depleted uranium were dropped on Iraq during the first Gulf War; Iraqi feminist anthropologist Nadje Al-Ali writes that the radioactive agent is linked to birth defects, pregnancy complications, and maternal mortality. Just months after the 2003 invasion, increased back alley abortions were reported in Baghdad as women lost access to healthcare and contraception. In the US, budget stringency, justified by war priorities, means universal reproductive healthcare will remain a distant possibility. Moreover, in our historical context, limiting women’s control over their reproduction is ideologically connected to the US imperial project. The Christian conservative movement has reframed debates on morality around the abortion issue; and, as Andrea Smith has observed, emphasizing women’s place in the private family is used as an excuse for disinvestment from public supports. The conflict in Iraq has restricted women’s public access, shaping the trajectory of their political participation. And what’s more, besides constraints on physical space, imperialism has hampered both Iraqi and US women’s ability to organize against their own oppression. The US occupation is not capable of bringing democracy or liberation to Iraqis. Its bottom line is maintaining the political and military power necessary to guarantee the economic interests of a US elite. Toward that end, occupying authorities have proved perfectly willing to barter away women’s rights, time and again. At best, they have played two sides of the fence—appearing to respond to women’s needs only to attack their status when convenient. But inevitably, an agenda based on despotic military brutality and the plunder of a nation is best carried out by public relations stunts, rather than actual accountability. Occupation is waged by perpetuating hierarchy—that is, by offering perks to certain segments of the occupied population because they help subjugate the rest. Unfortunately, the occupiers’ pretensions at “feminism” and posturing at defending women’s interests has created an even nastier predicament for those in Iraq and the US who actually do care about women’s rights. Iraqi women’s groups risk attack for any foreign ties or evidence of being agents of occupation. Indeed, these groups are being targeted by Republican organizations and pro-occupation interests for co-optation. Our support for Iraqi women’s groups may only help discredit them or lead to their opportunistic attack—both by those who would construe that support as imperialist, and those who would use Iraqi women’s predicament to justify further military aggression. As US residents, any political solidarity must be predicated on demanding an immediate end to occupation—military, economic, and political. The longer we stay, the worse we make the situation. The primary role of US feminists is taking on US imperialism, and the US patriarchy it requires and rejuvenates. Like Iraqi women, US women find themselves in a fraught position, because imperialism has pit a supposedly “feminist” agenda against other progressive politics. Yet this quandary of divide and conquer, of being caught in between, is not purely the work of “imperial feminists”—leftists who fail to grapple with gender are also in part responsible, and thus must be also be part of the remedy.

#### Since WW2 the United States has intervened militarily on over 40 occasions creating world-wide resentment and killing many.

**Gray 13** (James P. Gray, It's A Gray Area: U.S. should not intervene overseas”, Former Orange County Court Judge (BFI WL)

One of the first things done when our country was founded in 1787 was establish the United States Department of War. This agency lasted until 1947, when it was re-organized and re-named the U.S. Department of Defense. But given our history since that time, the title of U.S. Department of Offense would have been more appropriate. Since 1947, the United States has intervened militarily on more than 40 separate occasions in foreign countries. In addition to the more well-known actions like Korea, Vietnam, Iraq and Afghanistan, that list also includes Guatemala, Iran, Cuba, Indonesia, Chile, El Salvador, Grenada, Colombia, Haiti and Somalia. Some of those interventions have produced good and lasting results, but many have produced lasting disasters. Some of those disasters are out in the open. For example, many people in Iran still hate our government for having deposed its legitimately-elected government in 1953 and imposed the Shah upon them. Similarly, the situations in Cuba, Vietnam, Iraq and Afghanistan in many ways speak for themselves. But other disastrous results are far less visible. For example, although a large number of people around the world still love America and Americans, they do not like or trust our government because of its interventionist policies. So in many ways we would probably be a lot safer today had we never intervened in many of those places. Similarly, one of the few positive results of our invasion of Iraq was that Muammar Gaddafi of Libya gave up his country's possession of nuclear weapons. So in "gratitude" what did we do? Within just a short time we attacked him and caused him to be killed! What kind of lesson will other despots around the world take away from that? So now in Afghanistan, after many years of our troops fighting and occupying that land, what is the status? For the most part, the Afghans hate us. In order to obtain some amount of security and stability, we have supported Hamid Karzai's administration, which has been about as corrupt as it could have been. Maybe it is corrupt by necessity, but the end results remain. Another critical but less noticed disaster from our military interventions has been the lasting harms inflicted personally upon our own troops. Not only have many of our troops been killed or physically injured while serving our country, but also many have suffered severe mental injuries, which are much harder to see or diagnose. As evidence of this, please note that the suicide rate in our military last year actually surpassed the number of combat deaths in Afghanistan.

#### Drones are linked to war powers.

Dunlap 2015, Charles J. Dunlap, Jr., 10-14-2015, "Drones versus their Critics: A Victory for President Obama’s War Powers Legacy?," Charles J. Dunlap Jr., the former deputy judge advocate general of the United States Air Force, joined the Duke Law faculty in July 2010 where he is a professor of the practice of law and Executive Director of the Center on Law, Ethics and National Security. <http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy> (BFI WL)

The American experience with drones has clear implications for Obama’s War Powers legacy. To reiterate, given widespread US public support for a program that began during a Republican administration and markedly expanded during a Democratic administration – with almost no interference from either Congress or the courts - it appears that the ‘[historical gloss](http://www.asil.org/blogs/agora-reflections-zivotofsky-v-kerry-historical-gloss-recognition-power-and-judicial-review)’ plainly supports a nonpartisan argument that it is reflective of the President’s War Powers authority.

#### The United States has not owned up to the damage that they have done as they have counterproductively killed thousands of citizens

Bowcott 12 Owen Bowcott, 6-21-2012, "Drone strikes threaten 50 years of international law, says UN rapporteur," Guardian, <https://www.theguardian.com/world/2012/jun/21/drone-strikes-international-law-un> (BFI WL)

The Pakistani ambassador declared that more than a thousand civilians had been killed in his country by US drone strikes. "We find the use of drones to be totally counterproductive in terms of succeeding in the war against terror. It leads to greater levels of terror rather than reducing them," he said. Claims made by the US about the accuracy of drone strikes were "totally incorrect", he added. Victims who had tried to bring compensation claims through the Pakistani courts had been blocked by US refusals to respond to legal actions. The US has defended drone attacks as self-defence against al-Qaida and has refused to allow judicial scrutiny of the UAV programme. On Wednesday, the Obama administration issued a fresh rebuff through the US courts to an ACLU request for information about targeting policies. Such details, it insisted, must remain "classified". Hina Shamsi, director of the ACLU's national security project, said: "Something that is being debated in UN hallways and committee rooms cannot apparently be talked about in US courtrooms, according to the government. Whether the CIA is involved in targeted lethal operation is now classified. It's an absurd fiction." The ACLU estimates that as many as 4,000 people have been killed in US drone strikes since 2002 in Pakistan, Yemen and Somalia. Of those, a significant proportion were civilians. The numbers killed have escalated significantly since Obama became president. The USA is not a signatory to the International Criminal Court (ICC) or many other international legal forums where legal action might be started. It is, however, part of the International Court of Justice (ICJ) where cases can be initiated by one state against another.

#### Military action is the most serious thing a country should do, we owe it to the people of the United States not to risk their finances, security, and health unless absolutely necessary.

**Gray 13** (James P. Gray, It's A Gray Area: U.S. should not intervene overseas”, Former Orange County Court Judge (BFI WL)

So when should we intervene? Not nearly as often as we have, and only after Congress has debated the issue, and issued a Declaration of War — just as the Constitution requires! History should vilify Congress for having passed the Gulf of Tonkin and War Powers resolutions, which, respectively, empowered Presidents Lyndon Johnson and George W. Bush to escalate the fighting in Vietnam and Iraq into full-fledged wars at their sole discretion. The deliberations and responsibilities for sending our military into harm's way must lie with Congress, and, thus, more with us all. And, by the way, pursuing this course will result in much greater public support of those interventions if and when they do occur. Military interventions are some of the most serious things that a government can do. And they have a great cost, both in terms of our finances, security, and the health and safety of our troops in the field and here at home. We simply cannot be the world's policeman: It doesn't work, and we can't afford it. So I close these thoughts once again by remembering the most sobering experience that happened to me during my 2012 Libertarian campaign for vice president. After a presentation at Stanford University, a tall and good looking young man, who was wearing Gulf War and Purple Heart ribbons on his suit coat, came up to me and said: "Judge Gray, we in the military will go where we are ordered, and we will fight and sometimes be injured or even die. Please make it count. Not only do we owe that to all of our troops, we also owe it to our country.

#### AT: Constitution - The United States has used force abroad over 100 times and only declared war 5 times. The Issue that the neg supposes isn’t new.

Yoo 2007 4-2-2007, "Congress at war," latimes John Yoo is a law professor at the [University of California, Berkeley](http://www.latimes.com/topic/education/colleges-universities/uc-berkeley-OREDU00000197-topic.html) and a visiting scholar at the American Enterprise Institute. He served in the [Justice Department](http://www.latimes.com/topic/crime-law-justice/u.s.-department-of-justice-ORGOV0000160-topic.html) from 2001 to 2003, where he worked on constitutional issues involving war, and is the author of "War by Other Means" (2006). <http://www.latimes.com/la-op-dustup2apr02-story.html> (BFI WL)

I agree with your basic point that Congress has the constitutional authority to check the President in wartime. I do not know of anyone who says Congress cannot. But the important question is how. During the last two centuries, neither presidents nor Congress have ever acted under the belief that the Constitution requires a declaration of war before the U.S. can engage in military hostilities abroad. Although this nation has used force abroad more than 100 times, it has declared war only five times: the War of 1812, the Mexican-American and Spanish-American Wars, and World Wars I and II. Without declarations of war or any other congressional authorization, presidents have sent troops to oppose the Russian Revolution, intervene in Mexico, fight North Korean and later Chinese Communists in Korea, remove Manuel Noriega from power in Panama, and prevent human rights disasters in the Balkans. Other conflicts, such as both Persian Gulf Wars, received "authorization" from Congress but not declarations of war. Common sense does not support replacing the way our Constitution has worked in wartime with a radically different system that mimics the peacetime balance of powers between President and Congress. If we were talking about the environment or Social Security, I would agree with you that the Constitution requires that Congress enact the laws that make policy and that the President's job is to faithfully implement the law. But the Constitution does not give Congress the dominant hand in war. Instead, our framers decided that the president would play the leading role. You are right that the revolutionaries in 1776 rejected the royal prerogative, and they tried out all kinds of experiments to weaken the executive branch. But when the framers wrote the Constitution eleven years later they restored an independent, unified chief executive with its own powers. The most important of these powers is to wage war as commander-in-chief and chief executive. "The direction of war implies the direction of the common strength," [Alexander Hamilton](http://www.latimes.com/topic/arts-culture/alexander-hamilton-PEHST000856-topic.html) wrote in Federalist 74, "and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority." You do not have to follow Hamilton simply because he was a framer, but because he displayed uncommonly good sense. Hamilton argued that the president should manage war because he could act with "decision, activity, secrecy, and dispatch." "Energy in the executive is a leading character in the definition of good government," he observed. "It is essential to the protection of the community against foreign attacks." You are right to quote Congress's power to declare war and to pass laws to govern and regulate the armed forces. But presidents and congresses have never believed they allow for control of tactics and strategy. Congress' real power is its power of the purse, not any right to dictate which units should fight where, or whether to surge troops into Baghdad. Congress is too fractured, slow, and inflexible to micromanage military decisions that depend on speed, secrecy, and force. If Congress feels it has been misled in authorizing war, or it disagrees with the President's decisions all it need do is cut off funds, either all at once or gradually. It can reduce the size of the military, shrink or eliminate units, or freeze its supplies. Passing non-binding benchmarks or playing games with troop readiness won't do the trick. Instead, these ideas show only that Congress wants to pretend it is trying to end U.S. involvement in Iraq, without proposing any serious strategy in its place.

#### AT: We’re not stopping all wars and letting people die

**Gray 13** (James P. Gray, It's A Gray Area: U.S. should not intervene overseas”, Former Orange County Court Judge, VP presidential candidate for the Libertarian Party (BFI WL)

So what is the purpose of this discussion? No, our country should not become isolationist, and, yes, we should continue to intervene militarily when our national interests and security are at risk. And, in addition, we should also assist other countries in intervening militarily in those few situations in which a nation's government is wantonly killing its own people — if we can materially do anything positive to stop it. But we should, and must, be much more selective in choosing those interventions. In making those determinations, we should always bear in mind the following two quotes about war. The first is from John Stuart Mill, who said: "War is an ugly thing, but not the ugliest of things. The decayed and degraded state of moral and patriotic feeling which thinks nothing is worth fighting for is far worse." And the second is from Gen. George S. Patton, who said: "Wars are not won by fighting battles, wars are won by choosing battles."

#### **Investigations against the United States for the use of their military activity being deemed as war-crimes has been a conversation the international community has been having for a while**

Bowcott 12 Owen Bowcott, 6-21-2012, "Drone strikes threaten 50 years of international law, says UN rapporteur," Guardian, <https://www.theguardian.com/world/2012/jun/21/drone-strikes-international-law-un> (BFI WL)

The term 'targeted killing' is wrong because it suggests little violence has occurred. The collateral damage may be less than aerial bombardment, but because they eliminate the risk to soldiers they can be used more often." Heyns told the Guardian later that his future inquiries are likely to include the question of whether other countries, such as the UK, share intelligence with the US that could be used for selecting individuals as targets. A legal case has already been lodged in London over the UK's alleged role in the deaths of British citizens and others as a consequence of US drone strikes in Pakistan. Emmerson said that protection of the right to life required countries to establish independent inquiries into each drone killing. "That needs to be applied in the context of targeted killings," he said. "It's possible for a state to establish an independent ombudsman to inquire into every attack and there needs to be a report to justify [the killing]." Alternatively, he said, it was "for the UN itself to consider establishing an investigatory body. Drones attacks by the US raise fundamental questions which are a direct consequence of my mandate… If they don't [investigate] themselves, we will do it for them." It is time, he added, to end the "conspiracy of silence" over drone attacks and "shine the light of independent investigation" into the process. The attacks, he noted, were not only on those who had been killed but on the system of "international law itself". The Pakistani ambassador declared that more than a thousand civilians had been killed in his country by US drone strikes. "We find the use of drones to be totally counterproductive in terms of succeeding in the war against terror. It leads to greater levels of terror rather than reducing them," he said. Claims made by the US about the accuracy of drone strikes were "totally incorrect", he added.

#### The blood of Vietnam and Iraq is on our leaders hands

**Gray 13** (James P. Gray, It's A Gray Area: U.S. should not intervene overseas”, Former Orange County Court Judge (BFI WL)

So when should we intervene? Not nearly as often as we have, and only after Congress has debated the issue, and issued a Declaration of War — just as the Constitution requires! History should vilify Congress for having passed the Gulf of Tonkin and War Powers resolutions, which, respectively, empowered Presidents Lyndon Johnson and George W. Bush to escalate the fighting in Vietnam and Iraq into full-fledged wars at their sole discretion. The deliberations and responsibilities for sending our military into harm's way must lie with Congress, and, thus, more with us all. And, by the way, pursuing this course will result in much greater public support of those interventions if and when they do occur. Military interventions are some of the most serious things that a government can do. And they have a great cost, both in terms of our finances, security, and the health and safety of our troops in the field and here at home. We simply cannot be the world's policeman: It doesn't work, and we can't afford it. So I close these thoughts once again by remembering the most sobering experience that happened to me during my 2012 Libertarian campaign for vice president. After a presentation at Stanford University, a tall and good looking young man, who was wearing Gulf War and Purple Heart ribbons on his suit coat, came up to me and said: "Judge Gray, we in the military will go where we are ordered, and we will fight and sometimes be injured or even die. Please make it count. Not only do we owe that to all of our troops, we also owe it to our country.

#### The president and the military go hand in hand and are constantly intertwined.

Maj. Charles G. Kels 12 “The militarization of the presidency: The danger of conflating military and civilian values,” <http://www.armedforcesjournal.com/2012/06/9381480/>

THE MILITARISM OF THE UNMILITARIZED But a funny thing happened on our way to a civilian utopia of peace-loving leaders: The fewer military bona fides our politicians possess, the more militaristic their bearing and vocabulary have seemingly become. This is particularly true of the presidency, which increasingly appears enveloped in a military aura that bears little relation to our founding documents or principles. True, Alexander Hamilton wrote in Federalist No. 69 that the president’s war powers “amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy,” but his emphasis was on the “nothing more,” in order to differentiate the president from the British king, whose authority extended to both making and declaring war. There was no implication that the president was anything other than a civilian, albeit one with the profound and sacred duty of exercising ultimate command authority over the nation’s military forces. Of note, the Constitution only uses the term “commander in chief” once, but presidents constantly refer to themselves as such. A foreign observer of our political system, with no prior knowledge of American constitutional traditions, could be forgiven for mistaking the modern presidency for an exalted military rank. The Defense Department quadrennial election-year public affairs guidance — which states that candidates cannot “engage in any political campaign or election activity” on military installations, then explicitly exempts the president, vice president and House speaker from such prohibition — no doubt adds to this impression. It also probably increases the incumbents’ re-election prospects. Whether it’s landing on an aircraft carrier in a flight suit or tipping off a televised basketball game in the same venue, presidents want to be seen with the military — and to be seen as one of the military. Presidential flight jackets with embroidered names ensure that the military motif persists during periods of transportation and relaxation. Do our chief executives really have trouble getting recognized without a name tag? Evidently, we’ve come a long way since 1862, when President Abraham Lincoln wore a formal suit and top hat while dressing down Gen. George McClellan at Antietam for his failure to aggressively pursue the enemy. Meeting with top Union officers, Lincoln quite literally stood out and above — nearly a foot taller and in civilian garb. This significant moment (and famed picture) would have somehow been less poignant had the president been flaunting a quasi-military coat embroidered with, “Abe Lincoln, Commander-in-Chief.” As it was, the president’s authority spoke for itself. In some respects, the current environment may simply reflect the old adage that those who have seen war are the ones who hate it the most. A decade before becoming defense secretary, Robert Gates wrote, “The biggest doves in Washington wear uniforms.” In “From the Shadows,” he noted the ambivalence of the Pentagon brass about invading Grenada in 1983: “Our military leaders have seen too many half-baked ideas for the use of military force advanced in the Situation Room by hairy-chested civilians who have never seen combat or fired a gun in anger.” Indeed, arguably our most dovish president since World War II was the five-star supreme commander Eisenhower, who ended one war (Korea), avoided another (Vietnam), opposed military action in the Suez, and then warned us about the dangers of the “military-industrial complex” on his way out of office. The eminent political scientist Jean Edward Smith’s new biography, “Eisenhower in War and Peace,” is an instructive reminder that President Eisenhower’s war aversion — whatever its merits or defects — was at the very least a matter of principle rather than passivity. In keeping with this theme, it is noteworthy that the uniform Eisenhower chose to be buried in omitted most of his medals. One of the most decorated soldiers in American history, he apparently declined to thump his own chest even at the close of his life. Yet perhaps it should come as no surprise that presidents are enamored by the armed forces. The military’s performance, especially when it comes to special operations forces, has the power to make presidents look very good or very bad — even though the outcome of specific missions, let alone larger campaigns, are generally much more attributable to training, intelligence, the vagaries of warfare, and just plain luck than any guidance emanating from 1600 Pennsylvania Avenue. The death knell of President Jimmy Carter’s re-election prospects may very well have been a haboob over eastern Iran, whereas Lincoln’s political future (and maybe the nation’s) in 1864 had more to do with the fall of Atlanta than a stirring stump speech. Over the past three-plus decades in particular, the military has been a reliable and spectacular asset for incumbents seeking to project power and control. Whether killing terrorists, rescuing hostages, toppling dictators or stopping genocide, it has, by any measure, been an incredible run — accruing largely to the benefit of the world, the nation, the military itself, and yes, to that exclusive club of (so far) guys sporting the good hair and wearing the embroidered flight jackets.

#### Since the creation of the constitution, time has created a historical gloss which favors a presidential authority basis.

Dunlap 2015, Charles J. Dunlap, Jr., 10-14-2015, "Drones versus their Critics: A Victory for President Obama’s War Powers Legacy?," Charles J. Dunlap Jr., the former deputy judge advocate general of the United States Air Force, joined the Duke Law faculty in July 2010 where he is a professor of the practice of law and Executive Director of the Center on Law, Ethics and National Security. <http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy> (BFI WL)

It is beyond the scope of this brief essay to fully explicate this issue, but it might be observed that the drone program’s origination in the Bush Administration’s “Article II”-centric rationale, coupled with the Obama Administration’s increasingly tenuous AUMF/legislative-centric rationale (and [occasional overt reference to Article II authority](http://www.defenseone.com/politics/2015/09/obama-legal-argument-fight-syrian-troops/122138/)), has over time produced something a historical “gloss” favoring an intrinsic Presidential authority basis. Consider this: In [discussing the possible domestic legal bases](https://www.lawfareblog.com/what-domestic-law-basis-us-airstrikes-supporting-amisom-somalia) for U.S. air and drone strikes supporting the African Union Mission to Somalia (AMISOM) last July, Professor Bobby Chesney noted the difficulty of fitting a legal rationale within the existing [2001 AUMF](http://www.gpo.gov/fdsys/pkg/PLAW-107publ40/pdf/PLAW-107publ40.pdf). He further acknowledged the shift by the Obama Administration towards an Article II rationale by pointing out “how broadly the Obama administration construed its independent Article II authority to direct airstrikes (even if not boots-on-the-ground) in Iraq during the first few months of airstrikes against ISIL.”

### Neg Cards

#### Drones aren’t an abuse of war powers, American’s believe in protecting themselves, the use of drones is just an extension of the citizenry.

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Drone operations must be understood in the context of the fact that today – as has been the case during most of the post-9/11 era - Americans consider terrorism to be the top foreign policy issue, and of even more importance, “[9 in 10 Americans say the U.S. should use military force to protect itself from terrorist attacks](http://bigstory.ap.org/article/c5ae3831905c464eabab303ce48b8115/ap-norc-poll-terror-tops-americans-foreign-policy-concerns).” Given that the use of drones has been principally in the counterterrorism mode, it can be credibly asserted that the President’s program is consonant with the broader security expectations of the citizenry. This cannot help to enhance his de facto War Powers authority, especially since drones seem to be effective.

#### Drones have been extremely effective and helpful as it restricts terrorisms movement making it hard to train, recruit, and do other activities which benefit the organizations.

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Regarding effectiveness, an illustrative (albeit not only) analysis is Jennifer Williams’ March [article](https://www.foreignaffairs.com/articles/2015-03-25/bureaucracy-terror) in Foreign Affairs. In it she reports that a newly-released trove of documents from Osama bin Laden’s lair “paint a picture of [al Qaeda as] an organization crippled by the U.S. drone campaign.” Moreover, Williams concludes that the evidence supports “[the argument that U.S. President Barack Obama and other proponents of the drone program have made](http://www.nytimes.com/2013/05/24/us/politics/transcript-of-obamas-speech-on-drone-policy.html?pagewanted=all) that the strikes are effective and that the U.S. drone program is heavily constrained.” Significantly, she notes the critically important psychological impact of drones on terrorists: Because drone strikes have been effective and because the United States targets them carefully, al Qaeda operatives have taken to restricting their own movement, staying inside, and avoiding gathering in large groups—all activities that are fairly integral to running a successful terrorist organization. It’s not easy to train legions of recruits on how to fire RPGs, build bombs, and shoot guns with any accuracy when you have to stay inside the house and can’t have more than five people gathered together at one time. (Emphasis added.)

#### Use of drones is popular and supported among the public. – It doesn’t harm U.S image abroad

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To be sure, controversy about drone effectiveness [remains](http://www.usnews.com/opinion/blogs/world-report/2015/05/13/drone-strikes-are-legally-justified-in-fight-against-al-qaida), but there is a growing consensus among experts that [they are a useful tool](https://esoc.princeton.edu/files/impact-us-drone-strikes-terrorism-pakistan-and-afghanistan), even if unpopular in some quarters, and notwithstanding that few believe they are the complete solution to terrorism and other security issues. Furthermore, the absence of another “9/11” event doesn’t seem to be lost on the public and US governmental officials. This may be why, as the New York Times [reported in April](http://www.nytimes.com/2015/04/26/us/politics/deep-support-in-washington-for-cias-drone-missions.html), that even after the deaths of the hostages in January, support remains “deep” for drone operations not only within the Administration itself but on Capitol Hill as well. Even progressives like Senator [Bernie Sanders has said he would continue the drone program](http://thinkprogress.org/world/2015/08/31/3697175/bernie-sanders-wouldnt-end-obamas-drone-program-promises-to-use-it-very-selectively/). Of course, U.S. public opinion and Congressional support are not the only relevant factors in assessing Obama’s War Powers’ drone legacy. For example, Professor Ashley Deeks recently [analyzed](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2637617) the influence of foreign state and non-state actors on U.S. security policy. While as will be explained below, it does look as if that the Administration modified its approach to drone operations at least in part to accommodate the views of foreign allies (among others), that effort appears to have had limited success. However, global disapproval seems to have little strategic consequence. Consider the Pew Research Center’s 2014 [survey](http://www.pewglobal.org/2014/07/14/global-opposition-to-u-s-surveillance-and-drones-but-limited-harm-to-americas-image/) that found that while the US’s drone (and surveillance) program was unpopular in the vast majority of nations, there is nevertheless “little evidence this opposition has severely harmed America’s overall image” – in fact, 65% still had a “favorable” view of the U.S. Thus, at least with respect to drone operations as they are currently conducted, it is unlikely that overseas opposition will necessarily limit the President’s exercise of War Powers.

#### AT: Drone actions are illegal. – Drone actions are not illegal, they are expected in the developing age to be a part of military policy.

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Steven Preston, the former CIA General Counsel and recently retired as the DoD General Counsel, contended in an [April 2015 presentation](https://fas.org/sgp/news/2015/04/041015-preston.pdf) that one result of a “series of speeches” by various governmental officials was that: You no longer find, in the popular press or in professional discourse, the same routine references to the U.S. Government’s counterterrorism operations as being “illegal.” Not that the Administration has persuaded everyone or will ever satisfy all of its critics. But the lawfulness of our government’s efforts to counter foreign terrorist threats is now better understood, and more widely accepted, at home and abroad. Of course, the domestic legal authority for drone strikes would be central to any analysis of the President’s War Powers legacy viz-a-viz drones.

#### Most activists about the “bad effects” of drones are misinformed.

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There are many reasons that drone critics have not gained the traction in the U.S. that they seemed to have enjoyed overseas. In part, this may be the result of a larger problem that many lawyers, academics and others suffer: an [insufficient understanding of the technologies of war](http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=6061&context=faculty_scholarship) as well as the methodologies and strategies for their use. For example, with respect to drones, [Amnesty International’s highly critical 2013 report](http://www.amnestyusa.org/research/reports/will-i-be-next-us-drone-strikes-in-pakistan) was seriously discredited by David Axe in an article (“[Dear Amnesty International, Do You Even Know How Drones Work?](http://www.amnestyusa.org/research/reports/will-i-be-next-us-drone-strikes-in-pakistan)”) that emphasized the technical inaccuracies and even impossibilities about drone operations that Amnesty’s allegations reflected. Axe’s article is important not, per se, because of whatever circulation it received, but because it much represents what knowledgeable decision-makers think when they read Amnesty ill-informed attack on drone use. Joshua Faust did a [similarly critical review](http://www.defenseone.com/threats/2013/10/how-human-rights-groups-misinterpret-drone-strikes/72593/) of Human Rights Watch’s (HRW) 2013 [report](http://www.hrw.org/sites/default/files/reports/yemen1013_ForUpload_1.pdf) about Yemen that it entitled - misleadingly - “Between a Drone and Al-Qaeda.” What is misleading? Consider this: the report addresses six incidents where a total of 57 civilians were allegedly killed, but 41 of those civilian deaths were the result of a 2009 cruise missile attack, not a drone. Evidently, HRW could not grasp the essential differences between the two weapons’ systems, and why drones are typically a vastly better option than cruise missiles or even Special Forces in counterterrorism situations. Faust also points out something else that often undermines critics among knowledgeable decision-makers: HRW, he says, “asserts [that] individual targets, while part of AQAP, are not militarily important enough to warrant a strike” adding the profoundly important insight “[y]et they hardly have access to the same intelligence that guides U.S. targeteers.” In short, well-versed leaders within the Administration, the armed forces, the intelligence community, and Congress are likely aware of the factual errors of many of the critics’ complaints, and that has made them less susceptible to anti-drone arguments that might have otherwise operated to limit the President’s political ability to use the systems.

#### We should be skeptical of claims by anti-drones activists, due to the lack of details within their reporting.

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An oft-raised criticism of drone operations that is also foundering is the supposed lack of transparency. In a real way, this argument suggests an element of cognitive dissonance. For example, HRW, Amnesty International (as well as a more recent report by the [Open Justice Society](https://www.opensocietyfoundations.org/reports/death-drone)) all admit to concealing the identity – allegedly for security reasons - of “many” of the people who the organizations claim witness drone strikes (or their aftermath), making it virtually impossible to verify the allegations or even determine if the witnesses actually exist. The irony is, of course, that “security” is precisely the same reason government puts forth for limiting transparency about drone strikes. Insofar as Americans are concerned, the body politic does not appears to be too concerned about “transparency” complaints. The US public seems to instinctively appreciate the need to secrecy in national security matters. This may explain why a [majority of Americans](https://www.washingtonpost.com/world/national-security/new-poll-finds-majority-of-americans-believe-torture-justified-after-911-attacks/2014/12/16/f6ee1208-847c-11e4-9534-f79a23c40e6c_story.html) thought that the December 2014 release of the previously-classified Senate report on torture would hurt U.S. national security.

#### As time goes on the rates of civilian casualties have virtually disappeared.

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If you look at long-term data from Pakistan, you’ll see a clear trend. Since 2012, drone strikes have [declined](http://securitydata.newamerica.net/drones/pakistan/analysis.html" \t "_blank). But civilian fatalities, at a [far more acute rate](http://www.longwarjournal.org/pakistan-strikes" \t "_blank), [have](http://www.thebureauinvestigates.com/2013/01/03/obama-2013-pakistan-drone-strikes/" \t "_blank) [virtually](http://www.thebureauinvestigates.com/2014/06/11/obama-2014-pakistan-drone-strikes/" \t "_blank) [disappeared](http://www.thebureauinvestigates.com/2015/01/05/obama-2015-pakistan-drone-strikes/" \t "_blank). A year ago, BIJ [reported](http://www.thebureauinvestigates.com/2014/05/23/most-us-drone-strikes-in-pakistan-attack-houses/" \t "_blank), “In the past 18 months, reports of civilian casualties in attacks on any targets have almost completely vanished … despite a rise in the proportion of strikes that hit houses.” To be sure, civilian casualties are hardly definitive or only criteria that might evidence a lack of adherence to “international legal principles,” but they are often used to suggest the same because of their potential emotional impact, even if they are, in fact, legally justifiable. There are, however, some additional problems with a strategy intended to erode support for drone operations based on inferences of illegality if not outright claims of the same.

#### Equating militarism and patriarchy is paradoxically violent due to its dualistic thinking meaning that the aff perpetuates the problems that it is attempting to solve.

hooks 95 [bell, English professor and senior lecturer in Ethnic Studies at the University of Southern California “Feminism and Militarism: A Comment” *Women's Studies Quarterly*, Vol. 23, No. 3/4, Rethinking Women's Peace Studies (Fall - Winter, 1995), pp. 58-64] (BFI WL)

By equaling militarism and patriarchy, these feminists often structure their arguments in such a way as to suggest that to be male is synonymous with strength, aggression, and the will to dominate and do violence to others and that to be female is synonymous with weakness, passivity, and the will to nourish and affirm the lives of others. While these may be stereotypical norms that many people live out, such dualistic thinking is dangerous; it is a basic ideological component of the logic that informs and promotes domination in Western society. Even when inverted and employed for a meaningful purpose, like nuclear disarmament, it is nevertheless risky, for it reinforces the cultural basis of sexism and other forms of group oppression, suggesting as it does that women and men are inherently different in some fixed and absolute way. It implies that women by virtue of our sex have played no crucial role in supporting and upholding imperialism (and the militarism that serves to maintain imperialist rule) or other systems of domination. Often the women who make such assertions arc white. Black women are very likely to feel strongly that white women have been quite violent and militaristic in their support and maintenance of racism.

#### The American populace supports the use of drones

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It is quite noteworthy that support of drone strikes among Americans soars as educational levels rise. Specifically, [the May 2015 Pew survey](http://www.people-press.org/2015/05/28/public-continues-to-back-u-s-drone-attacks/) shows that among those with a high school degree or less, only 49% approved of drone strikes (with 42% disapproving). However, among those with a college degree or more, a whopping 67% approved, with just 27% disapproving. This plausibly suggests that education about the actualities of drone operations is an effective counter to many critics’ contentions. There is another, perhaps even more important problem with an anti-drone strategy that depends upon showing a lack of adherence to “international legal principles.” [The Pew survey](http://www.people-press.org/2015/05/28/public-continues-to-back-u-s-drone-attacks/) also found that “despite ongoing concerns that drone attacks endanger lives of innocent civilians” only 29% of Americans were “very concerned” about whether the strikes were conducted legally. It is hard, frankly, to fully interpret this statistic as it is not clear whether people are indifferent to legality, or are simply satisfied that those conducting the strikes are doing so lawfully. To the extent that the drone strikes are conducted by the U.S. armed forces (or are perceived to be) the poll results as to legality may be a reflection of the public’s confidence in the military itself. In Gallup’s annual poll of confidence in institutions ([June 2015](http://www.gallup.com/poll/1597/confidence-institutions.aspx)), the military was – as has been the case for several years – the institution in American society in which the public had the most confidence, far exceeding even such entities as organized religion and the Supreme Court, not to mention Congress and the Presidency itself. It appears that for its part the Administration is satisfied that it has successfully made its legal case.

#### The president and the military go hand in hand and are constantly intertwined.

Maj. Charles G. Kels 12 “The militarization of the presidency: The danger of conflating military and civilian values,” <http://www.armedforcesjournal.com/2012/06/9381480/>

THE MILITARISM OF THE UNMILITARIZED But a funny thing happened on our way to a civilian utopia of peace-loving leaders: The fewer military bona fides our politicians possess, the more militaristic their bearing and vocabulary have seemingly become. This is particularly true of the presidency, which increasingly appears enveloped in a military aura that bears little relation to our founding documents or principles. True, Alexander Hamilton wrote in Federalist No. 69 that the president’s war powers “amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy,” but his emphasis was on the “nothing more,” in order to differentiate the president from the British king, whose authority extended to both making and declaring war. 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Whether it’s landing on an aircraft carrier in a flight suit or tipping off a televised basketball game in the same venue, presidents want to be seen with the military — and to be seen as one of the military. Presidential flight jackets with embroidered names ensure that the military motif persists during periods of transportation and relaxation. Do our chief executives really have trouble getting recognized without a name tag? Evidently, we’ve come a long way since 1862, when President Abraham Lincoln wore a formal suit and top hat while dressing down Gen. George McClellan at Antietam for his failure to aggressively pursue the enemy. Meeting with top Union officers, Lincoln quite literally stood out and above — nearly a foot taller and in civilian garb. This significant moment (and famed picture) would have somehow been less poignant had the president been flaunting a quasi-military coat embroidered with, “Abe Lincoln, Commander-in-Chief.” As it was, the president’s authority spoke for itself. In some respects, the current environment may simply reflect the old adage that those who have seen war are the ones who hate it the most. A decade before becoming defense secretary, Robert Gates wrote, “The biggest doves in Washington wear uniforms.” In “From the Shadows,” he noted the ambivalence of the Pentagon brass about invading Grenada in 1983: “Our military leaders have seen too many half-baked ideas for the use of military force advanced in the Situation Room by hairy-chested civilians who have never seen combat or fired a gun in anger.” Indeed, arguably our most dovish president since World War II was the five-star supreme commander Eisenhower, who ended one war (Korea), avoided another (Vietnam), opposed military action in the Suez, and then warned us about the dangers of the “military-industrial complex” on his way out of office. The eminent political scientist Jean Edward Smith’s new biography, “Eisenhower in War and Peace,” is an instructive reminder that President Eisenhower’s war aversion — whatever its merits or defects — was at the very least a matter of principle rather than passivity. In keeping with this theme, it is noteworthy that the uniform Eisenhower chose to be buried in omitted most of his medals. One of the most decorated soldiers in American history, he apparently declined to thump his own chest even at the close of his life. Yet perhaps it should come as no surprise that presidents are enamored by the armed forces. The military’s performance, especially when it comes to special operations forces, has the power to make presidents look very good or very bad — even though the outcome of specific missions, let alone larger campaigns, are generally much more attributable to training, intelligence, the vagaries of warfare, and just plain luck than any guidance emanating from 1600 Pennsylvania Avenue. The death knell of President Jimmy Carter’s re-election prospects may very well have been a haboob over eastern Iran, whereas Lincoln’s political future (and maybe the nation’s) in 1864 had more to do with the fall of Atlanta than a stirring stump speech. Over the past three-plus decades in particular, the military has been a reliable and spectacular asset for incumbents seeking to project power and control. Whether killing terrorists, rescuing hostages, toppling dictators or stopping genocide, it has, by any measure, been an incredible run — accruing largely to the benefit of the world, the nation, the military itself, and yes, to that exclusive club of (so far) guys sporting the good hair and wearing the embroidered flight jackets.

#### Since the creation of the constitution, time has created a historical gloss which favors a presidential authority basis.

Dunlap 2015, Charles J. Dunlap, Jr., 10-14-2015, "Drones versus their Critics: A Victory for President Obama’s War Powers Legacy?," Charles J. Dunlap Jr., the former deputy judge advocate general of the United States Air Force, joined the Duke Law faculty in July 2010 where he is a professor of the practice of law and Executive Director of the Center on Law, Ethics and National Security. <http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy> (BFI WL)

It is beyond the scope of this brief essay to fully explicate this issue, but it might be observed that the drone program’s origination in the Bush Administration’s “Article II”-centric rationale, coupled with the Obama Administration’s increasingly tenuous AUMF/legislative-centric rationale (and [occasional overt reference to Article II authority](http://www.defenseone.com/politics/2015/09/obama-legal-argument-fight-syrian-troops/122138/)), has over time produced something a historical “gloss” favoring an intrinsic Presidential authority basis. Consider this: In [discussing the possible domestic legal bases](https://www.lawfareblog.com/what-domestic-law-basis-us-airstrikes-supporting-amisom-somalia) for U.S. air and drone strikes supporting the African Union Mission to Somalia (AMISOM) last July, Professor Bobby Chesney noted the difficulty of fitting a legal rationale within the existing [2001 AUMF](http://www.gpo.gov/fdsys/pkg/PLAW-107publ40/pdf/PLAW-107publ40.pdf). He further acknowledged the shift by the Obama Administration towards an Article II rationale by pointing out “how broadly the Obama administration construed its independent Article II authority to direct airstrikes (even if not boots-on-the-ground) in Iraq during the first few months of airstrikes against ISIL.”

#### Citizenry accepts Obama’s use of war powers, and drones involve a type of warfare which is nothing new historically.

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Remarkably, the citizenry seems to accept any reasonably conceivable legal basis, be it either an aggressive construct of Article II power, or from tenuous statutory authority. There is, however, a major caveat: Public support might evaporate if there was documented – and credible - evidence of ineffectiveness and/or, significant evidence of excessive and unwarranted civilian casualties. The real lesson as to War Powers that could be drawn from the drone program might be that Americans are very pragmatic as to how a President exercises his War Powers, that is, they are less concerned about the technical legal basis as they are about success against authentic threats. Moreover, Americans are largely unmoved by foreign disapproval – even from allies – where they perceive the Nation’s security to be threatened. Finally, critics would do well to avoid the sometimes neo-Luddite flavor of their objections to military force employing drone technology. The fundamental idea of using technology to substitute for sending young soldiers in harm’s way [fits squarely with America’s nation-of-tinkerers’ culture](http://scholarship.law.duke.edu/faculty_scholarship/2522/), and has much basis in U.S. military history. Furthermore, on a very basic level – and contrary to the assumption of many – the notion of attempting to strike an adversary at a range beyond his ability to bring his weapons to bear is hardly new in the history of warfare. David killed Goliath with a missile weapon launched from afar; English long-bowman destroyed the flower of French knighthood at Agincourt with ground-launched air weapons; and the US savaged Saddam Hussein’s armored formations much because the main guns of American tanks [outranged those of the Iraqis](https://www.washingtonpost.com/world/national-security/new-poll-finds-majority-of-americans-believe-torture-justified-after-911-attacks/2014/12/16/f6ee1208-847c-11e4-9534-f79a23c40e6c_story.html) by 1,000 meters. More provocatively, it is also worth observing historian Ian Morris’ recent analysis of 10,000 years of conflict that he believes shows – quite counterintuitively to this writer – that [“[w]ar has not only made us safer, but richer, too.”](https://www.washingtonpost.com/opinions/in-the-long-run-wars-make-us-safer-and-richer/2014/04/25/a4207660-c965-11e3-a75e-463587891b57_story.html) While Morris focuses on the societal organization that armed conflict induces (and the many societal benefits that such human organization generates) it also might be reasonably suggested that the advance of warfighting technology has paralleled the 10,000 years during which he says the rates of violent death have declined very significantly. In any event, it appears to this writer that criticism of the drone program is still extant but fading in the face of growing international acceptance.[[iii]](http://smallwarsjournal.com/jrnl/art/drones-versus-their-critics-a-victory-for-president-obama%E2%80%99s-war-powers-legacy" \l "_edn3" \o ") Recently, for example, the United Kingdom killed several of its own citizens in its first drone strike, it is claimed, “[outside a formal conflict](http://www.theguardian.com/uk-news/2015/sep/07/uk-forces-airstrike-killed-isis-briton-reyaad-khan-syria).” An even harsher verity is found in a 2014 Defense One [report](http://www.defenseone.com/technology/2014/05/every-country-will-have-armed-drones-within-ten-years/83878/) which asserts that: Virtually every country on Earth will be able to build or acquire drones capable of firing missiles within the next ten years. Armed aerial drones will be used for targeted killings, terrorism and the government suppression of civil unrest. What’s worse, say experts, it’s too late for the United States to do anything about it. Those concerned with the appropriateness of the exercise of Presidential War Powers may find it prudent not to focus upon a particular technological expression of that power – vulnerable as doing so is to factual and technical analysis for which they may not be especially well-equipped to convincingly perform – but rather on the wisdom of larger purpose for which force is being used in the first place. Critics prepared to offer palatable options would also likely find an interested audience. In the absence of reasonable alternatives, drones can quickly become the [best choice](http://www.dallasnews.com/opinion/latest-columns/20130206-michael-w.-lewis-why-drone-strikes-are-the-best-option.ece) when the facts indicate a need for force. Accordingly, the War Powers legacy emerging from Obama’s drone operations may be that a President will nearly always enjoy broad support – almost irregardless of the particular legal basis offered - when force is used to confront what Americans perceive as an authentic and serious threat, particularly when the force seems to be effective and is used in such a way as to minimize the risk to young Americans serving in uniform for whom the U.S. citizenry evinces such great affection and respect.