Combat Drones and International Order: An English School Approach

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ABSTRACT

The purpose of this work is to examine the effect of the use of combat drones for the practice of targeted killing on international order. The understanding of these effects is critical for if the use of combat drones for targeted killing undermines critical institutions of international society, which serves as the basis for international order, then the international order itself would be undermined. It is a qualitative study of drones and their effect on select primary institutions found within the theoretical framework of the English School (ES) of International Relations. The institutions used in this work are sovereignty, territoriality, international law, great power management, and war. This work builds its case on open source primary and secondary documents from the UN and news outlets to gauge the effect and reaction of states to the use of drones over the last 15 years. It found that drones and targeted killing have indeed had a detrimental effect on the institutions of sovereignty, territoriality, and international law. However, drones have also met positive approval by great power management and have helped change the nature of the institution of war.

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Chapter 1: Introduction

The purpose of this work is to examine the possible effects of the use of combat drones for the practice of targeted killing on international order. In doing so, it will utilize on the theoretical framework of the English School (ES) of International Relations. Why is this important? If the use of combat drones for targeted killing undermines critical institutions of international society, which serves as the basis for international order, then the international order itself would be undermined. Technological advancement is expected. This technology is not inherently good or bad, that judgment must be reserved for the user. Nuclear technology has given both the bomb and ways to keep the lights on. The drone is no different.

Targeted killing is defined by Jason Fisher in his work *Targeted Killing, Norms and International Law* as "the intentional slaying of a specific alleged terrorist or group of alleged terrorists undertaken with explicit governmental approval when they cannot be arrested using reasonable means." This is the working definition provided by the Israeli government, who also is one of the world's major proponents and first users for targeted killing (Fisher n.d., 714-715).

A drone is the common moniker for an Unmanned Aerial vehicle (UAV). They are aircraft that can fly without an onboard human pilot and have systems of varying sophistication to allow for autonomous operation. However, there is little consistency in the use of the term drone. Ulrike Franke's review *On "drones and US Strategy: Costs and Benefits"* found that the term drone is often undefined and overused. Her review of several of articles including Jacqueline Hazelton's *Drones: What Are They Good For* and Alan Dowd's *Drone Wars: Risks and Warnings* provide evidence to this fact. The term drone is nebulous and refers to a fleet of different vehicles with different capabilities. The term is equally correct for the *Black Hornet,* a

small recon drone weighing less than a pound, the missile armed MQ-9 *Reaper*, and the massive

fourteen-ton reconnaissance drone *Global Hawk* (Franke 2013, 119-120). Drones have now even

made their way into the civilian markets allowing individuals with the necessary income to

purchase and fly them. Large-scale businesses including Amazon have flirted with the idea of

using drones for shipping. All of these vehicles are classified as drones but all have drastically

different abilities and implications for the political landscape.

One subsection of the rising drone fleet is the Unmanned Combat Aerial Vehicle

(UCAV). These are unmanned vehicles capable of delivering a weapon to a target. Combat

drones have become useful to military forces as a means of supporting troops on the ground with

information and as close air support. However, its ability to shorten the time between discovery

of a target and elimination of that target has made it attractive for the first-user states of the

United States (US) and Israel to use them for the policy of targeted killing. Specifically for

dealing with threats of non-state actors whose span crosses state borders and are difficult to

combat traditionally. This very usage however threatens the functioning of international order by

ignoring long established global institutions for self-defense.

Drone use has and will only increase in the coming years and America's use of drones

clearly contrasts many accepted norms. The search for security has led the US to adopt policies

that if they do not cross the line come very close to pre-emptive attacks. They also have become

the first to adopt publically a form of political assassination. President Ford's Executive Order

12333 banned the use of assassination in the US during peacetime but left the option open during

wartime (Ford 1981). This does not mean that states never attempt assassinations but that they are

a dark secret and are not supposed to become publicly known or commonly used (W. Thomas

2000). What is unique now is the United States willingness to bring assassination into the public eye in large numbers with targeted killing.

Acceptance of any new norm such as the use of targeted killing is partially determined by its coherence with other current norms (Fisher n.d.). The long-standing norms against assassination have most likely weakened because of the increased capability of combat drones. Prior to the 21st century, to kill an enemy required the presence of an individual on the ground or in the air to "pull the trigger." Following the end of the Vietnam War, America as a state has lost much of its stomach for accepting casualties for political gain. Both wars in Afghanistan and Iraq lost much of their popularity as their lengths dragged on and casualties mounted. The drone became a way to limit American casualties in conflicts while still remaining involved. Combat drones may enter, loiter, and destroy a target all without risking servicemen to enemy fire. If the drone is destroyed, the only thing lost is its monetary cost. This has made it an attractive choice in America especially for the Obama administration who inherited the lengthy and politically unpopular Afghan and Iraq wars. This coupled with America's fear for security created by the events of 9/11 and fostered by the Bush administration has created an environment that quickly eroded Americans' anti-assassination views against possible threats.

This study utilizes primary and secondary resources on both English School institutions and combat drones as its resources for qualitative analysis. The theoretical resources used for this study is found in English School literature drawing predominately from Hedley Bull, KJ Holsti, and Barry Buzan. Research on targeted killing and combat drones comes from primary sources from the United Nations and United States Governmental sources as well as secondary resources in the form of articles from scholars and news sources on targeted killing and combat drones.

This study uses the institutions of English School's international society as its framework to examine the effect of targeted killing through drones on international relations. While ES provides a plethora of institutions to use this work focuses mostly on the classic institutions determined by early ES author Hedley Bull. These institutions are international law, great power management, and war. The remaining institutions utilized in this work are territoriality and sovereignty as provided by ES scholars Holsti and Buzan.

The methodology of determining evidence was a thorough examination news sources and from reports and articles streaming to and from the United Nations (UN). The UN as a large global organization in which dialogue occurs from all recognized states made it invaluable as a forum to determine the position of other nations on the policy of use of drones and targeted killing. When examining reports for research the first criterion was to determine if the topic dealt with one of the desired institutions of international relations. If it did then checked next was if it predominantly discussed or mentioned drones, targeted killing it dealt with comparable issues. These were all examined and codified by if they defended or discouraged the use policy of targeted killing as well as their reasoning for their stances. This allowed a determination of which institutions if any were affected by the use of drones for targeted killing.

It is expected that some of these institutions will indeed be undermined by the current use of combat drones. This has implications on the international playing field and states must decide if these institutions are important enough to protect or if new norms should arise to takeover these old institutions. Other institutions may interestingly be strengthened by current practices. In such a case, those institutions have been proven durable and coincide with the establishing international norms. Lastly, an institution or institutions may simply be neutral and not effected

all by the usage of drones. Those institutions are null in this examination and perhaps new institutions need to be examined in their place.

Chapter 2: Order in World Politics

Much of the work of International Relations (IR) focuses on the understanding of order among states and people where order is the pattern of activities that sustains the primary goals of the society of states. For order to exist three criteria are needed 1) the society is free from continual violence, 2) agreements between actors are kept, 3) possession of things is reasonably stable (Bull 1977, 4-9). While many theoretical frameworks exist that study order this body of work will rely on the framework of English School Theory (ES) formulated from the work of Hedley Bull and Martin Wight. ES theory utilizes a triad of three central traditions, the international system, the international society, and the world society to explain the functioning of order in world politics. These traditions should not be considered standalone ideas but are instead degrees of thickness of interaction between actors in the international order and will often flow and ebb seamlessly between each other. Thus, the International system is not solely realist and world society us not solely cosmopolitan. Systems and societies should be considered gradations along a line of possible state interactions (Dunne and Little 2014). The differences between these terms continue to be a point of contention within IR but for the purpose here, systems have thinner connections than societies. A system is a level of interactions between two or more states that require the activities and actions of the other to be calculated against one's own (Bull 1977, 9-10). A society exists when a group of states agrees to bind themselves to certain norms and rules and share in the working of common institutions because there is a common interest within the society to maintain such arrangements (Bull 1977, 12; Bull 1984, 1).

English School Triad

The international system or Machiavellian concept studies order through power politics and is based on an anarchic society, rational thinking and materialism. The international system approach is most similar with realism and neorealism. States invest their policies on power maximizing, balance of power, and security seeking. The system is anarchic because of no higher authority exists that can lay down the law on the states. States act as they wish until checked by another state. This framework of thought has remained common in American politics throughout its relations within the world order. We will see that the United States dependence on short-term security seeking found in the international system may have long-term effects on the international society.

International society or Grotian approach examines the "state-system, interstates society, or society of states (Buzan 2014, 12)." In the broader field of IR, international society most closely resembles regime and constructivist theories. It is as Barry Buzan succinctly writes "the institutionalization of mutual interest and identity among states and puts the creation and maintenance of shared norms, rules, and institutions at the center of IR theory." Within international society, states recognize that they will interact with each other on a long-term basis. Therefore, there is need for some form of social contract amongst these states. International society creates norms and rules that mold and are molded by the states within the society. States with commonality may enjoy better understanding and relations with each other but all states still work within the anarchic environment provided by the international system. Norm creation and adherence found in international society has become a core tenant of international organizations including the European Union (EU) and United Nations (UN). International Society provided new avenues of cooperation between states beyond the tradition of international system.

The final tradition is Kantian world society. Bull defines world society as "a sense of common interests and common values on the basis of which common rules and institutions may be built (Williams 2014, 130; Bull 1977, 279)." World Society focuses on transcendence from the state identity to more cosmopolitan ideals of global identities and arrangements. This tradition does not rest within the ontology of the state but also does not rest entirely with the individual. While previously considered the weakest of the traditions, world society has received renewed interest and study from Buzan in his work *From International to World Society*? (Buzan 2014, 12-15; Buzan 2004).

English School is also divided amongst pluralist and solidarists thinkers although it is predominantly a pluralist theory due its centering of state interactions. Certainly, Bull's direction of thought is pluralist with his focus on the interactions of the states. His examination of international order followed a functional approach where the underpinnings for order were that it minimizes harm, observes agreements and stabilizes possession (Schouenborg 2014, 80-81; Bull 1977, 95-194). Holsti's *Taming the Sovereigns: institutional change in international politics* also rests within the classic Pluralists field. He used a procedural method to define eight primary institutions and detail the historical origins of each institution (Holsti 2004).

English School theory embraces the realist premise that states operate in an anarchic environment. However, these states typically interact peacefully with each other with few wars between themselves. Certainly the fear conjured from the phrase "anarchic environment" of a continual environment of war of all against all does not occur. Hegemonic powers may rise and fall within select sectors of the state system such as the military or economic industries. However, no single state may hold complete domination over all others. Westphalian states interact in either systems of cooperation or societies of agreements depending on the timeframe

examined. This international order is maintained using norms that form the foundations for cooperation.

These norms can be considered standards of behavior. However, because the term norm is so overused and undistinguished Barry Buzan attempted to tackle the issue of "what is a norm" in his book *From International to World Society*. He favors Krasner's definition that "principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations, Rules are specific prescriptions or proscriptions for actions(Krasner 1983; Buzan 2004, 163)." He suggests that the main distinction used between these definitions becomes the level of formality. Similarly, JK Holsti's definition concludes a norm is the rules and etiquette that describe how an actor should behave (Holsti 2004, 22). If a norm is a "standard of behavior" then there are acceptable or unacceptable behaviors. Working within the acceptable standard of behavior legitimizes the actor in the eyes of others while working outside it delegitimizes them. Deviation from acceptable norms does not necessarily incur formal consequences. Instead, norms work by constraining behavior through peer pressure. In the next chapter we will examine the major institutions that form the foundations of global order and international relations. These institutions act as guides creating a recognizable and workable environment that the states may practice their politics.

Chapter 3: Maintenance of Order in World Politics

The British Committee, precursors to English School, focused on the question of how order is established and maintained in world politics. Their work over the forms and means of international order carried through with ES scholars including Hedley Bull, Barry Buzan, James Mayall and Kalevi Holsti (Bull 1977; Buzan 2004; Holsti 2004). Central to the functioning of norms was the creation of primary institutions. Within ES theory, primary institutions are thick social constructs used in the functioning of international order. Wight defines an institution as,

> "...recognized and established usages governing the relations between individuals or groups...an enduring complex integrated organized behavior pattern through which social control is exerted and by means of which the fundamental social desires or needs are met (m. Wight 2002, 140-141). "

An institution is a recognizable and changeable pattern within whose boundary a state operates. They transcend what most consider being an international "institution" such as the United Nations or European Union. These are instead secondary institutions (Schouenborg 2014, 77-78). Secondary institutions are organizations with bureaucratic structures that serve specific purposes (Buzan 2014, 17). Whereas primary institutions are composed of deep-rooted concepts that guide state actor's decision-making secondary institutions are brick and mortar organizations that monitor and support those concepts.

Laust Schouenborg has organized primary institutions into three dominant perspectives. They are functional, historical/descriptive, and typological. Now, which specific concepts deserve to be primary institutions is often up for debate within the English School. Various authors have determined wholly different concepts to be primary institutions. Buzan discusses many of these variations in his scholarly works (Buzan 2014; Buzan 2004). Regardless of what concepts are considered primary institutions they are all built around the modern concept of the

national state (Buzan 2014, 99-112). *From International to World Society* provides a detailed examination of primary and derivative institutions. Buzan defines the primary institution as "relatively fundamental and durable practices, that are evolved more than designed; and that they are constitutive of actors and their patterns of legitimate activity in relation to each other (Buzan 2004, 167)." This definition is his attempt to conflate the various concepts of primary institutions between the authors because of a lack of internal definitions and meanings provided by those authors. This base definition can be expanded to include non-state actors and recognizes that institutions are neither permanent nor fixed and will change and adapt to the current environment (Buzan 2004, 181-182). Coinciding with primary institutions and adding further complexity to the concepts are derivative institutions. Derivatives are institutions that while important are lower in the hierarchy than those master institutions that can stand-alone. For example, Alliances are a derivative institution of great power management (Buzan 2004, 232-233). Alliances while not primary institutions are critical for the coordination of balance of power in Europe. Another example is that sovereignty stands as a master institution and non-intervention, which is dependent of sovereignty's existence, is a derivative institution (Buzan 2004, 187). Unfortunately, even here authors differ with each other over which institutions are master and which is derivative. For Buzan, inequality of people is a master institution and colonialism is derivative while for K.J. Holsti there is no inequality of people and colonialism is master. Furthermore, Wight considered alliances a primary institution while later scholars consider it a derivative (M. Wight 1978).

Primary institutions as bases of International Order

a) Sovereignty/Territoriality as a Primary Institution

Core to the evolution of the Westphalian state was the acceptance of states' sovereignty. Sovereignty is a primary institution due to three major facts it 1) defines actors of international politics and endows them with legal status, 2) defines the territory that a state controls and thus what it does not control, 3) defines the relations between actors in that they have no right to command other sovereigns and their interactions are based on consent (Holsti 2004, 113-117). Bull defined "sovereignty as a basic rule of coexistence within the state system (Bull 1977, 35)." For states to interact they must recognize independence between themselves. This did not happen all at once but was a slow evolution of understanding between first royals then later states (Bull 1977, 31). A state's sovereignty does not exist because of individual claim. It must be recognized by the body of other sovereigns within the state society to be legitimate. Holsti probed deep into the rise of sovereignty as an institution. He defines the institution as foundational. It is critical to the birth, maintenance, and death of the state. A legitimate state will have independence from an external authority and these states may be independent but not necessarily equal. Sovereignty allows the state supreme authority within its defined borders determined by territoriality to be discussed further along. The act of being sovereign allows the state to interact with other sovereign states, joins into treaties, appoint ambassadors, and go to war. It is also constrained by the norms of the international society.

Working in conjunction with sovereignty is the primary institution of territoriality. Whereas sovereignty defines the power to do something in a space, territoriality is the recognition of what is that space. Central to territoriality is the border. Barry Buzan borrows

from John Ruggie in stating that territoriality came into play with the rise of nationalism and colonialism (Buzan 2014, 101; Ruggie 1986). As sovereignty shifted from the realm of the dynastic monarchs to popular sovereignty, new ways of defining spaces were needed. Land has value in the form of resources, cities, and as barter in state negotiations. Exploration found new land for monarchs to claim. This new world was soon carved up between European governments further requiring the need for clear borders that invested parties could agree on. Holsti, while claiming a earlier formation than Ruggie, further supports the rise of territoriality with the coinciding improvements of cartography and surveying techniques that finally allowed a ruler to demarcate where their land ends and their neighbors began. Prior to those improvements a ruler's power came from the city centers and diffused the further out it expanded (Holsti 2004, 78-82). A French king or Italian duke may have held total sway in the capital but outside in the surrounding farms and woods who was the master became much more vague. The institution of territoriality is the agreement of borders between the centers of power. Without this determination diplomatic communication and understanding of power relations becomes much murkier. The state must know where their power ends and another begins or risk interfering in other's sovereignty and affairs. This could lead to souring of relations or out and out war if unchecked. It also provides a benchmark for the power and prestige of the state. Early states displayed their prestige through the size and numbers of colonies they owned and traded these territories between each other through war or negotiation. All this became possible in a practical nature due to the institution of territoriality.

b) International Law as Primary Institution

International law is the linchpin for the functioning of international order and international society. Territoriality and sovereignty allowed states the ability to interact with each

other as equals but international law was needed to create the playbook from which these actors operate. Within international law reside the norms, rules, etiquettes and guides for international order (Holsti 2004, 143-145). Because of its focus on norms ES theorists hold greater connections to international law than any other school of IR thought (Buzan 2014, 102-103).

Originally, international law existed only as loose agreements of norms between princes and kings. Early forms of international law had no sense of equality between players. Europeans while generally regarded each other of the same class as equals did not extend this view to non-Christians in the east and vice-versa. Nor did they view anyone from a lower status as equal to themselves (Holsti 2004, 154-155).

As Europe evolved into nations of laws, the needs of trade, state interactions, and technology increased and forced international law to evolve with them. These laws became firmer and more encompassing (Holsti 2004, 155-157). Its presence further expanded with the creation of durable secondary institutions. The creation of the UN saw a decrease in the validity of war as an initial means of diplomacy and international advancement. Therefore, the use of war to increase territory and wealth became obsolete and the institution consequently fell to the wayside. The creation of large secondary institutions and fewer acceptable means of coercion have forced states to adhere to International law as their primary means of operation within world order. Interestingly the greater cosmopolitanism found within growing western states and within the UN as a secondary institution have meant that ideals such as equality and human rights have become more dispersed amongst the international society. Today, citizens typically regard each other with more equality than in previous centuries. International law has become a greater equalizing force in the international society. It has allowed states to who are unequal in

power enjoy a sense of security and protection for itself and its citizens thanks to the evolution of laws and norms that were put in place.

c) Great Powers Management as Primary Institution

Helping to maintain world order is the institution of great power management. Great power management exists as an assurance to the protection of world order. Certain criteria are needed for great powers to exist; 1) an environment with multiple states of comparable status, 2) these states must be strong military forces, 3) these states must be recognized to have special privileges and roles in maintaining international order (Bull 1977, 194-197). Within great power management, states work to ensure that no single state can overpower the others and thus degrade world order. Each great power must take into account that what they do affects the balance of power among the other great powers and that they will respond to that change (Bull 1977, 108-111). Therefore, great powers first goal is the maintenance of relations between each other (Bull 1977, 201). Great powers through their influence often set the interests of the international society. To this end, Holsti placed great power management as a form of "legalized hegemony" in which each power has a managerial role in the international order (Buzan 2014, 103-104; Holsti 1991, 114-137).

An early example of great power management is the Concert of Europe. This series of state interactions and alliances insured stability in Europe through balance of power until World War I. The great powers vied for protection through the form of alliances against other great powers. This created a situation where powers remained relatively equal to each other and forced leaders to watch and respond to changes that occurred in that balance of power.

Nuclear deterrence provides an example of how great powers affect the international playbook. The former Soviet Union (USSR) and United States both adopted nuclear weapons as a form of deterrence. The success of deterrence as a policy led to England, France, China, and Israel to create their own nuclear weapons and adopt similar policies as the US and USSR. The US and USSR chose to utilize a policy of escalation through to Mutually Assured Destruction (MAD). France and England in turn adopted policies of limited nuclear weapons. France's Minimum Deterrence Posture and England's Moscow Criteria focused on having enough weapons that, while they cannot obliterate a state outright, they will do so much damage that the cost of an attack outweigh the benefits (Royal United Services Institute 2011, 15-16,30-31). China and others have since developed their own policies of nuclear deterrence.

The Cold War also provided examples of great power management when it comes to limiting behavior. The technological achievement of the nuclear weapon forced the USSR and the US to examine their doctrines and interactions. They learned to temper their actions because of danger of reciprocity on the other side (Franck and Weisband 1972, 129). Sagan and Waltz showed conflicts prior to the nuclear weapon often had low costs for leaders and so states were eager to go to war. The introduction nuclear weapons changed that. Now the danger of escalation and MAD means that states examine all options very carefully to avoid a nuclear exchange (Sagan and Waltz 2013, 7). The old acceptance of norms of war has eroded because of the possible cost of new wars.

The most current iteration of great power management is the UN Security Council. These five permanent members dominate global security decision making and maintain a veto vote against policies that they do not approve. This insures that only policies that the five can agree on are passed thus their interests are maintained.

d) War as a Primary Institution

One of the world's oldest institutions is war. Bull defines war as organized violence between political units. The function of war comes from three perspectives, "1) that of the individual state, 2) that of the system of states, 3) and that of the society of states." For the state, war is an instrument of policy to obtain a desired objective. For the international system, war is a determinant of the shape of that system. It chooses which states exist, rise and fall. For the international society, war is a "manifestation of disorder in international society" as well as a policy and determinant of the shape of international society (Bull 1977, 180-181). Holsti work in *Taming the Sovereigns* examines war's historical change from conflict often between peoples where the goal was often the subjugation or destruction others they deemed lesser. Facets of institutionalization have always existed within war but Holsti places a major change occurring with the professionalization of king's forces during the 18th century. Institutionalized war is steeped with formal traditions and practices that helped cement its legitimacy as a form of international relations within Europe. Some of these etiquettes have molded into protections like the Geneva Convention that have become the backbone of modern human rights (Holsti 2004, 275-282).

Prior to and through World War 1 (WWI) war was an accepted practice with many legitimate reasons for use (Buzan 2014, 150-151). After World War 2 (WWII) and with the rise of the nuclear age, ES scholars hold that war as legitimate institution has drastically declined. International Society limited "just" war to three reasons, 1) enforcement of international law, 2) preservation of the balance of power, 3) fulfilling a positive outcome (Bull 1977, 181-183). Improvement of technology had opened the effects of war to large portions of the population whereas previous conflicts soldiers received the brunt of the conflicts horrors. Even before

dropping the atomic bomb on Hiroshima, American air raids where becoming capable of producing civilian causalities well over 100,000 (Holsti 1991, 290). Including nuclear weapons now meant that a "just" war would wipe out humanity as easily as an unjust war (Bull 1977, 182).

War's decline as an institution was also determined by changes of the causes of war. Prior to WWI the majority of conflicts focused on state interests. After WWII, the majority of wars are civil wars involving long seated hatreds, revenge or secession. These factors increase the passions of the conflict and reducing the effect of the norms set by earlier institutionalized wars (Holsti 2004, 290-293). In post-World War 2 era the number of state vs. state conflicts has dramatically shrunk. However, in its place new conflicts between states and militias or other non-state groups have appeared in greater numbers. These conflicts often focus around civilian populations and cities to the point that in these new wars civilians represent 90% of war's casualties (Holsti 2004, 285).

Chapter 4: Targeted Killing, Combat Drones and World Order

The goal of this work is to show the threat of the use drones and targeted killing on the careful choreography of international order through the degradation of international society and its institutions. The United States following the September 11, 2001 attacks on the World Trade Center and Pentagon began military operations against the non-state actor Al Qaida. This effort was justified under the order PL 107-40 and reaffirmed in the US Department of Justice White Paper (Congress; Department of Justice). Passing of PL 107-40 the Authorization for use of Military Force allowed the American president,

> "To use all necessary and appropriated force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist's attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States (Congress 2001)."

While the military began conventional operations in Afghanistan, American leaders also began seeking methods to deal with the danger of other non-state actors. The United States became significantly more aggressive in its defense of the American border and its people. This resulted in a series of conventional wars in Afghanistan then extended to Iraq and now greatly expanded into military operations across the globe in search of dangerous non-state actors and organizations.

The threat of terrorism has increased over the last twenty years. To fight this new threat the US adopted the Israeli policy of targeted killing. Overt operation against military targets in Iraq and Afghanistan were supplemented with selective targeting and elimination of high-level insurgent and terrorist leaders using combat drones. As such, the drone has become the popular face of the policy of targeted killing. The first credibly reported CIA drone attack occurred

November 3, 2002 in Yemen, killing Qaed Senyan al-harithi, a man who was believed to be responsible for the October 12, 2000 USS Cole bombing (Human Rights Council 2010, 7-8). Since then the US has used drones to eliminate targets in Afghanistan, Yemen, Pakistan, Iraq, Somalia, and many others. Like Israel, the US has justified its use of force as a form of self-defense because it is in armed conflict with these non-state actors and hosting states are unable or unwilling to bring these targets to justice (Department of Justice 2011).

Drones and Primary Institutions

The coupling of drones and targeted killing runs the risk of having a detrimental effect on the primary institutions that support international order. Current international relations are built upon the legitimacy and functioning of these institutions. Without it, relations become so muddy they become unusable. Territoriality and sovereignty are critical for state function. Without a border, where exactly does France end and Belgium begin? How can a state issue laws and enforce them if they are unsure where their space ends? How are taxes within borders and trade and tariff regulations between states established without known borders? Citizens' within these borders must be aware of who provides their laws, protections, punishments, etc. This power cannot be shared by neighbors due to the confusion it causes over adjudication of grievances and protection of life, and property from vandals or other states. Thus, sovereignty must remain bound with the state. It is because of these issues that sovereignty and territoriality are so relevant to world order. This is why even large overarching organizations like the UN have placed such emphasis on the protection of state borders and retaining state sovereignty within those borders. In the growing quest for state security, targeted killing is undermining these core institutions by the willful entering of other states borders with the goal of eliminating their citizens.

US efforts to protect its borders has led to the invasion of others in violation of their sovereignty and territory. The combat drone has allowed the state to track and fight non-state actors without the endangerment of soldiers' lives. This in turn as adjusted the norm of imminence and lowered the threshold of violence. However, what has this policy done to international relations? Is it acceptable for a state to invade the sovereign territory of another and kill one of its citizens because they represent a possible security threat to the attacker? Many states would likely consider that reprehensible at best or an act of war at worst. The citizens of those states no longer have the safety of their homelands sovereignty to protect them from the threat of other states. Under the modern understanding of the state roles, citizens should be protected under the umbrellas of state sovereignty, International Human Rights law and the Geneva Convention but targeted killing threaten to undermine these institutions.

Targeted killing for the United States was a "knee jerk" reaction to the threat on international terrorism. Israel adopted it earlier because of the belief that their neighbors did not care to police terrorists within their own lands who threatened the Israel and so took the matter into their own hands. America seeing terrorist hotspots in the world's poorest failed states made the same choice. However, where Israel has essentially remained confined to the Middle East, America has brought targeted killing to the entire world. Upon universal adoption among world players, targeted killing will create an environment in which the very bedrock institutions that these states need to operate are undermined.

Modern terrorism is a new issue for international society. Terrorists rarely play by the international rules followed by states and has proved difficult to combat traditionally precisely because they do not follow normal practices (W. Thomas 2000, 127). Non-state actors have no capital city to occupy, no economic system to blockade, and no formal population to apply

pressure to in order to force a settlement. The increase of the non-state actors coincided with the weakening of the institution of war after World War II. These new forms of wars share few of practices of earlier conflicts. The new conflicts have blurred lines between combatants and neutrals. Uniforms no longer denote combatants and actors often spread across multiple state borders as havens from attack, for funding, or both. Even the lines between peace and war have blended to the point that they are difficult to distinguish. States are no longer involved in high intensity official "just" wars but often are bogged down in continual low intensity conflicts. States rarely have a valid targets to "declare war" against and so often opt to begin military operations against general targets such as piracy or terrorists who have threatened their security after a specific incident (Holsti 2004, 285-290). This is an environment where the international community has struggled and failed to create a unified front against terrorism. Therefore, the US and others have taken their own stance against the threat in the form of targeted killing.

While war's use has lessened since the end of WWII due to changes from new technologies the creation of pressure valves like the UN, and changes in the dynamics of international politics its norms have remained relevant. War is state vs. state politics through violence. Its goal is always to punish state governments not its citizens. That said citizens and soldiers do suffer during war but their suffering should not be the goal of the warring states. Because of this distinction, conventions and agreements between states were created to punish war crimes and provide protection to civilians. Targeted killing undermines these agreements through actively seeking and killing citizens of other states because of their affiliation or possible affiliation to a non-state actor. War specifically outlines rules of engagement against uniformed and civilian threats. Uniformed soldiers are freer for targeting because they represent the enemy political structure. Civilians as bystanders are protected from direct targeting unless they are

actively engaged in fighting (Fisher n.d., 721-723). Targeted killing through drone strikes does not focus on terrorists actively fighting on the front lines but attacks them in their homes and living spaces. It can be hard to justify that these people are active threats at the time of their deaths. Targeted killing undermines agreements such as the fourth Geneva Convention, which protects civilians from direct threat from foreign governments (Geneva Convention 1949).

Chapter 5: Drones effect on Territoriality and Sovereignty

The most glaring effect of the use of drones for targeted killing has been the threat to state sovereignty and territoriality. Western (though primarily American) drones have been operating for years over the borders of weaker powers and failed states eliminating non-state actors that have been deemed a threat to national security. It now is becoming a question of how state sovereignty should be viewed in respect to these threats. Does the non-state actor's lack of borders allow states to violate the borders of others to protect themselves or does the sanctity of sovereignty still have resonance in current world order?

February of 2015, nearly 80 state speakers met to discuss sovereignty's role in international order as a "wall or shield." Ban Ki-Moon opening expressed a view of a changing sovereignty in order to facilitate the protection of human rights. He concluded, "Sovereignty remains a bedrock of international order. But in today's world, the less sovereignty is viewed as a wall or shield; the better our prospects will be for protecting people and solving our shared problems (United Nations 2015, 3)." This meeting's goal was to clarify the purpose of sovereignty in the current world order. Ki-Moon supports a willingness for nations to intervene in the affairs of another state. However, that option is only available if approved as necessary by the Security Council.

The responses from the floor to this position were quite varied and interesting. The US with its interest in defending its borders from outside terrorists believes that the council should robustly act when needed to combat terrorism. US representative Samantha Powers saying "The council must play its role in maintaining peace robustly and act when necessary, she stressed, citing the situation that the situation within Syria (United Nations 2015, 6)." Russia and China

despite their global interests took the view that state sovereignty is critical and states must be protected from regime changes. China declared "justice, not hegemony, must reign; no country was entitled to violate the sovereignty of others." Russia who spoke next declared, "Unfortunately, numerous violations of equal sovereignty of states and other attempts to dominate had arisen on the order of the invasion of Iraq (United Nations 2015, 4)." Smaller states have shown great concern over external intervention within state affairs. India declared, "that the Council's invocation of Charter principles appeared selective, suiting the national interests of powerful states that were permanent Council members (United Nations 2015, 10)" Nigeria, Venezuela, Lithuania, Chile, and others all brought to focus concerns that sovereignty of small powers are threatened by action by bigger powers. Chile declaring, "The Charter represented the 'spinal column' of the legal and political values of the international system. There was no room for selectivity in the observance of its foundational principles, even when confronting new realities (United Nations 2015, 8)." Ukraine, Slovenia, and Poland all cited Russia's incursion into Ukrainian territory as breach of sovereignty while Zimbabwe provided a more general sentiment for strong sovereignty (United Nations 2015). Uruguay meanwhile condemned,

> "the Charter remained fundamental for international relations, particularly the principles of sovereign equality and non-interference. However, the goals of peace and security described in the charter had not been achieved and violations of its principles were rife (United Nations 2015, 20-21)."

The "western" states predominantly in Western Europe, North America, and Australia all favor greater levels of UN action or acceptance of action to protect global human rights and world order. America stating, "the council must play its role... and act when necessary." The United Kingdom believing "the world must utilize all tools such as peacekeeping" while Australia called

that "the Islamic State in Iraq and ISIS brutality and claims to territory were urgent security challenge that must be confronted." Their primary examples of this need come from the continued conflicts in Syria and the Ukraine (United Nations 2015, 4-7,9,13). Medium and large non-western powers including China, Russia and India show concerns of powerful western states using Human rights and international order to encroach into what they perceive as their spheres of influence and possibly to attempt to effect regime changes within their own states. Therefore, they have an interest in maintaining a stricter interpretation of sovereignty. Smaller states further still worry about the allowing more opportunity from either eastern or western powers to intrude into their territories under the guise of human rights or world order. America's operations in Iraq, Yemen, Somalia, and Pakistan, Israel's operations in the west bank, Gaza strip, and Syria, France's renewed interests in Africa, and Russia's assistance in Syria and the Ukraine perhaps add credibility to their concerns.

To address some of the concerns of American drone usage the US created a task force on US drone policy led by Rachel Stohl and co-chaired by the venerable Gen. John Abizaid and legal expert Rosa Brooks. This task force goal was to determine validity of concerns over US drone usage and provide recommendations (Stohl 2015). The results of their work mirror many of the concerns in this thesis. Within the realm of sovereignty, the American task force conceded that the current practices of use of drones may indeed be eroding the institution of sovereignty stating,

> "...In the case of Pakistan, for instance, both parliament and the courts have declared US UAV strikes unlawful violations of Pakistan sovereignty, a sentiment that has been echoed by some executive branch representatives (Stohl 2015, 29)."

Examining the cases of American targeted killing abroad hopes to prove this point.

The best place to start is Pakistan because of the large numbers of drone operations that have occurred over its borders. In 2013, Pakistani Prime Minister Muhammad Sharif spoke to the UN general assembly calling,

> "Mr. President, The war against terrorism must be waged within the framework of international law. The use of armed drones in the border areas of Pakistan is a continued violation of our territorial integrity. It results in casualties of innocent civilians and is detrimental to our resolve and efforts to eliminate extremism and terrorism from Pakistan. I have urged the United States to cease these strikes, so that we could avert further casualties and suffering (Sharif 2013)."

The same year of Prime Minister Sharif's speech, UN Special Repporteur Ben Emmerson paid a visit to Pakistan. His trip was at the request of several states including Pakistan, Russia, and China (Charbonneau 2013). The goal of this trip was to examine the effects of drone use on the Pakistani population. During his tour, Emmerson communicated with the Pakistani ministries of defence, foreign affairs and human rights. These departments stated to Emmerson that their position on the American military operations in Pakistani territory is that they are counter-productive, contrary to international law and a violation of Pakistan's sovereignty and territoriality and thus should stop. They reported to Emmerson that Pakistan has suffered over 40,000 deaths and 70 billion dollars in damage from terrorism and the efforts to combat it within their borders. Of these at least 2,200 deaths have occurred due to drone strikes (Charbonneau 2013; United Nations 2013). Pakistan considers,

> "that its own democratically elected civilian Government, aided by its law enforcement agencies and military forces, are best placed to judge how to achieve a lasting peace in the region, and that interference by other States in this process has been, and continues to be, counter-productive to those efforts (UN 2013)."

To this end, they have sent repeated *notes verbales* since 2010 to the US embassy protesting the continued US strikes within their sovereign territory. They have also passed a series of resolution

within both legislative houses calling for the end of drone strikes. The last resolution, *Guidelines for Revised Terms of Engagement with the USA/NATO/ISAF and General Foreign Policy* passed unanimously specifically calls for recognition that relations depend on mutual respect of territoriality and sovereignty of states (United Nations 2013). Mirroring the parliament is the Pakistani courts that have ruled foreign strikes illegal and requested the foreign ministry to introduce resolutions against it within the UN (El Dahan 2013).

Upon Emmerson return from Pakistan he reported that the Pakistani government,

> "does not consent to the use of drones by the United States on its territory and it considers this to be a violation of Pakistan's sovereignty and territorial integrity. As a matter of international law, the US drone campaign in Pakistan is therefore being conducted without the consent of the elected representatives of the people, or the legitimate Government of the State. It involves the use of force on the territory of another State without its consent and is therefore a violation of Pakistan's sovereignty…. (United Nations 2013)"

Emmerson concluded in his official report on the usage of drones against terrorism to the UN that American drone use in Pakistan is in fact a violation of the state's sovereignty. The Pakistani elected government is the legal determining party for international relations and their repeated requests to end American drone strikes trumps allowances by the Pakistani military to American drones into their territory (Emmerson 2013, 15). Therefore,

> "it is time for the international community to heed the concerns of Pakistan, and give the next democratically elected government of Pakistan the space, support and assistance it needs to deliver a lasting peace on its own territory without forcible military interference by other States (United Nations 2013)."

To be a breach of territoriality the state must not have provided prior to consent to the use of force on their territory. America has had tacit permission from the Pakistani military to utilize

drones over the borders of Pakistan likely due to the possible loss of aid that might occur if the government did not comply with the US's wishes. In Pakistan, Emmerson found that,

> "As regard to Pakistan, there is strong evidence to suggest that between June 2004 and June 2008 remotely piloted aircraft strikes in the Federally Administered Tribal Areas were conducted with the active consent and approval of senior members of the Pakistani military and intelligence service, and with at least the acquiescence and, in some instances, the active approval of senior government figures. On 12 April 2012, however, both houses of the parliament unanimously adopted guidelines for revised terms of engagement with the United States, NATO and ISAF and general foreign policy. In a resolution, the parliament, among other things, called for an immediate cessation of drone attacks inside the territorial borders of Pakistan; provided that neither the Government nor any of its component entities could lawfully enter into verbal agreements with any foreign Government or authority regarding national security; provided that any such agreements previously entered into should forthwith cease to have effect; and provided that any such agreements should, in the future, be subject to scrutiny by specified ministries and parliamentary bodies and then announced through a ministerial statement in the parliament (UN 2013, 15)."

Emmerson's work is echoed by The US task force on drone policy due to the issue of ambiguity in determining consent of the state. Who state,

> "In the case of Pakistan, for instance, both parliament and the courts have declared US UAV strikes unlawful violations of Pakistan sovereignty, a sentiment that has been echoed by some executive branch representatives, even as other Pakistani executive branch officials continue to offer intermittent cooperation with US strikes (Stohl 2015, 29) "

American response to Emmerson's initial report has been short. Their reaction was that they would not talk about classified data and that they are in counterterrorism communications with Pakistan and that will continue (Charbonneau 2013). There was no statement of stopping current counter-terror activities in Pakistan while they discuss proper methods of operation. The latest confirmed strike in Pakistan at the time of this work's writing was performed by the CIA on September 1, 2015 (Serle 2015).

Yemen is an interesting case in regards to targeted killing. The UN Special Repporteur Emmerson's 2013 report did not declare that America's use of drones as a violation of their sovereignty. America use of drones has been compliant to the requirements for Yemen sovereignty because each strike has been personally approved by the Yemeni president and the US government tabled desired strikes that were not approved (United Nations 2013). President Abd Rabbuh Mansur Hadi has said that America "helped with their drones because the Yemeni Air Force cannot carry out missions at night," and "The electronic brain's precision is unmatched by the human brain (Shane 2012)." That said allegations have been made that some of the strikes while fighting terrorists also reinforce the then current Yemeni government. To which American officials as gone on record to say "There were times when we were intentionally misled, presumably by Saleh (the former president), to get rid of people he wanted to get rid of (Miller 2012)." The connection between militants within the Yemen territory against the unpopular government and Al-Qaida provided opportunities for the Yemen and US governments to cooperate. This does not mean that the usage of drones over Yemen soil has been accepted or popular amongst its population. Tensions have continued to mount against the government and their western allies over unnecessary casualties caused by American drones (Abdullah 2010). In 2013, Yemeni parliament voted against continued use of drone attacks in Yemen. The state news agency SABA report parliament asking, "...to stop what drones are doing in Yemeni airspace, stressing the importance of preserving innocent civilian lives against any attack and maintaining Yemeni sovereignty."

The Thursday prior to the vote 15 people had been killed in an airstrike while on their way to a wedding. This vote however is symbolic and is nonbinding in regards to Yemeni international relations. The Yemeni Parliament does not have power to create legislation but only

act as recommendations to the president (El Dahan 2013). The Yemeni people do not approve of these strikes and the legitimacy of them against the sovereignty of the state is thin as it rests only with the embattled ruler. This tacit consent worries the American drone policy task force as it ambiguous nature undermines the legality of the operations (Stohl 2015, 29).

In 2015, Yemen's beleaguered politics have reintroduced the issue of drones in Yemen. January of this year President Mansour and his cabinet were forced to resign after coup of military and intelligence officials backed by the Houthi rebels (al-Mujahed and Naylor 2015). This lost the US its main ally and support for drone operations in Yemen. Washington was forced to make a choice to continue strikes now that they are a breach of Yemen sovereignty or halt operations within Yemen (Whitlock 2015). January 26 three days after the president's resignation a CIA drone killed three suspected Al-Qaida fighters in Yemen. Yemen has not filed complaint on this strike but it is clear that while the numbers of strikes in Yemen have diminished the program has continued (Cooper and El-Naggar 2015). The al-Qaida group AQAP operating in Yemen is technologically sophisticated and is considered Al-Qaida most dangerous arms by US intelligence (BBC 2015). The new leadership has so far not argued these strikes as they consolidate power and al-Qaida represents as much of a threat to the Houthis as they do the US. Because of popular resentment, it is expected that if they manage to solidify their control of the state demands for American noninterference will appear.

Of the states examined for this work Somalia was the most difficult to gather information on. Even the Special Rappatours have struggled over this issue. The Emmerson Report does not make a determination of the legitimacy of drone strikes in Somalia. The poor failed state has been under constant violence for decades with the inclusion of the Al Shabaab terror organization simply being the latest. The US engaged in strikes on terrorist's leadership within

Somalia from 2011-2012 (Emmerson 2013, 10). Other reports state that America has been involved in operations within Somalia as far back as 2007 however; they agree that the first drone strike was in 2011. Emmerson's report was written in 2013 and obviously does not report on events after that date. Drone strikes within Somalia have continued up through 2015 with the latest in July of that year (Bureau of Investigative Journalism 2015).

Somalia has not reported any statements against drone strikes within their territory to the UN at the time of this writing. However, Emmerson has question the legitimacy of 30 strikes that have occurred within the state between 2006-2013 (Ross 2014). This is likely because of the limited control the government has over its territory and the lack of stability within the state has taken precedence. The non-state actors including Al Shabaab and pirates operating within its border pose as great a threat to the ruling government as the US and western states (BBC 2015). Therefore, Somalia much as in Yemen has been silent over the drone strikes against their citizens due to a common enemy.

The use of combat drones is lowering the threshold of violence for operating states. If the UN or the prevailing great powers of the Security Council decide that their interests are at stake then they will intervene. This ignores the long-standing institution of sovereignty. President Bush made his interest clear on this matter in his 2004 State of the Union speech that the destruction of al-Qaida outranks the concerns of national borders and sovereignty. America would "face the regimes that hide and help terrorists and that could provide them nuclear weapons, chemical or biological (Bush 2004; Peron 2014, 84)." The results of this can be seen in Pakistan where the US has operated in the interest of its own national defense to strike individuals within Pakistan's border to preemptively stop possible attacks. It is seen again in Somalia where the fact of it being a failed state with limited government control has allowed roughshod treading over Somali

sovereignty. Drones initially avoided the sovereignty question in Yemen because of thin agreements with its former president. Now with his resignation and strikes continuing questions of the effect on Yemen sovereignty concerns have risen over US strikes legitimacy in that state. Britain's recent drone strike in Syria has driven new discourse in the UK especially with Prime Minister Cameron claim, "I will always be prepared to take that action and that's the case whether the threat is emanating from Libya, Syria or from anywhere else (A. Thomas 2015)."

Ultimately, the United States as the primary force driving the use of drones has received the brunt of the international ire on the topic. In February of 2014, the EU parliament voted 534 to 49 for a common resolution condemning American drone strikes over foreign soil. They state, "drone strikes outside a declared war by a State on the territory of another State without the consent of the latter or of the UN Security Council constitute a violation of international law and of the territorial integrity and sovereignty of that country (United Nations Human Rights n.d.)." This resolution has called for a banning of extrajudicial killings and binding member states to adhere to their legal obligations (Stohl 2015, 29).

Sovereignty provides a check from wanton attack from outside forces on the internal affairs of the state. That state is defined by is territorial borders. Policing and elimination of trans-border organizations is possible while maintaining the sovereignty of affected states. It is expected that drones will proliferate beyond the control of the few large predominantly western states currently using them. Think tanks believe that these states as they catch up through arms purchasing or local designs will mimic the behaviors of the first-user states. This is expected to create instability from these states falling down the same slippery slope of low threshold of violence as the US (Stohl 2015 31; Philippens 2013). Therefore, it can be said that the current

behavior of targeted killing through drones has clearly weakened the protections of sovereignty

for the state.

Chapter 6: Effect on International Law

Targeted killing is a center of controversy within the UN. The UN is concerned that American efforts for national security is undermining institutions of international law. October 25, 2013, Special Rapporteurs delegates met in their third committee to consider the use of drones as lethal technology. This debate included interactive speakers representing 39 states including the United States, United Kingdom, Russia, China, Iran, Germany, and Pakistan. Special Rapporteur Cristof Heyn declared, "global security requires that drones should follow the law" not "that the law should follow drones" and that while "drones are not illegal" the way they are used can be (United Nations 2013, 2). Special Rapporteur Alston stated "Whether or not a specific targeted killing is legal depends on the context in which it is conducted: whether in armed conflict, outside armed conflict, or in relation to the interstate use of force (Alston 2010, 9)." UN has been slow to legally define targeted killing for nor have they agreed on a placement into the legal international framework (Alston 2010, 7). The common element that the UN has been able to define on the policy is "that lethal force is intentionally and deliberately used, with a degree of pre-meditation against an individual or individuals specifically identified in advance by the perpetrator (Human Rights Council 2010)." International violence typically falls under two primary codes of international law. These codes of law are International Humanitarian law (IHL) and Human Rights Law (HRL). Proponents focus on core rulings under Humanitarian Law allowing its usage against belligerents against state security. They use support from cases such as nuclear weapons as precedents for support of targeted killing. However, Article 2(4) of the UN Charter that states,

> "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations"

urges all members to avoid use of force against each other with exception to preauthorization of the Security Council to restore order and self-defense until the Security Council may intervene (United Nations 1945). Thus far, the International court of Justice has never authorized a state to intervene by use of force against non-state actors in violation of another state's sovereignty (Peron 2014, 87).

The US has been very clear on their perspective of using drones for targeted killing. They claim that "We are at war with an organization that right now would kill as many Americans as they could if we did not stop them first. So this is a just war — a war waged proportionally, in last resort, and in self-defense (Stohl 2015, 19)" Domestically the US draws legitimacy of their strikes from PL 107-40. Internationally they derive legitimacy by

> "the law of self-defence entitles States to engage in non-consensual military operations on the territory of another State against armed groups that pose a direct and immediate threat of attack, even where those groups have no operational connection with their host State (Emmerson 2013, 16)."

They state that under the UN Article 51, which declares,

> "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security… "

permits the state the use of force against non-state actors (Alston 2010, 13; United Nations 1945). However, some parties argue that this is an improper reading of Article 51 and self-defense. This issue of self-defense and International law has created three central controversies; 1) the relation between self-defense and non-state actors, 2) the relation between self-defense and

IHL and HRL, 3) the acceptance of anticipatory self-defense (Alston 2010, 13-15). The International Association of Democratic Lawyers (IADL) states,

> "Self defense under Article 51 of the United Nations Charter is a narrow exception to the United Nations Charter provisions which prohibit countries from resorting to force or the threat of force in settling international disputes. It is defined as allowing individual or collective action only in the face of an armed attack. To the extent the United States claims the right to kill suspected terrorists or their allies before they act that right is circumscribed by the Caroline case strictures. While IADL does not oppose legal means to prevent further terrorist attacks, it is a dangerous precedent to allow any country, and in the case of the United States the Chief Executive to be judge jury and executioner of persons suspected of being in Al-Qaeda or the Taliban."

The US use of targeted killing is based on the declaration of a perpetual "war on terror" in order to claim all terrorists a threat to be killed as a form of self-defense. This has allowed the military complex to utilize force as the first step to resolution rather than the last. The Caroline case structures that the IADL back their conclusion establish that in a case of self-defense there must be an immediacy and overwhelming necessity leaving no other choice (International Association of Democratic Lawyers, the American Association of Jurists, and nongovernmental organizations in special consultative status 2012, 3). The US has persisted that Security Council Resolutions passage 1368, and 1373 (SCR 1368, SCR 1373) in regards to Al Qaida coupled with America's right to customary self-defense gives them the right to engage non-state actors who threaten their security (Human Rights Council 2010). SCR 1386 states,

> "*Determined* to combat by all means threats to international peace and security caused by terrorist acts, *Recognizing* the inherent right of individual or collective self-defence in accordance with the Charter," and also "*Expresses* its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations (United Nations Security Council 2001)."

SCR 1373 reaffirms,

> "that such acts, like any act of international terrorism, constitute a threat to international peace and security, *Reaffirming* the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001), *Reaffirming* the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts."

However, it also claims that states must, "work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism (United Nations Security Council 2001)."

Some US supporters and scholar's supports a form of "robust" self-defense in that "once the doctrine is invoked, no other legal frameworks or limiting principles-such as IHL- would apply to targeted killings." Proponents to this draw from Nuclear Weapons Advisory Opinion in which "the threat or use of nuclear weapons would generally' violate IHL" however the it cannot conclude that threat lawful or unlawful under the "extreme circumstances of self-defence in which the very survival of a state would be at stake (Alston 2010, 13-14)."

International Humanitarian law

International Humanitarian law has been the US primary argument in support of current drone practices. The US has determined that targeted killing falls within Just War theory, which forms the basis of IHL and states it fits within the needs of Proportionality and Distinction (Fisher n.d., 742-743). Traditionally under international law, The UN recognizes IHL as the "first responder" to dealing with armed conflict.

> "Both IHL and HRL apply in the context of armed conflict; whether a particular killing is legal is determined by the applicable *lex specialis*. To the extent that IHL does not provide a rule, or the rule is unclear and its meaning cannot be ascertained from the guidance offered by IHL principles, it is appropriate to draw guidance from human rights law."

These are the rules of IHL as a legal framework for how the conflicts are placed. IHl places conflict as armed conflict, outside armed conflict, interstate use of force, and rather the conflict is international or non-international. To be classified as international the conflict must be between two or more political states regardless of scale or duration (Alston 2010, 16). Non-international conflicts are broader in actors and so may include non-state actors. However, it has increased minimum criteria for invoking. The criteria for recognition of a non-international conflict are

1)"The non-state armed group must be identifiable as such, based on criteria that are objective and verifiable. This is necessary for IHL to apply meaningfully, and so that States may comply with their obligation to distinguish between lawful targets and civilians. The criteria include:

• Minimal level of organization of the group such that armed forces are able to identify an adversary (GC Art. 3; AP II).

• Capability of the group to apply the Geneva Conventions (i.e., adequate command structure, and separation of military and political command) (GCArt. 3; AP II).

• Engagement of the group in collective, armed, anti-government action (GC Art. 3).

• For a conflict involving a State, the State uses its regular military forces against the group (GC Art. 3).

• Admission of the conflict against the group to the agenda of the UN Security Council or the General Assembly (GC Art. 3).

2) There must be a minimal threshold of intensity and duration. The threshold of violence is higher than required for the existence of an international armed conflict.

To meet the minimum threshold, violence must be:

• "Beyond the level of intensity of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature" (AP II).

• "Protracted armed violence" among non-state armed groups or between a non-state armed group and a State;

• If an isolated incident, the incident itself should be of a high degree of intensity, with a high level of organization on the part of the non-state armed group;

3) The territorial confines can be:

• Restricted to the territory of a State and between the State's own armed forces and the non-state group (AP II); or

• A transnational conflict, i.e., one that crosses State borders (GC Art. 3). This does not mean, however, that there is no territorial nexus requirement (Alston 2010, 17)."

After determining if the conflict fits within either framework, it can be passed on to the next series of criteria. For a conflict to be placed under armed conflict must be pass one of the below criteria:

1) The conflict is an international armed conflict.

2) The conflict is a non-international armed conflict meeting the threshold of Common Article 3 to the Geneva Conventions.

3) The conflict is a non-international armed conflict meeting the threshold of both Common Article 3 to the Geneva Conventions and Additional Protocol II to the Geneva Conventions.

4) The level of violence does not rise to the level of an armed conflict, but is instead isolated and sporadic and human rights law determines the legality of the use of lethal force (Alston 2010, 16).

If the conflict can be placed under armed conflict, targeted killing may be considered legal only when the target is a combatant (Alston 2010, 10). As a basic ruling IHL has very strict requirements for the classification of combatants, which limits application to only active war fighters. The three requirements that must be met for direct targeting of civilians operating on behalf of non-state actors are:

 1) That there must be a threshold of harm that will cause loss of life of protected citizens or impact military operations or capacity.

2) The combatants act must be expected to harm directly and in a single step. Opposed too possibly in unspecified future operations.

3) The act must have a "belligerent nexus" specifically to support the military operation of one party to the detriment of another (Alston 2010).

The killing must be "militarily necessary, the use of force must be proportionate so that any military advantage is considered in light of the expected harm to civilians in the vicinity (Alston 2010, 9)." Those who specifically do not qualify for direct targeting under IHL are people who provide political advocacy, non-combatant aid (medical, food, shelter, etc), or financial support. IHL is also required to pass several tests determining international, non-international and threshold, and transparency requirements before the conflict is considered valid under the framework

If the conflict falls into the framework of "outside armed conflict" than IHL is not appropriate for guidance. Outside armed conflict fits closest to law enforcement and thus is under the purview of HRL. See HRL section.

The last possible framework for conflict in IHL is interstate conflict. Under UN Charter Article 2(4) states may not utilize force inside another states territory without express authorization of either the hosting state or the UN security example to insure international stability (Alston 2010, 11-12). In some states, Pakistan from 2006-2011 and Yemen 2011-2014 US was legitimized to apply force because of consent of the governments of those states. However, despite permission to operate within those state's borders the UN claims,

> "it does not absolve either of the concerned states from their obligations to abide by human rights law and IHL with respect to the use of lethal force against a specific person. The consenting State's responsibility to protect those on its territory from arbitrary deprivation of the right to life applies at all time (Alston 2010, 12)."

Traditionally, states have been unwilling recognize non-international armed conflict against non-state actors because of the fear of appearing weak or simply unwilling to legitimize the non-actor

in the eyes of other states. The US however "considers itself to be involved in a non-international armed conflict with Al-Qaida and associated forces (United Nations 2013, 18)." From their perspective, Al-Qaida meets the qualifications of organization to achieve non-state armed group and there is protracted armed violence in a transnational conflict. They have defined associated forces "as applying to an organized armed group that entered the fight alongside Al-Qaida and is a co-Belligerent with Al-Qaida in the sense that it engages in hostilities against the United States or its coalition partners (United Nations 2013, 19)." Their right to self-defense as provided by Article 51 and SCR 1368, 1373, the organizational sophistication of Al-Qaida as a non-state armed group, and the threshold of violence they achieved grants claims to enter into a legitimate non-international transnational armed conflict with Al-Qaida. Combat drones then are a legitimate weapon against combatants of the non-state armed group and thus the state is not required to comply with arrest or extradition requirements set up by HRL (Alston 2010, 16).

However, there are many questions to the legitimacy of placing the war on terror in the realm of IHL. Combating terrorism only fits into IHL under the framework of non-international armed conflict. This framework has many strict criteria that often targeted killing does not meet. First is the recognition to the claim of self-defense by the US. While the UN does not deny states the right to self-defense and the need to protect its people, it is a point of debate if Article 51 may be invoked for dealing with non-state actors. The International Court of Justice has held that states may not in fact invoke Article 51 in relation to non-state actors. Their reasoning being "sporadic, low intensity attacks do not rise to the level of armed attack that would permit the right to use extraterritorial force in self defense (Alston 2010, 13)" Self-defense is also invoked as a response to an attack. It becomes difficult to legitimize an anticipatory strike as self-defense without proof of immediacy of need. Under a strict reading of Article 51 self-defense may only

be invoked after an attack has taken place. However, customary practice accepts that use of force for self-defense is appropriate when a real and imminent threat occurs. The concept of "pre-emptive self defense" or use of force before the threat of imminence "is deeply contested and lacks support under international law (Alston 2010, 15)."

Also problematic is proof of non-state armed group. While Al-Qaida perhaps at one point qualified as an organization with common command structure, its current condition may no longer qualify. The US has lumped any force that claims association with Al-Qaida or its beliefs as a co-belligerent and thus equally free for engagement as Al-Qaida. However, few of those actors maintain the necessary criteria of integrated command structure or joint military operation to qualify as co-belligerents (Alston 2010, 18, United Nations 2013, 19).

If those states do achieve the status of non-state armed group and co-belligerent then they must achieve minimum threshold of violence. Al-Qaida's attack on US soil met that criteria. However, given the time that has elapsed since then and the relative infrequency of attacks against the US since it is becoming difficult to justify immediacy or intensity of hostilities for law of armed conflict (United Nations 2013).

Lastly, IHL provides very specific limitations as to who may be considered combatants and thus targeted for elimination. IHL states among state civilians only active fighters may be considered combatants. Civilians who provide support in manners other than active combat do not meet requirements as combatants and must be protected (Alston 2010, 19-20) (United Nations 2013, 20). Warfighters as military members of the armed group must fit the distinction lasting integration with the group. They must have been,

"recruited, trained and equipped by such a group continuously and directly participate in hostilities on its behalf; and individuals who have directly participated in hostitilities on repeated occasions in support of an organized armed group in circumstances indicating that their conduct reflects a continuous combat role rather than a spontaneous or sporadic or temporary role assumed for the duration of a particular operation (United Nations 2013, 20-21)."

If the warfighter meets these stringent criteria only then may they be legitimately targeted for elimination via combat drone. Cumulatively these tests make it difficult for the US to prove the validity of its drone strikes against non-state actors outside of Iraq and Afghanistan (Alston 2010, 19)

The Special Rapporteurs of the Human Rights Council, and extrajudicial, summary or arbitrary executions and supported by executives of the UN do not support the United States use of drones for targeted killing as adhering to the necessary qualifications of IHL. Individuals targeted for death for association with non-state actors often do not meet the strict criteria of immediacy of threat or combative role to qualify for elimination. Many targets for elimination do not qualify for direct attacks because of their roles in the organization. Finally, non-state actors such as al-Qaida affiliates and inspired terror groups often do not pass the tests for international conflict preventing the usage of IHL as a legitimizing framework for targeted killing at least with information provided by the US and other states (Alston 2010). Users claim that drones are more precise and allowing for more effective ways to deal with terrorists beyond traditional methods. While drones may provide a greater level of intelligence on a location, its operators often lack understanding of local customs and mar the effectiveness of this advantage leading to mistakes. This is dangerous as IHL is strict on when lethal force may be authorized and violations that end in death are considered war crimes (Alston 2010, 14).

International Human rights law

Traditionally, states have not considered engaging non-state actors as legitimate armed conflict. The typical understanding of the threat of non-state actors is these are isolated events of violence by domestic criminals. The reasons for this vary but typically it is fear of showing weakness or legitimizing the opposing force (Alston 2010, 15). Under UN norms IHL is the primary measure for armed conflict. If a conflict does not achieve threshold for armed conflict and falls under "outside armed conflict" then it is placed under HRL. While often considered the "law enforcement model" HRL spans governing of both police and military operations outside of armed conflict (Alston 2010, 10). Amnesty International, The UN commission on Human Rights, The UN secretary General, UN General Assembly, and several legal scholars place counter-terrorism in the realm of law enforcement (Fisher n.d.). Under HRL Targeted Killing is prohibited as a valid tactic of operation (Fisher n.d., 718; United Nations 2013, 17). This is because HRL as a law enforcement model is based on principles of due process. Fisher states "As such every individual should benefit from the presumption of innocence; persons suspected of perpetrating or planning terrorist attacks should be arrested, detained, and interrogated with due process of law... (Fisher n.d., 719)." International Covenant of Civil and Political Rights (ICCPR) protect life through article 6 stating, "Every human being has inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life (Fisher n.d.)"

Under Human Rights law, the main emphasis is capture for trial over the summary execution of criminals as utilized by targeted killing. Articles 4-14 of the UN Universal Declaration of Human Rights (UDHR) deal with the legal privileges provided for all world citizens. Specifically Article 6 recognizes everyone as a person before the law. Article 7 provides rights to protection from discrimination and equal protection before the law and most

importantly, Article 10 states everyone has the right to a fair trial (United Nations n.d.). ICCPR article 6 denies any summary execution of individuals (United Nations 1966). If under international law all people including terrorists maintain the right to fair trial then execution cannot be employed as a valid means of punishment for their actions. Non-state actors as criminals are required to at least attempt to be captured before they may be killed. The right to life and fair trial are central to the arguments of the IADL and Special Rapporteur Heyns and to a lesser degree from Special Rapporteur Alston (Alston 2010) (International Association of Democratic Lawyers, the American Association of Jurists, and nongovernmental organizations in special consultative status 2012). Heyns states that "the rule against the arbitrary deprivation of life was to be found in customary international law, in general principles of law and in human rights treaties recognize the right to life (United Nations 2013, 8)." Supporting Mr. Heyns's October report is a joint statement by the IADL, the American Association of Jurists, and nongovernmental organizations in special consultative status. The IADL has opposed the use of targeted killing for many years. In 2005 they filed amicus briefs to the Israeli Supreme Court against the its use emphasizing right to life, human rights law, and pre-meditated murder against a person not yet convicted of a crime (International Association of Democratic Lawyers, the American Association of Jurists, and nongovernmental organizations in special consultative status 2012).

In regards to the question rather states are bound to these treaties extraterritorially during self-defense against non-state actors Heyns states that,

> "since the right to life was recognized as part of international custom and general principles of law, 'the answer must be yes'... States should not be allowed to take life outside their own borders on a different basis from that upheld within them (United Nations 2013, 8)."

Heyns agrees that states are allowed to use force in self-defense against armed attacks. However it must be both necessary and proportionate. The anticipatory self-defense efforts found in targeted killing is a slippery slope and "anticipatory self-defence may be justified only against truly imminent threats." Any exercise of this right must be reported to the Security Council (United Nations 2013, 8). These events will then be examined on a case-by-case basis for their justification (United Nations 2013, 17-18). He warns,

> "...increased reliance on that technology would lead to reduced emphasis on peaceful ways to resolve disputes. Overreliance might also lead to long, drawn-out and low-intensity conflicts with geographical boundaries. International norms protecting the right to life would be significantly undermined if states around the world claimed and exercised the authority to 'Right wrongs' anywhere in the global as the perceived them to occur (United Nations 2013, 8)."

Under HRL life may be taken only if specific circumstances have taken place. "Life may not be deprived unless there is no other option available and the threat to other life is imminent (Alston 2010, 11; United Nations 2013, 8). The Human rights committee response to Israel's use of targeted killing was "before resorting to the use of deadly force, all measures to arrest a person suspected of being in the process of committing acts of terror must be exhausted (Blum and Heymann 2010, 10)." Because targeted killing is "shoot to kill" and is the premeditated killing of an individual it is a violation of HRL (Alston 2010, 11). The US as well as any other member of the UN and signatory of the Universal Declaration of Human Rights are bound by these international laws. Ignoring these laws or any other by a great power in order to achieve a state goal undermines the validity of these laws and the institutions that underpin them.

English School places the functioning of institutions as a central part of a healthy world order. International law is a foundational part of those institutions. The American program of targeted killing utilizing drones does appear to ignore or selectively determine which laws are in

play in order to achieve their desired goal of protecting national security through an active program of eliminating possibly threatening non-state actors. HRL despite appearing to closest to traditional methods of thought on non-state actors was not chosen by US legal advisors to be the framework for targeted killing. Clearly, it was not chosen because of the burden it creates dealing with non-state terror groups. The US must gain prior approval or be forced to depend on the host state to deal with the threat. Even more burdensome it forces the government to risk lives and resources on capturing individuals to put on trial. Therefore, they have tried to justify their methods through Just War theory based on IHL. However, to do this requires loose interpretation and willful ignorance of the requirements of IHL. Either way it shows willingness to cherry pick international laws to fit a desired purpose and defeat the spirit of the law. This behavior while acceptable in the realist's frameworks or within the power politics driven international system it has a detrimental effect to international society. If the United State willfully ignores the norms of international society, this sets precedent of the legitimacy of these norms. While one state alone may not drastically alter the world order, they can if powerful enough become norm entrepreneurs that will. The power of the US and its role as a first user of drones has already peaked interest in the other great powers about the use of drones and targeted killing as a form of active national security. This technique will spread in the manner that the US has utilized and will undermine the current rules of international law.

Chapter 7: Effect on Great Power Management and War

Effect on Great Power Management

Great Power Management is one institution where targeted killing appears to be finding a home. Great powers look to each other to determine their next moves in maintaining the established international order. The US because of its status as a political, military and economic power and as a member of the international society's great powers enjoys a central position in international society. As such, other states watch it for cues on how to interact in the global community (Fisher 737; Bull 199). The smaller states see how the current international order operates and other great powers determine how to respond to changes in the international system. Because states observe great powers to determine what norms are in play and adjust their attitudes accordingly then large states use of targeted killing as a method for security threaten many key primary institutions. This behavior will trickle down into use among smaller states increasing animosity, unrest and disrupt relations between those states. This is critical as currently 90 states are using drones of one form or another (Sayler 2015).

The US appears to be trying to become a norm entrepreneur for two new norms, the acceptance of targeted killing and new interpretation of imminence. The US borrowed from Israel the practice of targeted killing as a means of national security (Alston 2010, 5-8). They then took a step further by incorporating the drone and its infrastructure streamlining the process from intelligence gathering to elimination. The key issue for the usage of drone for targeted killing was the global acceptance of the norm of imminence. Imminence is the response to possibility of an attack on a state (Arend 2003, 90-91). Scholars Trenta and Schmidt have determined that imminence breaks down into four traditional rationales 1) Reactive, 2)

Interceptive, 3) Preemptive and 4) Preventive self-defense. These rationales are gradations of imminence where Reactive is after an attack and Preventive is to remove targets prior to them becoming actual threats. Traditionally only Reactive and Interceptive forms of imminence have been considered acceptable forms of state behavior as they are a response concurrent with or after the opposing violent act (Trenta and Schmidt n.d.). This traditional form of imminence is based on the Caroline structures that state that the, "necessity of that self-defense is instant, overwhelming, and leaving no choice of means, and no moment of deliberation." Therefore, John Brennan in 2011 suggested,

> "We are finding increasing recognition in the international community that a more flexible understanding of "imminence" may be appropriate when dealing with terrorist groups, in part because threats posed by non-state actors do not present themselves in the ways that evidenced imminence in more traditional conflicts (Brennan 2011)."

Prior to Brennan's 2011 speech the US administration as far back as 2002 had stated that the US,

> "must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries." It contends that "[t]he greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack (Arend 2003)."

Since the September 11 attacks, the US has attempted to relax the requirements of imminence. Improvements of technology in forms of weapons and surveillance have provided the ability to lower the threshold of violence below Interceptive. Therefore, America has pushed for the more flexible notion of imminence based on new criteria.

> 1. The inherent right to resort to military force even though no attack has occurred and without prior and explicit international authorization
>
> 2. No palpable and immediate threat has to exist
>
> 3. Window of opportunity to act
>
> 4. The harm that missing the window would cause

5. The likelihood of heading off alleged future disasters

This "Bush doctrine" became the basis of current American anti-terrorism policy, which includes targeted killing (Arend 2003, 96). To date the US has focused its strikes in states far smaller than itself who could never hope to retaliate in kind. They have never attempted this with a state of similar power such as performing a strike in a radicalized Algerian sector within France or radical mosque in Britain. If such an attack occurred the American, British or French military and political relations would definitely sour, if not fall apart and the alliances between them would collapse. This would alter the balance between the great powers and put a strain on the international order. Even greater ramifications could be imagined after a drone strike in Russia or China whose relations to the west are often tense.

The great powers so far have appeared to provide tacit approval of America's antiterrorism methods. The current rendition of great powers in world order are those states that make up the permanent UN Security Council. These are the United States, United Kingdom, France, China, and Russia. Among these great powers, the western allies of the US like France and the UK are already drone operators (Blount 2011;The French White Paper on defence and national security 2008). However, France appears only to use surveillance drones. Russia while currently not operating drones has set goals to be operational by 2020 (Keck 2014). With their operationalization it is expected that Russia will adopt similar targeted killing policies as the US at least for regional interests. This can be assumed because of Russia's behavior in dealing with dissidents such as Alexander Litvinenko, unruly regions like Chechnya, and neighboring states including Georgia and Syria. China has already considered the use of drones for targeted killing in their high-profile hunt for Naw Kham (Stuster 2013). They are believed to have built around 25 attack drones prototypes at the time of this writing and has stated a willingness to export the

technology creating further danger from proliferation (Zenko 2013, 19). Pakistan's recent use of an armed drone to kill militants in North Waziristan has raised concerns of ease of proliferation because of the concern of if it was locally made or purchased from China (Three militants killed in Pakistan's first drone strike in North Waziristan 2015).

The United Kingdom (UK) already operates drones purchased from both the US and Israel (Blount 2011, 1/1). UK's 2011 Joint Doctrine Note 2/11 provides England's plans and observations of unmanned aerial systems. Within this document, they classify the common drones in current western use and the cost/benefits of the use of these systems. It is expected that drone usage will continue to spread globally and the UK must be a part of this program. The US is ahead of the UK in terms of development and procurement of drones and that they must increase their efforts within this field through work with America or independent research or fall behind (Blount 2011, (3/2)-(3/4),(4/1)-(4/13)).

The UK is not ignorant of the moral, ethical, legal issues that have cropped up with America's use of drones and have clearly studied the concerns and side effects of American's programs (Blount 2011, (5/1)-(5/12)). The British people are split on the American methods of targeted killing with the use of drones. Prime Minister Cameron's government has received many concerns from human rights activists and opponents of capital punishment that the UK is following America's antiterrorism path. Britain's controversial use of drones against British members of the Islamic state has not improved opinions on the isles (Marcus 2015). This notable as in 2013, 55-67% of a 700 person sample accepted the use of targeted killing for dealing with terror organizations. The percentage decreasing as likelihood of civilian casualties increased (Rogers 2013). However, the current government believes that regardless of these problems it is in England's best interest to press on to stay relevant as a great power and follow America's

doctrine despite civilian reservations (Sayler 2015). This was made apparent with the British targeted killing of British citizen Reyaad Khan by drone in August of 2015 (Foster 2015). Prime Minister Cameron has since said that he is willing to strike again "in Syria, Libya or anywhere else" as part of their counter terrorism strategy (A. Thomas 2015).

France has taken the position of tacit agreement with America's anti-terror strategy of targeted killing. The French however have not personally adopted the use of drones or the relaxed form of imminence to the same levels as the other powers. The French do value the capabilities of drones and so have funneled money into drone development. Most recently, France has signed a 180 million US dollar bilateral feasibility project to develop UCAV drones with England. They are working to produce drones independently from the US for both market and internal use (Tran 2015). This behavior is similar to prior French research with nuclear weapons in efforts to remain independent from American equipment and self-sufficient (Royal United Services Institute 2011). Frances 2008 whitepaper only mention of drones is that they will complement their 300 manned aircraft in the coming years (The French White Paper on defence and national security 2008).

The 2013 white paper place French political concerns in Asia and the Middle East. That White paper speaks of the dangers of terrorism and political motivations of China and Russia however; it does not mention a priority adoption of drones or preemptive policies like targeted killing. Instead, they appear to be adopting a turtling policy of hardening of their borders against both human and cyber infiltration (The French White Paper on defence and national security 2013). They have expressed concern over America's handling of the political changes in the Middle East as well increased military spending and operations in Russia and China. In the UN archives, France has not taken a formal position against the use of drones in targeted killing.

Because of this, they take the position of tacit agreement to the policy as acceptable. As a permanent member if the Security Council, France's position on international security policies which include targeted killing is highly influential. Their silence is telling of their position. Since the November 13, 2015 terror attack in Paris France has become more aggressive in its dealing with terrorists (BBC 2015). However, their efforts continue not be in the form of targeted killing as pushed by the US but in coalition forming against ISIS who orchestrated the terror attack (Hollande and Obama 2015; Schofield 2015).

China has shown great interest in following the American path in drone operations. China's has used drones in drug trafficking monitoring operations and considered using a UCAV to eliminate drug kingpins in Myanmar using America's definition for imminence (Stuster 2013). While they like Russia complained of violations of sovereignty in Pakistan, it is likely that they are attempting to limit the ability of the US or other western powers to interfere within their spheres of influence over any altruist desire (United Nations 2015, 3). In regards to protecting their national security, China's new Counter-Terrorism law puts emphasis of prevention because "punishment after the fact is insufficient (Zhou 2015)." China continues to have local terror/insurrection problems in the Xinjiang region but information is difficult to obtain (Zhou 2015). Much of their crackdowns against non-state actors focus not abroad terror organizations but instead on controlling this region (Gracie 2015). China maintains a growing drone program and shown willingness to use them in targeted killing during their hunt for Naw Kham (Zenko 2013, 19).

Russia as a great power has shown evidence that they have used the practice of targeted killing to silence dissidents and rebel forces within their territory but have not been confirmed using such practices outside of its borders (Alston 2010, 8). It is still speculation as to rather the

death of Alexander Litvinenko was orchestrated by the Russian government (BBC 2015). Russia spoke out against American operations in Pakistan leading to the sending of Special Repporteur Ben Emmerson to investigate the claim. This coupled with previous statements about the sanctity of sovereignty would imply that they do not agree with the changes of imminence. However, their operations of late, paint a very different picture. Russian operations in Chechnya, Georgia, Syria and Ukraine all show a state that is very willing to violate another states sovereignty to make a point or achieve secure borders. The US has already complained that in regards to sovereignty, "the Russian Federation was violating core principles in Ukraine (United Nations 2015)." So far, in dealing with protecting national security from terrorism, Russian strategies often take a strong-arm approach. Dr. Omelicheva of University of Kansas states,

> "To streamline the changes in the leadership and conduct of counterterrorist operations, the Russian government adopted a new Federal Law "On Counteraction to Terrorism", which replaced the earlier version. Entered into force in 2006, the law legalizes the application of armed forces for counterterrorism operations inside and outside of the country, but provides only scant description of prophylactic measures aimed at defending the Russian people and infrastructure against the threat of terrorism. (Omelicheva 2009)"

We have already seen a taste from the Russians with conventional fighters in Syria. Russian airstrikes in Syria have brought criticism from the US claiming Russian targets do not appear to be ISIS forces but are instead those that threaten Russian/Assad relations. Russian President Vladimir Putin's has gone on record to say "that the only correct way to deal with terrorism is to preemptively strike, not wait for them to come to you (Russian defence ministry says army struck eight IS targets in Syria 2015)." A statement that is very close to America's new definition of imminence.

This shows that among the few large military world powers there is already an acceptance of a new imminence and targeted killing as norms. Also telling is outside of debate

among smaller states in the UN there has been no great powers coming forward and challenge the creation of these norms (Fisher n.d.). This includes France who has shown the least interest in adoption of the policy. This can be said despite Russia and China challenges to US operations in Pakistan because they have performed similar acts elsewhere. The challenge they provide is more likely a delaying tactic allowing local research the opportunity to catch up with American technology. Among the great powers there seems to an acceptance of these new norms usage use so long as the "targets" for "killing" are not members of their own citizenry. However, with prickling of relations between the west and Russia over the Ukraine, Russia and China over border protection and water, and China and the pacific states over the South China Sea. It is not out of the question for great power nationals to eventually fall under the crosshairs.

Effect on War

Targeted killing and the use of drones is seeing a notable change in the classic institution of war. Other English school authors including Bull, Buzan, and Holsti have called this change a decline and offered their expertise on the slow demise of the institution. This work will not present the blow by blow of their discourse as they have already provided excellent discussions on the topic in their own works. However, instead of a decline this thesis considers the institution to be morphing with the change of the political landscape. English School recognizes that primary institutions are "deep and relatively durable social practices in the sense of being evolved more than designed (Buzan 2014, 16-17)." While the legitimacy of certain activities such as invasion for border expansion and other traditional reasons of war have declined, the use of political violence is still strong.

This evolution of the institution of war is associated with three distinct events in world order. First is the hardening of the permanence of state lines. Second and closely related is the creation of secondary institutions such as the UN to provide an alternative and pressure valve against open war (Holsti 2004). Third, the increase of technology has changed the face of war to the point that for most previously valid reasons for war (wealth, prestige, land) the cost is too great to contemplate a traditional war (Bull 1977, 186-189).

War originally was a common and legitimate way for state actors to improve their standing and prestige in the international system (Holsti 2004, 275-278). Conflicts sprung up regularly between actors when they desired to expand their territory or believed that their neighbor had become weak enough to take land or goods. However, following the end of WW I and fundamental change occurred in the legitimacy of using war to achieve land gains. The borders of states received a level of permanence accepted by other states. This does not mean that land grabs became unheard of as Nazi Germany, imperial Japan, and the USSR can attest but that using war to change the borders fell out of vogue. At the end of WW II, many of the land grabs made by these states returned to their prewar positions with exception of Germany's split between the east and western halves as determined by the allied states. Following the end of the cold war and the collapse of the Soviet Union, the borders between European states continued to maintain their permanence. Poland and united Germany agreed on a set border that has been in practice since 1945. Furthermore, this agreement was made peacefully with no bloodshed (United Nations 1990). Border changes from this point on typically are internal secessions between nations and ethnicities within the state, which often are hard fought to gain recognition from other states as their peers. The Bosnian conflict of the 90s and the changing borders around Africa can stand as example (BBC 2015). It is because of this long-standing norm that the

conflict between the Ukraine and Russia has received international attention. The Russian effort to annex territory through methods other than peaceful dialogue has angered not only western Ukrainians but also much of Western Europe and NATO members (BBC 2014). In regards to the Ukraine, America has stated, "the Russian federation was violating core principles..." and Lithuania condemned,

> "...the Russian Federation was using its military might in violation of state sovereignty and in pursuit of neo-imperial ambition that has no place in the Twenty-first century (United Nations 2015, 5-6)."

Coinciding with the end of WWII was the push from the supremacy of the interstate system to greater focus on the international society. This change has also had an effect on the change of the institution of war. International society provided an avenue for secondary organizations to insert themselves into the international order. The UN as a secondary organization promotes the protection of sovereignty of states but also the maintenance of peaceful coexistence between those states (United Nations 1945). It serves as a forum for states to communicate and address grievances before resorting to violence. As such, certain norms such as the aversion to traditional war and the protection of state borders and territoriality became stronger (United Nations 2015). Rules of conduct during conflict like those of international laws such as the previously discussed IHL and HRL have gained strength and become legitimated by state actors. In cases that states do need to resort to violence then the system favors a multinational approach as opposed to unilateral or small plurality approaches of war. Looking at the case of the Iraq war the international community balked at America's "coalition of the willing" invading the state of Iraq. The UN Security Council did not provide authorization for US military forces to enter Iraq during the March 2003 invasion. Veto wielding powers including France, China and Russia as well as temporary Security Council members including Brazil and

Germany did not support the invasion and supported more time for international inspectors opposed to violent action (Human and Constitutional Rights 2007). In response, the European Union passed P5 TA(2003)0032 which, " Expresses its opposition to any unilateral military action and believes that a pre-emptive strike would not be in accordance with international law and the UN Charter... (European Parliament 2003)." Then Secretary General Kofi Annan has stated on the matter, "I have indicated it was not in conformity with the UN charter. From our point of view and from the charter point of view it was illegal (The Guardian 2004)." Of course, the more recent activities in Syria also show the increased role of the international society in the usage of war (Hollande and Obama 2015).

The final nail in the coffin of the legitimacy of traditional war as an institution was technology. When weapons had limited effective range and thus could only terrorize the battlefield, wars were common. The improvement of their reach and power opened up more parts of the state to horrors of war. Before only the losing side saw the effects while the winning side saw war as a grand adventure on a distant horizon. Once its reach became long enough that both sides regardless of the winner saw the cost of war the reasons for it use became more critical. Once it became possible to level a city with a single bomb deployed via aircraft or missile the threat of war became clear. Nuclear weapons insured that regardless of a just or unjust war there would be no winners (Bull 1977, 183). The only way to survive was never to get to a point that those weapons needed to be used.

Since the rise of nuclear weapons, the control of proliferation of these weapons has become a critical point for both friend and enemy (Sagan and Waltz 2013). Both sides wanted assurance that whoever controls weapons of mass destruction are stable states. The greatest threat to a state stability is internal strife and non-state actors. Radical groups who threaten the

international order as is or states that might support them are more realistic threats then old state enemies.

The drone and targeted killing is becoming a way to deal with these non-state actors. The US methods of dealing with terrorism fit into this change of war as an institution. The US and its allies have not declared war on Yemen, Pakistan, Somalia, or most recently Syria. Instead, they are employing precise strikes through either manned or unmanned means to target select actors within the state as opposed to direct conflict with the state itself. Targeted killing and drones paired well becoming the popular way to deal with non-state threats to the US. Traditional war no longer has the legitimacy to be used to deal with the threat but targeted killing as new form of protection of international order allows martial operations without utilizing what was considered traditional war. The US is not alone in making this choice. Subtler methods of effecting international politics have proven more likely to be approved or at least tolerated than tactics that are more overt. Israel's utilization of targeted killing predated the US for many of the same reasons. China has shown interest into utilizing American imminence and targeted killing within their sphere of influence. While not targeted killing Russia's subtle destabilization of Ukraine and Syria shows the recognition that overt war lacks the legitimacy for use and that other methods may be more successful. While France's and England's White papers both recognize the likelihood of conventional war in the coming years has lessened in comparison to the destabilizing threat of non-state actors and are tailoring their resources accordingly (Cameron 13-18; The French White Paper on defence and national security 32-35). The UK specifically has undeniably chosen to follow the footsteps of its ally across the pond. Drones have simply been a continuation the change of the nature of war and its role in the international order. This process began with the shift of international relations from interstate systems to international society. The

precision of modern intelligence and drone technology and the rise of non-state actors as the new

form of threat have helped in molding new forms of war.

Chapter 8: Conclusion

Within English School theory international order is maintained through the constant and shifting interactions of three primary traditions: interstate system, international society, and world society. Earlier orders focused on the interstate system. Power, military alliances and realist dogma determined the nature of state interactions. This led to frequent wars and overall distrust of other states beyond what benefits they can provide in the short-term. Alliances occur but they were based on points of need over desire. The norms of international society played important but less obvious and central roles than the focus on military power. However, certain institutions must exist for states to effectively operate and communicate. The institutions of sovereignty and territoriality are critical to the functioning of the state. Those ever-shifting state alliances are in fact derivative institutions within the primary institution of great power management. The roles and rules of communication fell under the institutions of international law. If all other methods for state politics fail then states could fall back on the institution of war.

The current international order is utilizes greater influence of international society and downplays the traditions of the interstate system. Core institutions of sovereignty and territoriality have maintained their importance. Meanwhile war's value has slowly changed and international law has risen to take its place. The creation of the UN has led to greater pushes for pluralism in maintaining world order. States are discouraged from acting unilaterally for individual gain. As is true in any normative anarchic system this never means complete universal compliance among the states. Large enough powers who feel they can buck the system or that the gain is worth the risk may still act in unilateral ways. However, the system as a whole acts more with greater concern of international approval.

Interestingly in this study, drones were found not to be solely detrimental to the primary institutions that make up world order. While it is clear that territoriality, sovereignty, and international law have all been adversely effected by the drone, the institutions of great power management and war have successfully adjusted and even been strengthened by the drones and targeted killing. This brings clearly to the forefront the issue of drones for the international actors. The states that have supported the rise of drones are the most influential and powerful states in the world and are moving to further the existence of a "special" influential oligarchy of states that stands above the rest. These states may not necessarily like each other or support their influential rivals reaching parity in terms of drones and their use but their use continued favoring of international system policy over the more cooperative international society is non-the-less moving in this direction.

This is in contrast to the gradually increasing collaboration found in international society that the post-World War II world has preferred. This world order is dependent on mutual respect of each other through the respect of sovereignty and international law. The international community must decide which direction it wants to go. What primary institutions are supported and which are undermined will determine how the next world order will operate and how stable it will be.

The effect of drones and targeted killing on this international order appears thus far to be detrimental. The fear of non-state actors has led to paranoia for national security and demand to protect it among states. Targeted killing especially when mated with the recently armed aerial drone system appeared to be a seemingly effective means to provide that security. Great powers, which are commonly the target of these non-state actors and currently have the means to procure drones and maintain the necessary infrastructures have in many cases flocked for their adoption.

Unfortunately, the methods of their use deviate from the customary international norms currently in play within international society. Great powers have used the reason of national security to violate the sovereignty and territory of other states to eliminate possible threats. This preventive act changes the norm of imminence under the institution of great power management as it has been understood until this point. It engages non-state actors composed of citizens and civilians of other states in violation of the institution of international law. State users of drones often either ignore or broadly interpret international laws to attempt to achieve legitimacy. As a first-user of combat drones, the US has often only had tacit approval to employ these methods over foreign soil much to the detriment of the institutions of sovereignty and territoriality. Many think tanks, scholars, UN organizations, and politicians worry about the "slippery slope" of drones. As they proliferate out to smaller states the behaviors of targeted killing set as precedent by great powers will be imitated in regional ways by smaller powers. This will lead to further derailment of the institutions of international law and sovereignty/territoriality and create conditions of continuous low intensity violence between state actors that in the words of the British *telegraph* create a new "wild west (A. Thomas 2015)."

This work has used English school's theory to examine the effects of targeted killing and its use of drones on the institutions that construct the bedrock of world order. It has hopefully provided sufficient evidence to prove that the current usage of the policy has and will continue to have a detrimental effect on world order. As drones spread, the behaviors of the great power will be passed down as well to create local environments less stable than they are today. Drones systems are cheap enough that their usage will be far greater than those of other "game changer" weapons like cruise missiles and nuclear weapons. These states will use the example set by the great powers to play the national security card against their neighbor's citizens. This is a concern

voiced by many organizations and scholars who are watching as things unfold (Philippens 2013; Rogers 2013; Stohl 2015; A. Thomas 2015; United Nations 2013). The fact that non-state actors do not comfortably exist within singular state borders does not allow open conflict without communication and consent with the hosting states. State communication and cohesion is built on borders and sovereign rule within those borders. Remove that and the system breaks down. Smaller states have already shown concern of bigger powers flexing too much influence into their sovereignty under the guise of protecting world order. Often "world order" is a smokescreen for the big states' national security or other interests. The great powers have in general been willing to accept these changes in institutions undoubtedly because of their preeminence when it comes to military and economic power. France, Britain, Russia, China, and the US have all funneled massive amounts of money into their drone programs and the US and Britain are already users of targeted killing as policy. France itself has not joined in the practice however; it has also not attempted to stop it either implying tacit consent. While China and Russia have argued against the practice as violations of state sovereignty, it is clear this is not a case of philanthropy as they have already performed similar activities but are protecting their own borders from threat while they catch up technologically with the west. To end this work a final question of thought; how can targeted killing fit within the norms of international society when the primary target, non-state actors are civilians and supposed to be protected by human rights, and state sovereignty and territoriality?

This field is ripe for study. The usage of drones for targeted killing is quite new having only been in practice for the last 15 years. Future work is still needed to expand on the effects of targeted killing on international order. This work hoped only to study if drones are having a detrimental effect on world orders current institutions. While this work assumes this is dangerous

because it changes how the political game is played. Other studies may wish to examine and advocate the opposite as true. Further examination is needed on the importance of the United States as a first user of drones in this matter. Like the aircraft and nuclear weapons, combat drones have and will continue to have a marked impact on international order and first comers set the methods of how such technology is used. It is important to examine what roles should secondary institution like the UN have in the regulation of warfare within the world order. Do they have the right to tell a state that they must use a less efficient or more dangerous method of military action because "drones are dangerous?" Could the answer to the global issue of terrorism be the equally global reach of English School's world society?

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