

# Swarthmore International Relations Journal

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**About *SIRJ***

*Swarthmore International Relations Journal (SIRJ)* is an undergraduate journal publishing works on global affairs. Established in 2016, *SIRJ* is student written, edited, and produced. The primary goals of *SIRJ* are twofold: to help foster a new generation of scholars, and to bring fresh, liberal arts perspectives to international relations. Through a peer-reviewed editing process, *SIRJ* seeks to become a major vehicle for undergraduate research on international relations, and encourage critical and intellectual dialogues among scholars.

**Dear Reader**

Dear Reader,

The election of Donald Trump as president, the UK's decision to leave the European Union ("Brexit"), and the wider rise of populism, have injected enormous uncertainty into the international system. Long-standing assumptions, such as the U.S. commitment to NATO and other alliances, are increasingly being questioned. Meanwhile, Russian interference in the 2016 U.S. election suggests that foreign states are seeking to benefit from political polarization in the United States.

At such a time, we need insightful and accessible writing on foreign affairs, which is why it is such a privilege to introduce the second issue of the *Swarthmore International Relations Journal* or *SIRJ*. Students write, edit, and produce the journal, working closely with a group of peer reviewers.

The journal represents the continuation of a rich tradition of engagement by Swarthmore students in international issues, with many alumni of the college working for NGOs, the State Department, or the U.S. military.

The five articles in this edition of *SIRJ* cover a range of topics: Bolivarianism, refugee issues in Europe, climate change, drones, and autonomous weapons systems. They are certainly timely, given the crisis in Venezuela and the Trump administration's decision to withdraw from the Paris climate deal. They also speak to each other, most obviously with the two articles on robots, but also in the discussion of Washington's "neo-imperialism" in Latin America and U.S. leadership (or lack thereof) on the climate issue. The pieces question accepted wisdom, calling, for example, for a paradigm shift in counter-terrorism and a new model for sharing the refugee burden.

I am confident that *SIRJ* will go from strength to strength and become a valuable voice in the national debate on these pressing issues.

Dominic Tierney  
Associate Professor of Political Science

**Editor's Note**

Thank you for reading the *Swarthmore International Relations Journal (SIRJ)*. This publication was founded in 2016, when two members of the class of 2016, Isabel Knight and Andrew Taylor, saw a need for a space for undergraduates to have their work peer edited, reviewed, and published. This second issue is the product of many thoughtful administrative changes in the journal's structure, of new partnerships, and of many innovative articles by our contributors. We have partnered with the Swarthmore College Libraries to publish and archive our works online. We have implemented a blind-review process to ensure quality of our articles, and have turned to faculty, staff, and alumni with experience in academic publishing to hone our processes. I hope that this year we have laid the groundwork for *SIRJ* to become a lasting presence on Swarthmore campus and in the broader scholarly community.

In this issue you will find articles that look toward the future of international relations. One essay synthesizes historical events with the modern, examining the continued importance of Simón Bolívar in 21st century Latin American politics. We include articles focusing on the ever present refugee resettlement crisis in the European Union and on environmental policies in the context of U.S. hegemonic decline. Following articles address modern warfare, expansions in the U.S. drone program under Barack Obama, and artificial intelligence in lethal autonomous weapons systems (LAWS). Our authors have worked hard to refine their arguments and policy recommendations and have produced a diverse and forward-looking issue.

Finally, I want to thank Dr. Katie Price and Professor Ben Berger at the Lang Center for Civic and Social Responsibility for their patience and continued faith in the 2016-2017 *SIRJ* student team. I also want to thank Nagyon Kim and Sally Wang for their tireless and enthusiastic help in the last stages of the editing and formatting process. I also want to thank Maria Aghazarian, Professor Emily Paddon Rhodes, George Yin, and Lindsay Dolan for their guidance and advice from this issue's earliest stages to these last few weeks before publication. Without your help, this issue would not have been published. I care deeply about this project and your support is truly appreciated.

Elizabeth Tolley  
Swarthmore '18  
Editor-In-Chief, *SIRJ*

# Confronting (Neo)Imperialism: The Resurgence of Bolivarianism

Chelsea Richardson

*Haverford College*

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## I. Introduction: Simón Bolívar, The Liberator

Simón Bolívar serves as a perennial icon in Latin American history and culture, having fought wars to liberate multiple nation-states from the grip of imperialism and provided the theoretical frameworks for the institutional design of multiple Latin American republics. After Spain lost its sovereignty over the newly independent states in Latin America, there was an immediate need for governance, order, and identity. Bolívar, a Spanish Creole, traveled to Spanish America and determined that the new nation-states ought to be republics, freed from the colonial institutions that Spain had left behind. Known as “The Liberator,” he served as president of Peru, Bolivia, Gran Colombia, and Venezuela. His ambitious visions for large, unified political entities<sup>1</sup> in Latin America led to the establishment of Gran Colombia, which later dissolved into five separate states.

Bolívar’s calls for political unity and rejection of colonial Spanish institutions have not disappeared from political discourse in Latin America. In fact, toward the end of the twentieth century and the beginning of the twenty-first century, then-president of Venezuela Hugo Chávez adopted Bolívar’s calls for Latin American nationalism and unity, and formulated his own project to forge unity between Central and Latin American states. He founded the Bolivarian Alliance for the Americas<sup>2</sup> (ALBA) in 2004, along with the late Cuban president, Fidel Castro. The question remains: why have Bolívar’s ideas for Latin American integration persisted for so long, and why did Hugo Chávez revive them in the form of ALBA at the dawn of the twenty-first century? Surprisingly, little theoretical research or literature exists on the topic of ALBA, Venezuelan foreign policy, or Chávez’s Neo-Bolivarianism (Williams 2011, 259). This paper explores these topics for their significance to the fields of international politics and comparative political theory, as well as the bridge between the two. ALBA has also served as a potential model of South-South cooperation and socialist economic integration. Furthermore, the resurgence of Bolívar’s ideas raises the question of how political theory from the past can inform policies of the present. This paper will address the reasons Hugo Chávez brought Simón Bolívar into the twenty-first century, and the implications of doing so. Ultimately, Simón Bolívar had believed that political unity would propel Latin American states to economic and cultural independence

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<sup>1</sup> When I speak of Bolívar’s calls for political unity, I am referring to the political union of multiple preexisting nation-states, not the internal unity of a single nation state.

<sup>2</sup> In Spanish, it is called *Alianza Bolivariana para los Pueblos de Nuestra América*. It was formerly called the Bolivarian *Alternative* for the Americas, but it was changed to *Alliance* in 2009.



from Spain. His theories have now resurged with Hugo Chávez's Neo-Bolivarianism, in order to protect Central America's independence from the cultural, economic, and political hegemony of the United States, the neo-imperial power of the twenty-first century.

## **II. Bolívar's Call for Political Unity and Destruction of Spanish Colonial Legacies**

Throughout his political writings, Bolívar has emphasized the need for political integration of Latin American states. While he did not believe that the entire continent should be integrated into one state—an idea he referred to as “both grandiose and impractical”—he did believe that neighboring states should unite to create more powerful and independent republics (Bolívar 2003, 26, 27). This vision was actualized through the creation of Gran Colombia in 1821, which existed as a unified state until internal divisions eventually caused its dissolution into separate republics in 1831. During its existence, Gran Colombia encompassed land that is now modern-day Colombia, Venezuela, Panama, and Ecuador, as well as parts of Guyana, Peru, and Brazil. Bolívar had believed strongly that integration was the best hope for a prosperous nation-state, ambitiously asserting, “undoubtedly, unity is what we need to complete our project of regeneration” (Bolívar 2003, 29). He acknowledged that divisions had persisted among the Latin American nations, for this is “the nature of civil wars” (Bolívar 2003, 29). He also understood that ideological divisions between “conservatives and reformers” and the constant threat of civil war could divide these new, fragile states at any time (Bolívar 2003, 29). Thus, remaining realistic, he wrote that unity will only come “through sensible action and well-organized effort” (2003, 29). This organized action failed during his time, but appeared to be more promising under the leadership of Venezuela, as this paper will discuss later. In sum, Bolívar believed that integration of Latin American states was the best plan for the region's stability and good governance.

Bolívar also emphasized the need to expunge the institutional legacies of Spanish colonial rule, which he believed could be done best through political unification. In *The Jamaica Letter*, Bolívar warns: “we are dominated by the vices contracted under the rule of a nation like Spain, which has shown itself to excel only in pride, ambition, vengeance, and greed” (2003, 23). He was contemptuous of Spain and its cultural legacies, and had wished to reinvent an American culture without Spanish trace. Furthermore, he believed that the institutions left behind by colonial Spain, such as slavery and mercantilism, were detrimental to the development of democratic republics. At the time, Spain's economy had run based on the system of mercantilism and was commandeered by a monarchy. Furthermore, Spanish colonizers introduced slavery into the Americas. Bolívar claimed that each of these Spanish institutions made Latin America less amenable to capitalism, self-governance, and republicanism, lamenting the lack of “political skills and virtues that distinguish our brothers to the north,” referring to the United States, which had been a newly formed republic at the time (2003, 23). Bolívar felt that Spanish hegemony and colonial institutions had socialized Americans to not desire the republican values of self-governance and individual liberty. For these reasons, Bolívar informs “exactly what we need to

ready ourselves to expel the Spaniards and form a free government: unity” (2003, 29). In short, Bolívar had sought to protect Latin America from what he considered damaging colonial remnants, through establishing strong, unified, republican states.

### **III. Republican Imperialism as a Solution to Spanish Hegemony**

The tension between Latin America and Spanish institutions, ideologies, and culture forced America to engage in a rather contradictory power struggle that Joshua Simon refers to as republican imperialism (2012, 280). In his political projects and war efforts, Bolívar engaged in republican imperialism, which involved “a renewed imperial project as a means of overcoming the legacies of Spanish rule and consolidating American independence” (Simon 2012, 282, 283). Paradoxically, in order to avoid reconquest, post-colonial states sometimes employed imperialistic methods of governance to consolidate their power. To maintain control of the newly established republics and uphold their independence from the daunting Spanish Empire, Bolívar employed more authoritarian methods of governance, such as his establishment of a presidency with concentrated power and lifetime appointment. Bolívar fought imperialism and protected republicanism by engaging in imperialistic governance, essentially forcing the residents of the newly formed republics to be free. His imperialism also involved annexing regions into his integrated states through military force, based on the idea that a larger, unified state was more capable of defending itself from reconquest (Simon 2012, 294). Bolívar’s political writings are haunted by the paradox of republican imperialism: the inhabitants of Latin America are too beholden to Spanish hegemony to recognize the benefits of republicanism, and thus, they must be forced to acquire the freedoms that Bolívar deems necessary for citizens of an independent republic. Bolívar was fighting “the reflexive loyalism of people long denied the right to rule themselves” (Simon 2012, 284). According to Bolívar, the newly freed states must embrace elements of imperialism to prevent reconquest by the Spanish Empire and consolidate republican institutions.

This paradox also reveals the driving urgency behind Bolívar’s philosophies: the need to solidify and integrate independent states that could defend themselves against the empires of the world, including Spain. Justifying his call for political unity, he draws on the specter of “a Spain that wields more machinery for war than anything we can amass in secret” (Bolívar 2003, 29). In a sense, political unity is a system of defense against the militarily formidable nations throughout the world. In some ways, this resembles the “soft balancing” approach taken in contemporary international politics (Williams 2011). Nations engage in soft balancing by employing “non-military tools to protect their interests, and to delay, frustrate, and undermine a hegemonic state’s capacity to impose its preferences” (Williams 2011, 261). In Bolívar’s time, creating a large, politically unified state could set up a Latin American republic to experience economic growth and a more strategic geopolitical positioning. Five small states cannot negotiate on the world stage, but one large state can engage in this style of “power politics” (Williams 2011, 261).

As such, Bolívar’s call for unity served as a means to counteract the cultural hegemony, ideologies, colonial institutions, and political power of the Spanish empire. His emphasis on the strength of the Spanish military, and the weakness of smaller individual states demonstrates that

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his call for unity was primarily intended to protect against Spanish encroachment, and expel the legacies of colonization. Though there may have been some internal benefits to political unification, Bolívar's priority was defense against external powers and strategic positioning in international affairs.

#### **IV. Chávez Confronts a Neo-Imperial Power<sup>3</sup>**

Classical Bolivarianism, or the philosophies of Bolívar himself, arose out of the need to counteract a formidable empire and its legacies. In the times of Hugo Chávez and Fidel Castro, Neo-Bolivarianism has arisen as a response to a neo-imperial, unipolar world power: the United States. Because the U.S. possesses a military stronger than any other in the world, Latin American states have benefitted from its protection. However, the U.S. stipulates many conditions for that protection, which range from participation in its war on drugs to free trade agreements. The cultural, political, and economic hegemony of the U.S. positions itself as the neo-imperial, unipolar power presiding over Latin America, guaranteeing it the right to intervene on behalf of its own interests for its role in protecting the region as a whole.

To begin with, the current historical moment can be accurately characterized as a unipolar world order. The most recent example of a non-unipolar moment in history is the Cold War era, in which the Soviet Union and its satellite states counterbalanced the power of the United States and its allies in a bipolar world. Following the collapse of the Soviet Union, the United States emerged as the unipolar world power, a towering hegemon that no other nation could counterbalance against. Scholars of international relations generally agree with this characterization, arguing that a combination of the U.S.'s cultural hegemony, political dominion, and military prowess situates it as the obvious unipolar world power (Posen 2003; Mowle and Sacko 2007; Ikenberry 1998). The U.S.'s behavior on the international stage confirms Mowle and Sacko's hypotheses predicting the behavior of unipolar powers. Mowle and Sacko predict that while non-unipolar powers abide by the statutes, conventions, and norms of international law and institutions, unipolar powers often reject these constraints as they see fit (2007, 101). The U.S. has a prolific history of conducting military interventions around the world that violate international treaties, laws, and norms. For instance, scholars of international law consider the NATO bombing of Serbian forces in 1999, the invasions of Iraq and Afghanistan (Posen 2003, 12), airstrikes in undeclared war zones, and many other actions of the United States violations and war crimes. The United States is not a member of the International Criminal Court (ICC), even though 124 states, including the majority of the U.S.'s allies and trade partners, are

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<sup>3</sup> For more detailed accounts of the historical events in this section, see Slatta, "Time Line of US-Latin American Relations"; Petras, "U.S. Offensive"; Vanderbush, "Good Neighbor Imperialism"; and Kryzanek, *U.S.-Latin American Relations*.

registered as member states. The U.S. continues its unconventional and likely illegal drone war in nations it is not at war with, at times killing its own citizens without due process, in violation of international treaties (Scahill 2016). In short, the U.S. does as it pleases and faces very few consequences for its actions. While actors from the Global South (such as Joseph Kony of Uganda and Muammar Gaddafi of Libya) have been prosecuted by the ICC, U.S. actors have never been held accountable by the ICC or any comparable institution. Furthermore, the U.S.'s military dominance provides it "command of the global commons" (Posen 2003, 8). It maintains command of the seas, conflict zones, space, and air (Posen 2003). The U.S.'s command of the commons manifests physically in the form of its Unified Command Plan, with bases throughout the world prepared for military action at any moment (Posen 2003, 18). With the ability to physically defeat any other existing power on the world stage, the U.S. is able to maintain unipolar power while exploiting its political, cultural, and economic hegemony over the world (Posen 2003, 8-9). According to its behavior in the realm of international law and its military prowess, the U.S. acts as a unipolar world power at this historical moment.

In addition to its status as the unipolar world power, the U.S. has developed into a neo-imperial power in Latin America. Some elements of U.S. hegemony in Latin America are imperialistic in the traditional sense of the word, meaning that the U.S. has political sovereignty over some Latin American territory. The U.S. primed itself for interventionism in Latin America with the Monroe Doctrine in 1823, but truly began taking over the imperial legacy of Spain during the Spanish-American War of 1898 (Kryzanek 1996, 28-41). In this war, Spain lost sovereignty over its last remaining colonies: Cuba, the Philippines, Guam, and Puerto Rico (Kryzanek 1996, 39-41). Cuba gained independence, but was required to agree to a set of conditions in the controversial Platt Amendment that institutionalized the power imbalance between the new state and the U.S. Simultaneously, the United States inserted itself as the new sovereign entity for the Philippines, Guam, and Puerto Rico (Kryzanek 1996, 39-41). Today, the U.S. retains its sovereignty over Guam and Puerto Rico, further indicating that the U.S. replaced Spain as colonizer of the Americas. The U.S.'s political sovereignty over these colonies demonstrates its political imperialism, but for the rest of Latin America, the U.S.'s encroachments in the region take the form of cultural and economic hegemony as well as military interventions against threats to its domination in the region, all of which constitute neo-imperialism.

The foreign policies of Theodore Roosevelt provide ample evidence of the U.S.'s burgeoning neo-imperialistic exploitation of Latin America in the early twentieth century. In a letter to his son regarding the U.S.'s involvement in the Dominican Republic, T. Roosevelt laments that it seems "inevitable that the United States should assume an attitude of protection and regulation in regard to all these little states in the neighborhood of the Caribbean" (1994, 308). Since the declaration of the Monroe Doctrine in 1823, the U.S. has been poised to take an attitude of protection and regulation toward Latin America. In return for the protection of Latin American states, the U.S. expects full compliance with its ideological, economic, and military agendas. This attitude has manifested itself in various acts of neo-imperialistic intervention, particularly during T. Roosevelt's presidency. José Ingenieros, an Argentine scholar and anti-

imperialism activist, speaks out against this neo-imperialist effect of U.S. protection in the region, noting during a speech in 1922 that, “the famous Monroe Doctrine, which for a century seemed to be the guarantee of our political independence against the threat of European conquests, has gradually proved to be a declaration of the American right to protect us and intervene in our affairs” (1994, 310). Following the declaration of the Roosevelt Corollary in 1904, the U.S. intervened militarily in Honduras (1905), Cuba (1906-09), Nicaragua (1912-25), Mexico (1914), Haiti (1915-34), the Dominican Republic (1916-24), and Panama (1918) (Kryzanek 1996, 44-59; Slatta). The U.S. also supported a *coup d'état* and regime change in Guatemala from 1920-21 (Slatta).

Despite Franklin D. Roosevelt’s implementation of the “Good Neighbor Policy” in 1933, which was intended to be a move away from interventionism, military presence and interventions continued in the region (Kryzanek 1996, 59-62). U.S. support and instigation of regime changes and coups continued throughout the century, especially with the beginning of the Cold War (Kryzanek 1996, 62-65). During the Red Scare, the U.S. was determined to prevent Latin American states from becoming satellites of the Soviet Union (USSR) or sparking communist revolutions of their own (Kryzanek 1996, 62-65). As such, the U.S. intervened against any regime or movement it deemed threatening to its ideological dominance (in the form of capitalist hegemony) in the region. The Central Intelligence Agency (CIA) ousted Jacobo Arbenz in Guatemala (1954) and Salvador Allende in Chile (1973) due to their ideological linkages to socialism, despite the fact that both were democratically elected to their respective roles of leadership (Kryzanek 1996, 62-65; Slatta). The U.S. also supported multiple dictators in the region, including the Somozas in Nicaragua, the Duvaliers in Haiti, and Fulgencio Batista in Cuba (Kryzanek 1996, 67-81, 102; Slatta). This is not an exhaustive look at U.S. military interventions in Latin America, but it demonstrates the degree to which the U.S. intervenes against threatening regimes and protects its ideological and economic interests, even when it means ousting democratic rulers and supporting dictatorships. In sum, throughout the early- and mid-twentieth century, the U.S. demonstrated its commitment to neo-imperialistic interventions against any threat to its interests in Latin America.

Though various presidents in the latter half of the twentieth century attempted to reform U.S. interventionism in Latin America, U.S. neo-imperialism reproduced itself with tactics old and new. During the Iran-Contra Scandal, the U.S. supported forces fighting against the Sandinista government—an example of its continued military intervention in the region (Kryzanek 1996, 91-104). Though the U.S. continued with these military tactics, it also employed new forms of hegemonic dominance, particularly in pressuring Latin American states to participate in free trade agreements that set up asymmetrical advantages for the U.S. and fostered an economic dependency of Latin American states (Cardoso and Faletto 1979). Cardoso and Faletto note that free trade among underdeveloped economies (the majority of Latin American states) and developed economies (such as the U.S.) “requires a definite structure of relations of domination to assure an international trade based on merchandise produced at unequal levels of technology and cost of labor force” (1979, 17). A concept known as import-substitution, dependent Latin American nations export raw products and import expensive

manufactured goods from developed economies, to the benefit of the latter (Cardoso and Faletto 1979). This paper will expand on the impact of neoliberal trade policies in the next section, but in regards to neo-imperialism, the dependency of Latin American nations on the U.S. for imports of manufactured goods and advanced technology has positioned the U.S. as economically dominant, and Latin American states as economically dependent. The U.S.'s use of free market trade policies demonstrates its use of economic tactics in neo-imperialism.

U.S. military intervention is not a thing of the past; the U.S. continues to instigate coups against regimes it perceives as threatening and has pressured Latin American states into participating in its so-called "war on drugs." The U.S. has been especially concerned with the regimes of Cuba and Venezuela, who oppose the U.S.'s neoliberal trade agenda and propose alternatives such as ALBA. It has been alleged that the U.S. was involved in the attempted *coup d'état* to oust Hugo Chávez in 2002 (Petras 2002, 19). Regardless of whether the U.S. was directly involved, it certainly would have supported a regime change in Venezuela, since Chávez has repeatedly spoken out against what he refers to as the U.S.'s imperialism (Petras 2002, 19). Furthermore, the U.S. has used its war on drugs as a means to intervene in the political affairs of various Latin American nations (Petras 2002, 16, 17). The U.S. utilized its "anti-narcotics campaign" to enter Colombia and work against the Revolutionary Armed Forces of Colombia (FARC), likely because FARC was "the most powerful anti-imperialist formation contending for state power" in Latin America (Petras 2002, 16, 17). Whether through the auspices of the war on drugs or covert CIA operations, the U.S. has continuously intervened in Latin America to oust and/or neutralize perceived threats to its dominance. This pattern is especially clear in that most of the targets of U.S. intervention have been outspoken against what they refer to as U.S. imperialism and the imposition of neoliberalism (Petras 2002).

The U.S.'s neo-imperialism parallels the imperialism of Spain in that both empires simultaneously protect and exploit their dependent states. Because the U.S. and Spain protect(ed) their dependent states with their vast military resources, they intervene in the affairs of those states under the presumption that they have an unlimited right to do so. And because Latin American states are or have been dependent on these empires politically, culturally, economically, and militarily, they are trapped by their dependencies and are often coerced into submission to the demands and interventions of the empire. The only way to escape this duality of protection and intervention is to forge independence and expunge the legacies of dependence on (neo)imperial powers, so that these states can protect themselves on the world stage.

## **V. Neo-Bolivarianism as a Method of Counterbalancing U.S. Hegemony**

As previously stated, Bolívar called for unity to counteract Spanish hegemony. In the same way, in the twentieth and twenty-first centuries, the ideologies, cultural hegemony, and imperialism of the United States inspired the rise of Neo-Bolivarianism. Hugo Chávez and Fidel Castro, both of whom were vociferously anti-U.S. political figures, recognized the danger of allowing the U.S.'s power over Latin America to continue growing unhindered. For this reason, Chávez developed a plan to revive Bolívar's vision of a unified Latin American polity of multiple states and used it to defend against the United States, a country Chávez considered a

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(neo)imperial power. H. Michael Erisman refers to Chávez's revival of Bolívar's theories as "Neo-Bolivarianism," a term this paper also uses to refer to Chávez's political ideologies and projects based on the writings of Bolívar (2011, 235). Moreover, Erisman characterizes the political goals of Neo-Bolivarianism as "mobilizing the hemisphere into a left-wing front against what Havana [and Caracas] sees as Washington's ongoing hegemonic pretensions" (2011, 252). Most notably, these projects include the aforementioned ALBA. Chávez, as president of Venezuela, announced his plans for ALBA as a revival of Bolívar's vision of a unified Latin American state in 2001 at a conference of Caribbean states (Hirst 2016, n.p.). Chávez then officially founded ALBA along with Cuba, under the leadership of Fidel Castro, in 2004. Venezuela and Cuba intended ALBA to foster economic cooperation between Central American states, provide legitimacy to socialism in those states, and, ultimately, counteract various ideological and cultural encroachments of the United States. Today, ALBA's eight member states include Cuba, Venezuela, Bolivia, Nicaragua, Dominica, Antigua & Barbuda, Ecuador, and St. Vincent & the Grenadines (Hirst 2016, n.p.). Its three observer nations include Haiti, Iran, and Syria (Hirst 2016, n.p.). Chávez's project of Central American political integration resembles that of Simón Bolívar in a number of ways, particularly because both figures utilized political unity as a defense against an imperial power.

ALBA counteracts the U.S.'s imperialism through soft balancing, the tactic of international politics mentioned earlier in relation to Bolívar's plans to defend against the Spanish empire. The ultimate objective of soft balancing "is to protect the interests of the weak against the strong or the potentially threatening," which in this case are the threatening interventions of the neo-imperial U.S. (Williams 2011, 262). Both Bolívar and Chávez aimed to protect the interests of weak Latin American states from the encroachments and remnants of (neo)imperial nations. For instance, ALBA proposes an alternative to the U.S.-driven ideology of neoliberal economics. The U.S. has attempted to implement free trade agreements such as the North American Free Trade Agreement (NAFTA) in Mexico and the Free Trade Area of the Americas (FTAA) in the rest of the Americas, while ALBA proposes an alternative based on cooperation rather than competition. These U.S.-supported neoliberal trade policies are detrimental to Latin American political and economic growth because of the unequal terms inherent to them (Yaffe 2011, 129). Similarly to Cardoso and Faletto's analysis of dependency in Latin America, Helen Yaffe illuminates the "comparative advantage...under which capitalist countries, the first to industrialize, should export high value added products and services to 'developing countries', which provide the low value added raw materials and agricultural products needed for the industrialized world" (2011, 129). Ultimately, this model of neoliberal trade "perpetuates underdevelopment" in Latin America (Yaffe 2011, 129). Some scholars contend this characterization, arguing that free trade agreements are generally beneficial to the economic development of the region; nonetheless, the U.S.'s imposition of these trade policies through the so-called "Washington Consensus" limits the self-determination of political actors within the region, some of whom prefer cooperative rather than competitive economic models.

So, rather than engage in a competitive arrangement rigged in favor of highly industrialized nations like the United States, ALBA proposes cooperative exchanges between

ideologically similar and more equally industrialized neighboring nations. These exchanges are then based on improvement of the quality of life, rather than increase of profits, in accordance with the socialist ideologies held by Chávez and Castro (Yaffe 2011, 132). The most significant way that ALBA's alternative to neoliberalism challenges U.S. economic hegemony is by simply offering another choice. Because dependent Latin American states do not have the advanced technology required to manufacture their own goods, they have the "false choice" between depending on the U.S. through free trade agreements or struggling to provide for themselves without the means to do so (Castañeda 1992, 674). ALBA provides an alternative option and thus undermines the U.S.'s ability to coerce Latin American states into free trade agreements, as participation in these agreements is no longer the only practical option. In this case, ALBA's soft balancing prevents the U.S. from unilaterally exploiting the underdevelopment of Latin American nations through neoliberal trade agreements.

Furthermore, ALBA proposes soft balancing strategies to counteract the cultural hegemony of the United States. As part of ALBA, Venezuela created Telesur, a television network meant to compete with U.S.-based networks like CNN (Williams 2011, 267). This Spanish language broadcast is designed to "promote a multipolar international order to balance U.S. hegemony" and "to balance Washington's soft power in telecommunications and, potentially, limit the economic benefits it derives from broadcasts to Latin America" (Williams 2011, 268). Because CNN and CNN Español are headquartered in the U.S., they present political events in a manner biased towards the interests of the U.S. and often against anti-U.S. figures such as Chávez (Williams 2011, 268). Telesur allows these Central American states to frame world events in their own context, rather than relying on the interpretive lens of the United States as the only source of information. Similar to how ALBA provides an alternate economic option where there was previously only one, Telesur provides an alternate option for telecommunications where previously CNN and other U.S.-based media conglomerates were some of the only stations being broadcast. This interrupts the U.S.'s hegemonic control over communication and information, which is a powerful mechanism in checking U.S.'s cultural imperialism over Latin America.

Altogether, the Neo-Bolivarian initiatives and programs of ALBA present various soft balancing tactics to counteract the hegemonic, imperialistic encroachments of the United States. They provide alternatives to the neo-imperialistic agendas of the U.S., and, through the power of choice, undermine the U.S.'s dominance over the region.

## **VI. The Potential for South-South Cooperation and a Multi-Polar World Order**

When envisioning political unity in Latin America, Bolívar imagined "our brothers to the north" who have, since his time, prospered economically, culturally, and politically (2003, 23). He understood that political unity, as the United States had achieved early on, could lead to this kind of prosperity. Joshua Simon explores the "American development gap" and its institutional roots in his article, "The Americas' More Perfect Unions" (2014, 818). He emphasizes the "effects of institutions" on "economic investment, exchange, and growth" and ultimately concludes that "political unity is, in and of itself, an institutional impetus for economic growth"

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(Simon 2014, 810, 812). He verifies Bolívar's original claims that rejecting colonial Spanish institutions was key to developing a new polity and set of institutions that would be conducive to the development of industrialization and economic prosperity. Specifically, "ALBA could foster cooperation, rather than competition, amongst member states, allowing Latin Americans to realize gains from specialization and trade between regions with complementary comparative advantages, while also pursuing reforms aimed at sustained growth by reducing entrenched inequalities and diversifying domestic industries" (Simon 2014, 822). Chávez seems to have understood the truth to Bolívar's call for establishing the institutional means for economic growth: political unity—even when the mechanism to achieve it involves force.

Political unity in the form of ALBA also serves as a model of South-South Cooperation and how such cooperation could potentially offset the unipolar power of the United States. As mentioned earlier, Neo-Bolivarianism arose as a result of the U.S.'s new position as the unipolar world power. South-South Cooperation through ALBA offers a pathway toward a multi-polar world order in which a unified polity of Central American states can engage in international politics and negotiation with power comparable to that of the United States. One of the goals of ALBA is to bring about a multi-polar world order and significantly decrease the political, economic, and cultural hegemony of the United States. But, in order to quarrel with the United States, Chávez must embrace some of its most imperialistic aspects for his own endeavors. Thus, we come full circle to the republican imperialism used by Bolívar to forcibly unify various Latin American states. To defend against a (neo)imperial power, a state must utilize imperialism for its own protection. Just as Bolívar is often criticized for authoritarianism and militarism, Chávez is accused of humanitarian abuses, "imperial ambitions," and restrictions of freedom (Hirst 2016, n.p.). In fact, ALBA could be seen as an imperial project in and of itself. A way Chávez's republican imperialism mirrors that of Bolívar is Chávez's use of oil to entice (or coerce) other states into joining ALBA (Ellner 2007). If these states want to benefit from the "preferential treatment for Southern nations" promised by ALBA, they must enter a union that requires various ideological commitments in return (Ellner 2007, 16). So, was Chávez really trying to foster cooperation among his neighboring states, or was he maneuvering to extend his political power farther across Latin America? Was he simply trying to develop Venezuela's economy by exporting oil to neighboring nations? Was Bolívar truly trying to protect the interests of Latin American republicanism, or was he simply trying to expand the jurisdiction of his presidency? In their attempts to counteract the influence of (neo)imperial powers, Chávez and Bolívar both embarked on imperialist projects of their own. Nonetheless, they can both be said to have made considerable progress in protecting their interests.

## **VII. Conclusion: Propagandistic Icon or Source of Political Theory?**

Critics of Neo-Bolivarianism may argue that Chávez is merely using the iconography of Bolívar as a historic hero to mobilize the people and propagandize his political endeavors, whereas in actuality he does not care for Bolívar's ideas. In *Hugo Chávez: The Transformation from Democracy to a Mafia State*, Ari Chaplin contends that Chávez uses the legendary symbolism of Bolívar as a means to legitimate his authoritarian rule (2014, 2). He further argues

that Bolívar's thought is not applicable to the twenty-first century, because it "has little to do with the requirements of the twenty-first century in fields such as education, science, technology, productivity, and globalization" (Chaplin 2014, 2). He invokes various dictatorships and authoritarian regimes of the past that have also used Bolívar or similarly legendary icons to legitimize their regimes. He even refers to the member-states of ALBA as "satellites of the Chávez regime," invoking a comparison between Venezuela and the Soviet Empire (18). Ultimately, he argues that there is no modern-day use for Bolívar's ideas, and that the only possible reason for his invocation is to manipulate the Venezuelan people and gain power.

On the other hand, ALBA's programs have achieved a considerable degree of success since its inception. For instance, under ALBA, Cuba provided "total scholarships for the training of 10,000 Venezuelan doctors and nurses" (Erisman 2011, 242). This helped to counterbalance the "brain drain" Cuba experienced as a result of generous and flexible immigration and asylum policies the U.S. extended to Cubans. Cuba and Venezuela have also agreed on various preferential trade and work arrangements, such as the exchange of doctors between the two nations, the creation of "some 100,000 jobs in Venezuela," and preferential tariffs for Cuba (Erisman 2011, 242). Furthermore, ALBA established a central bank able to provide loans to debt-ridden nations such as Nicaragua, which was boycotted by the International Monetary Fund (Yaffe 2011, 137). The implementation and success of these ALBA programs serve as a counterpoint to Chaplin's arguments. If Chávez only intended to utilize the iconography of Bolívar to rise to power and gain popularity, he would not have made the effort to implement Bolívar's ideas in the form of tangible, beneficial programs. The efficacy and scale of these programs require further assessment, but from the proliferation of programming, it is clear that ALBA is more than just rhetoric. Nonetheless, the future of ALBA is uncertain, with shifting relations between the U.S. and Cuba following the removal of the trade embargo, and the new regimes of Raúl Castro and Nicolás Maduro. If U.S.-Cuba relations continue to normalize, the benefits of a political alliance meant to counter the influence of the United States may dwindle for the younger Castro. Without this significant player in ALBA, the alliance could falter.

As Simon questions, "What can policymakers of the present learn from the political thinkers of the past?" (2014, 821). Further research into ALBA and Central American foreign policy could illuminate the potential efficacy of such integrationist projects in establishing political power and cultivating economic growth. In the process, scholars could also look into various other post-colonial thinkers from the times of Bolívar, and evaluate the situational factors that have caused certain ideas to diminish and others to resurge in projects like ALBA. In sum, there is considerable room for research into the intersection between Central American international politics and the history of Latin American political thought. Under what conditions can we continue to formulate effective policies and programs in the present day on the basis of political theories set forward centuries ago? And what can the resurgence of certain political ideas tell us about the current historical moment?

A unipolar world order such as our current international system is more predictable than a multipolar world order, where multiplicity of ideas and experimentation with methods

of governance can generate a variety among political bodies, economic systems, and cultural endeavors. With the U.S. as liberal hegemon, capitalism seems to be the only truly viable economic system. However, under a multipolar world order similar to what ALBA seeks to create, alternative economic systems grounded in cooperation rather than competition could be viable. In some ways, though, this lack of predictability could generate instability. In a multipolar world order, world superpowers might continue to war with one another, as they did in the First and Second World Wars. In a unipolar world order, the unipolar power wars primarily with weaker states and non-state actors, as seen in airstrikes throughout the Middle East, the invasions of Iraq and Afghanistan, and the global war on terror. A multipolar world order might bring with it variety and choice, but will it also bring with it instability and destruction?

Overall, this paper contends that Bolívar's insights and calls for political unity have persisted into the present day because he understood the necessary institutional mechanisms for competing with (neo)imperial power. Political unity, combined with a paradoxical but necessary republican imperialism, allows for economic growth and the soft balancing tactics of ALBA. These tactics allow weaker states to align, in the sense of South-South Cooperation, and present themselves as worthy opponents to the existing hegemonic powers. Ultimately, Bolívar presented his ideas at a time when it was necessary to relinquish ties with the colonial empire of Spain, and Chávez revived Bolívar's visions at a time when it was necessary to interrupt the neo-imperialistic hegemony of the new unipolar world power, the United States.

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## Refugee Resettlement in Crisis: The Failure of the EU-Turkey Deal and the Case for Burden-Sharing

Michelle McEwen

*Swarthmore College*

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At this moment in history, the scale of forced migration has reached unprecedented levels. Due to the increase in civil wars and repressive regimes, the global population of people forcibly displaced from their homes has grown from 33.9 million in 1997 to 65.6 million in 2016, a record high (UNHCR 2016, 5). The current crisis in Syria has dramatically added to the number of forced migrants in recent years and has brought the “refugee<sup>1</sup> crisis” center stage as one of the most urgent international concerns today. While many have discussed international attempts to address the structural causes of forced migration, those causes are unlikely to be resolved soon. The refugee crisis is a long-term trend rather than a temporary phenomenon, because the number of chronically fragile states is growing, while opportunities for mobility are increasing (Betts 2015). Therefore, it is imperative to address the consequence of those structural problems—the millions displaced and in need of protection.

This paper will zero in on one demonstrative example of the current international policy response to refugee protection in Europe—the recent EU-Turkey deal and its shortcomings as a solution to the crisis. While the deal is successful at reducing the number of irregular arrivals to the EU, it fails at its legal and ethical obligation to protect refugees. The deal fails to protect because its underlying objective is not protection, but rather border control via “burden-shifting,” the transferring of responsibility onto other states. By outsourcing the refugee crisis to Turkey and forcing Greece to deal with refugees alone as the rest of the EU closes their borders, protection has deteriorated. As a result of the deal, refugees are crowded into under-resourced detention centers with unsafe conditions. In addition, the deal could hurt the European economy and threaten international security.

This paper will examine: (1) the terms of the EU-Turkey deal, (2) the humanitarian, economic, and global security consequences of its burden-shifting approach, (3) and the flawed legal framework, national interests, and short-sighted conceptualization of the crisis that beget burden-shifting. Finally, this paper will propose tradable refugee quotas with a matching mechanism as a possible policy solution for the EU sharing its responsibility to protect refugees.

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<sup>1</sup> The term “refugee” is used broadly to refer to a person forcibly displaced from their home country seeking protection from a range of causes such as authoritarian regimes, conflict, human rights violations, environmental disasters, and state collapse.

### **The EU-Turkey Deal**

The EU-Turkey deal targets the flow of asylum-seekers traveling from Turkey to Europe through Greece. According to the European Commission, “in 2015 alone, more than one million people arrived in the EU, around 885,000 of them through Greece” (EC 2017, 1).

Many asylum-seekers risk their lives crossing the Aegean Sea from Turkey to Greece in order to claim asylum in the EU. For instance, in December 2015 over 5,000 people made this journey each day (EC 2017, 2). The journey is dangerous; 1,145 asylum-seekers died in the Aegean in 2015 (EC 2017, 2). Once in Greece, only a few of the thousands of people who arrived daily registered for asylum there, while the vast majority of migrants and asylum seekers moved on towards central Europe (EC 2017, 1). This secondary movement occurs because Greece is usually not a first choice for refugees due to its already overwhelmed system for receiving refugees and limited economic opportunities. As a result, many prefer to pass through Greece to enter the rest of Europe and apply for protection there (Collett 2016). This secondary movement is technically illegal because asylum seekers are supposed to apply for asylum in the first country that they arrive in once in the EU.

The stated purpose of the EU-Turkey deal of April 2016 was threefold: “reducing both the number of persons arriving irregularly to the EU and the loss of life in the Aegean whilst providing safe and legal routes to the EU for those in need” (EC 2017, 4). The terms of the EU-Turkey deal allow Greece to return all “irregular migrants” to Turkey (EU-Turkey statement 2016). Irregular migrants include those who do not apply or do not qualify for asylum, as well as those who apply for asylum but have arrived from a safe country where they could have claimed protection (Collett 2016). Turkey, the country most refugees pass through to get to Greece, is being designated a safe country under the terms of the deal (Collett 2016). This is the first time that the EU has adopted a policy of returning asylum seekers because they have passed through a “safe country” outside the EU. Because the deal defines Turkey as a safe country, all incoming asylum-seekers arriving in Greece from Turkey are eligible for deportation. Turkey also pledged to crack down on smugglers illegally transporting refugees to Greece (EU-Turkey statement 2016). In exchange, the EU pledged to resettle one Syrian refugee residing in Turkey for every Syrian returned to Turkey from Greece; accelerate making Turkey a member of the EU through visa liberation for Turkish nationals; and boost financial support for Turkey’s refugees (EU-Turkey statement 2016). In effect, the deal shifts the burden of the EU’s migrant flows onto Greece and Turkey to stop secondary movement, dissuade refugees from coming to Greece in the first place, and essentially close its borders.

Based on the deal’s own stated objectives, it could be called a success. The deal accomplished the stated goal of reducing the number of irregular arrivals to the EU. The number of arrivals dropped by 97% immediately after the deal was enacted, from 5,005 people daily in December 2015 to 43 people daily in March 2016 (EC 2017, 2). Furthermore, the deal achieved the stated goal of reducing the “the loss of life in the Aegean,” as the number of deaths in the Aegean decreased from 1,145 in the year before the statement to 80 in the year which followed (EC 2017, 2). Finally, the stated goal of “providing safe and legal routes to the EU for those in

need” could be considered successful if one’s definition of “those in need” excludes all irregular migrants coming from Turkey. Indeed, the EU Commission reports that the implementation of the EU-Turkey deal has been a success (EC 2017, 1).

However, success depends on how the results are defined. While the deal is successful based on the EU’s own objectives, the deal is a failure in terms of the EU’s ethical and legal commitment to refugee protection. By focusing on burden-shifting and deterrence rather than focusing on protection, the results of the deal are a humanitarian failure.

In Greece, the deal has shifted the responsibility of reception in the EU onto Greece, a country that already received the majority of refugees coming to the EU—around 885,000 out of one million EU arrivals in 2015 (EC 2017, 1). While the deal has decreased the number of arrivals in Greece overall, the deal has actually caused the number of arrivals registering for asylum there to increase. Before the deal, only a few thousand arrivals actually stayed in Greece and applied for asylum there; most traveled on to wealthier countries in the EU (EC 2017, 1). After the deal, blocked entry to the rest of Europe transformed Greece overnight from a passageway to the final destination, as asylum seekers are left with no option but to apply for protection in Greece. As a result, Greece has become overwhelmed by the enormously increased task of processing claims, holding refugees in camps while they wait, and granting asylum (Collett 2016). It may seem like the burden would not be so substantial because Greece can return the asylum-seekers to Turkey. Yet, in practice Greece can return only a limited number of migrants because it cannot process asylum claims quickly in its overwhelmed system, and other EU states are reluctant to assist (Collett 2016). With Greece’s system so overburdened, the deal has deteriorated protection for refugees in Greece. Thousands of refugees are living in challenging conditions, often without basic needs met, while waiting for Greece’s overloaded system to process their asylum applications or return them to Turkey (Gogou 2017). Amnesty International reports:

On the Greek islands the harrowing human cost of the deal is laid bare. Not allowed to leave, thousands of asylum-seekers live in a tortuous limbo. Women, men and children languish in inhumane conditions, sleeping in flimsy tents, braving the snow and are sometimes the victims of violent hate crimes. Five refugees on Lesbos, including a child, have died amid such conditions. After the deaths of three men in Moria camp in January 2017, one man living there told Amnesty International: “This is a grave for humans. It is hell.” Another 20-year-old Syrian refugee said: “I escaped Syria to avoid jail but now I am imprisoned” (Gogou 2017).

These conditions do not meet the standards of protection under the guidelines set forth by the United Nations High Commissioner for Refugees (UNHCR) that include access to adequate living standards, work, education, health care, and access to a secure legal status (Dimitriadi 2016, 5).



Meanwhile, the EU has also shifted its responsibility to protect by returning refugees to Turkey, at a significant humanitarian cost. Turkey had already been overloaded with refugees, even more so than Greece, due to its closer proximity to refugee countries of origin; quarantining refugees in Turkey merely increases that burden. Yet, the EU-Turkey deal deflects the responsibility of Europe—one of the wealthiest continents in the world—to Turkey, a country already hosting 3 million refugees. Thus, the deal strains the resources of an already strained system. This is especially troubling given that Turkey's designation as a "safe third country" is dubious. First, Turkey's authoritarian drift could mean that the nation will "place greater weight on securing financial assistance or political backing from rich donor countries, than on responding to local grievances about the presence of refugees" (Boswell 2003). Therefore, societal tensions could be exacerbated and not adequately addressed, which could threaten refugee safety and assimilation. Second, Turkey has tightened its borders and returned refugees back to Syria, in direct violation of international law that establishes that refugees cannot forcibly be returned to their countries of origin (Amnesty International 2016). Third, reports indicate that conditions at Turkey's refugee camps fail to provide basic human services such as clean water, emergency medical services, and protection from dangers such as kidnappings (Amnesty International 2016). It is estimated that about 3 million asylum seekers and refugees in Turkey are left to find shelter on their own (Dimitriadi 2016, 5). As with Greece, these conditions contrast with the UNHCR standards of protection. Thus, Turkey is not a safe country for refugees.

Besides the immediate humanitarian costs, deteriorated protection in Greece and Turkey due to burden-shifting under the deal could exacerbate the structural conditions that force refugees to flee in the first place. In the long term, refugees fleeing from conflict-torn states like Syria can play a critical role in rebuilding their countries of origin after the fighting is over (Betts 2016). For refugees to rebuild, they need to be alive, healthy, educated, and able to work. Yet the deal fails to provide even basic needs, let alone access to education or work. As a result, the deal inhibits reconstruction in refugee-producing countries, which is needed to address the cause of displacement in the first place.

Finally, the record level of burden-shifting in this deal could set a disturbing precedent of wealthy countries closing their borders and outsourcing responsibility to refugees onto other, less safe countries. Indeed, some argue that the deal tells developing countries that "their cooperation on migration is a commodity that is rapidly increasing in value," while it tells developed countries that their responsibilities to refugees are optional (Alfred 2016). The ripple effects are already visible, as European leaders are now calling for similar deals with countries in North Africa (Alfred 2016). For example, the EU is looking to replicate a similar deal with Libya, "a country where both the United Nations (UN) and the German Foreign Ministry have reported torture and execution in migrant camps" (Lovett, Whelan, and Rendón 2017).

The humanitarian costs to the EU burden-shifting its responsibility to protect render the EU-Turkey deal a failure on legal and ethical grounds. Legally, such burden-shifting

erodes the international legal standards enshrined in the 1951 Refugee Convention. As per the convention, refugees have a right to seek asylum, have their individual claims examined, and, by the principle of non-refoulement, to not be forcibly returned to their countries of origin. However, the EU-Turkey deal prevents asylum seekers from seeking refugee status in the EU—which they have a right to under the 1951 Refugee Convention. The result is that asylum-seekers in Greece and Turkey do not have access to the adequate living standards, appropriate accommodation, and services they are entitled to under UNHCR standards of protection (Dimitriadi 2016, 5). Thus, the EU-Turkey deal is a failure because it legally and ethically violates the EU's humanitarian responsibility towards individuals seeking international protection.

Some may argue that the EU-Turkey deal is not a failure because its objectives of saving lives at sea and providing safe routes to the EU for those in need are humanitarian; however, this claim is invalid because the actual humanitarian effects of those objectives are dubious. While there are fewer deaths in the Aegean Sea, it is questionable that more lives are being saved overall. In addition, there are not enough safe routes to the EU being provided for those in need.

First, the objective of saving lives at sea must be understood within the larger context of the refugee crisis. Although the number of people taking the dangerous route across the Aegean Sea has decreased, the number of people in need of asylum has not—the people in need have not disappeared. Instead, the refugees who would have crossed the Aegean are now either still inside their own war-torn countries, resigned to fleeing to countries in the Middle East like Turkey and Jordan who are already hosting a significant refugee population, or taking different, more dangerous routes to the EU as a result of the blocked Aegean route. Thus, while it is true that the number of lives lost in the Aegean Sea has decreased, many of the would-be Aegean crossers' lives are likely still at risk—just elsewhere. It is impossible to track how many asylum-seekers are now trying alternate, more dangerous routes to the EU, but it is certain that some people will always try to make their way into the EU as long as it offers the promise of a better life. Thus, it is unclear whether the reduction of deaths in the Aegean has actually saved more lives overall. More importantly, the focus on the deaths prevented in the Aegean Sea diverts attention from the deal's failure to protect refugees and ensure quality protection.

Second, it is not clear that the deal does anything to provide safe routes to the EU for those in need, other than allowing Syrian refugees in Turkey to resettle in the EU per the 1:1 agreement. Yet, that policy discriminates one nationality over others, and to date only 9,383 Syrian refugees have been resettled—a pitiful number compared to the need (EC 2017, 3). Moreover, the objective of “providing safe and legal routes to the EU for those in need” excludes irregularly arriving asylum-seekers coming from Turkey, who are now eligible to be returned to Turkey. That exclusion is unacceptable, because many of those asylum-seekers are in need of protection—protection that Turkey cannot adequately provide.

Thus, while the EU-Turkey deal is successful based on its own objectives, those objectives are problematic. Evaluating the deal based on the legal and ethical responsibility to protect refugees reveals a far more harrowing outcome. The deal is a failure because burden-shifting has resulted in an erosion of the EU's ethical and legal responsibility to protect refugees, at a humanitarian cost evidenced by the reality on the ground.

The humanitarian consequences are enough reason to deem the deal a failure. However, beyond humanitarian reasons, there are also grounds to question the prudence of the deal based on its potential economic and collective security consequences. The deal could exacerbate the ongoing economic crisis in Greece and by extension the EU's integrated economy. While the EU is providing some financial support to Greece to help with reception, Greece still bears an undue burden for the direct and indirect costs of receiving asylum-seekers. One example of indirect costs is tourism. Due to the accumulation of irregular migrants in Greece as claims are processed now that entry to the rest of Europe is blocked, tourism dropped 80 percent on some Greek islands such as Lesbos in 2016 (Dimitriadi 2016, 8). The loss of tourism is a significant blow to the Greek economy, especially while the country is in the middle of an economic crisis.

In addition, the deal could pose a threat to global security. Before the deal, Turkey already had a refugee population of 3 million; the deal increased that number even more. Especially in wake of the recent coup in Turkey on June 15, 2016, this burden could disrupt international security (Betts and Loescher 2011, 17); when "large numbers of refugees are received in areas of acute poverty or escalating civil conflict, the effects can be highly destabilizing" (Boswell 2003). Refugees can be destabilizing due to social tensions. As mentioned previously, Turkey's authoritarian drift makes it less likely to respond to and mitigate social conflicts between local and refugee populations. The tensions that arise could be "explosive" (Boswell 2003). Refugees can also be destabilizing due to the economic strain it puts on already poverty-stricken areas. The destabilizing effect of more refugees in Turkey could be mitigated with the EU's promised refugee aid and one for one resettlement exchange. However, the EU has been slow to follow through with these promises after the coup (Yeginsu 2016).

Thus, the burden-shifting in the EU-Turkey deal deteriorates protection for refugees and could destabilize the EU economy and global security. These consequences could be further amplified in significance if the EU-Turkey deal sets a precedent.

### **Causes of Burden-shifting**

The humanitarian, economic, and global security costs of burden-shifting are clear. Yet, to provide a solution that shares rather than shifts the EU's responsibility to refugees, it is necessary to understand the reasons for burden-shifting in the first place. This paper identifies three main causes of burden-sharing failure on international, national, and individual levels.

On an international level, the current weak legal basis for international cooperation helped to enable the burden-shifting approach to the EU-Turkey deal. The 1990 Dublin regulation established that the country where a refugee first enters the EU is responsible for processing their asylum request and granting them asylum if eligible (Fratzke 2015, 1). This puts an unequal burden on front-line states closest to refugee countries of origin, such as Greece, who must process and grant asylum to the bulk of refugees entering the EU. Also, the EU's burden-sharing initiatives for the physical relocation of refugees are all based on voluntary pledging (Thielemann 2012, 819). In summary, there is little legal basis for equitable international burden-sharing for refugees in the EU.

On a national level, another cause of burden-sharing failure is the prioritization of strategic national interests. Accepting refugees comes at economic, social, and political costs. Economically, states are concerned about resettling refugees because of the "direct costs of subsistence, schooling, healthcare, [and] the determining process" (Thielemann 2003, 227). The resources required are substantial; for example, Britain spends about 30,000 euros per asylum seeker, while current policies under the European Refugee Fund only refund a fraction of that cost (Thielemann 2006, 20). Socially, states are concerned about the "more indirect costs of social integration" (Thielemann 2003, 227). States reason that foreign asylum-seekers create social tensions, especially within the relatively homogenous populations of most EU member states (Buonanno and Nugent 2013, 34). This social tension creates political tensions. Indeed, refugees have caused huge levels of political unrest among native populations in France, Britain, and Germany, and can be considered a potential cause

of the rise in populist sentiments in Europe today. Therefore, negative public opinion makes policymakers reticent to sharing the burden of physical relocation of refugees. Refugee immigration is never popular among domestic populations, as voters tend to overestimate the chance that they will become victims of small but highly publicized risks, such as terrorist attacks. Across Europe, about 50 percent believe that refugees are a major threat and will increase the likelihood of terrorism in their country (Stokes 2016). One needs to look no further than the anti-immigration rhetoric that fueled Brexit debates (De Freytas-Tamura 2016) and the campaign of Marine Le Pen in the French election to recognize the political obstacles of granting asylum. Especially after Brexit, it has become clear that there is more at stake than popularity if policymakers in the EU do not take the anti-immigration sentiment of the public seriously; the EU could collapse if more refugees are accepted.

Finally, examining the state-level rationale for evading responsibility reveals another layer of causation for burden-shifting: a shortsighted conceptualization of the refugee crisis on the individual level. EU policymakers who created the EU-Turkey deal conceptualized the refugee influx as a zero-sum issue, in which benefitting refugees incurs inevitable costs. This implicit assumption of EU policymakers is evident in the terms of the EU-Turkey deal, which focuses on preventing irregular migrants from ever reaching the EU. However, if EU policymakers conceptualize refugee flows as a permanent, enduring reality, they might consider that closing borders will not reduce migration flows in the long run and the refugee influx may be positive for the European economy and society over time.

In conceptualizing refugee flows as a temporary phenomenon rather a long-term problem, EU policymakers failed to recognize that closing borders will not reduce migration flows in the long run. The causes of refugee migration are deep structural problems like civil wars, repressive regimes, and environmental disasters—none of which are likely to disappear soon. Even current crises like the conflict in Syria may take years to end, and, in the longer-term, new crises will come to take Syria's place. In reality, increased mobility due to globalization and likely increased displacement due to climate change suggest that forced migration will only increase (Betts 2015). Meanwhile, the stability and quality of protection in Europe will always be a draw for refugees. When one route closes, those who are desperate enough will find another way in. Thus, closing borders is shortsighted because it only redirects the migration flows temporarily, but does not stop them in the long run.

Moreover, the desire to stop refugees from entering the EU is also shortsighted because refugees could actually benefit the EU in the long term. While states face the short and medium-term costs of providing immediate basic needs to refugees, processing asylum applications, and integrating refugees socially and economically, studies show that the refugee influx may be positive for the European economy and society in the long run (Karakas 2015, 2-3). In particular, refugees can contribute to GDP growth as workers who can “fill important niches both in fast-growing and declining sectors of the economy” (Karakas 2015, 2-3) and make up for Europe's aging population (Karakas 2015, 5). This economic benefit could address the current economic uncertainty within the EU due to the zone's poor recovery from the disruption of the financial crash, the debt crisis in Greece, and the Brexit movement (McRae 2016). EU policymakers' decision to burden-shift is myopic because while hosting refugees comes as a cost, it is an investment that could benefit the nation's economy in the long run.

In short, burden-shifting is caused by a flawed international framework, national self-interest, and individual shortsightedness of the issue.

### **Solution: The Case for Burden-sharing**

To improve burden-sharing refugee relocation within the EU and its humanitarian consequences, this paper recommends that policy solutions address the flawed international framework, state self-interest, and individual shortsightedness detailed above. One promising approach is a market-based strategy. Market-based strategies take account of economic and political incentives rather than just moral obligation—which states often do not respond to when that obligation conflicts with national self-interest.

One market-based solution for burden-sharing the resettlement of refugees is a tradable refugee quota system coupled with a matching mechanism. Jesús Fernández-Huertas Moraga and Hillel Rapoport are two scholars that have advocated a similar plan (Moraga and Rapoport 2014, 94-108). A tradable refugee quota system would designate each member of the EU a certain quota of refugees to resettle. However, these quotas are tradable with other countries on a refugee quota market, similar to a cap and trade system. States who wish to settle fewer refugees than their quotas require will have to pay other states to take their undesired quotas, thereby compensating for that additional burden. As a result, tradable refugee quotas would exploit countries' comparative advantages in hosting refugees efficiently. This system would be coupled

with a matching mechanism to further maximize state interests. With a refugee matching system, legal routes to sanctuary in EU states would be available through humanitarian visas from embassies in countries like Greece and Turkey. Asylum-seekers who demonstrate a legitimate need can collect a humanitarian visa that allows them to pay for their own travel to an EU member state where they will finish their asylum application. A computer program would match asylum-seekers with humanitarian visas to EU member-state destinations based on both preferences (Betts 2016). The matchmaking scheme would protect refugees from undertaking dangerous journeys via smugglers and require other states to share the responsibility of granting and processing asylum.

This policy of tradable refugee quotas with a matching mechanism tackles the causes of burden-shifting. National self-interest is addressed because the tradable quota system gives states incentives to resettle refugees and costs for not resettling them. In other words, states that accept additional refugees are compensated, while states that accept fewer refugees foot the bill. This policy also incentivizes states to host refugees because they can rank their refugee preferences—for example, by language, job skills, family reunification, etc.

This could be an economic as well as a political incentive, because states can choose refugees that will most benefit their economy and be welcomed into their society. In addition, this policy addresses individual-level shortsightedness because the refugee preference system helps policymakers to consider the long-term economic benefits the state will gain from investing in a refugee. Finally, the policy addresses the flawed international framework because the policy would require a certain number of refugees to be resettled, unlike the voluntary pledging system in place today. Even as quotas are traded, the overall number of refugees resettled would be the same. The current flaw in the international legal framework of frontline states carrying most of the refugee burden is also mitigated because of the criteria for which states are responsible now depends on the quota system and matching mechanism. Thus, the legal framework of this policy would enforce burden-sharing.

There are many details that need to be solidified before such a policy could be implemented. However, this proposal is, at the very least, useful as an example of how to approach the burden-sharing failure of refugees in the EU in a way that addresses the causes of burden-shifting. A tradable refugee quota system along with a matching mechanism thus offers a potential solution for the EU sharing the responsibility of hosting refugees.

Nonetheless, it is important to recognize that this policy will be impossible to enact without overcoming the political obstacles against refugee relocation. This policy addresses the economic interests of states, but is weaker in addressing their political motives in terms of the negative public opinion against hosting refugees. While an extended discussion of overcoming public hostility against refugees is beyond the scope of this paper, this paper has highlighted two possible tactics for changing public opinion. From a strategic perspective, policymakers could convince the public that hosting refugees has a “weak but positive” (Betts 2016) economic effect in the long run and that granting asylum to refugees could decrease their chances of radicalization into terrorists (Barnes-Dacey 2016). From a humanitarian perspective,

policymakers could communicate the refugees' suffering to appeal to the public's conscience. Whatever arguments policymakers make to persuade public opinion, what is important is that they make an argument at all, rather than letting the public's largely unfounded fears prevent refugees from safety.

The EU-Turkey deal is a failure in terms of the EU's ethical and legal commitment to refugee protection. By putting an undue burden on Greece and Turkey, the deal incurs humanitarian costs, as well as consequences for the EU economy and international security. The flawed international legal framework, prioritization of national interests, and myopic conceptualization of the crisis cause states to burden-shift their responsibility to provide refuge. The enduring character of refugee flows demands that the EU create comprehensive, long-term solutions to address the continuing influx of refugees, for socioeconomic, security-related, and moral reasons. This paper recommends that the EU improve upon sharing its responsibility to protect refugees through market-based policies such as tradable refugee quotas with a matching mechanism. Refugees have the right to seek asylum. In reality, the EU-Turkey deal prevents refugees from reaching safety. Refugees have the right to start a new life in a new country where they are safe. In reality, they are left in an almost indefinite state of uncertainty waiting in detention centers in Greece or stranded in Turkey. States claim they share the responsibility of welcoming refugees into the safety within their borders. In reality, countries like Greece and Turkey that are already strained and under-resourced are taking in the majority of the refugees, while wealthy countries within the EU are closing their borders. With 51 million people displaced from their homes today and no end to the crisis in sight, the need to transform the reality refugees face is urgent. Closing the borders is not an option.

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# Environmental Multilateralism: Climate Change and American Decline

Irina Bukharin

*Swarthmore College*

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The United States' poor record of leadership in international environmental policy grows more concerning as the impending effects of unrestrained climate change become increasingly apparent. Though it is the country most able to provide effective leadership, the U.S. is routinely condemned for acting unilaterally, often in ways that undermine international agreements that it sees as counter to American interests (Ivanova 2008, 58). Robert Falkner, political scientist at the London School of Economics, explains: "America's hegemony has formed the basis for both international leadership and veto power in environmental regime formation" (2005, 585). This lack of international systemic restraint, coupled with the absence of a clear "global strategic imperative" to act on climate change, means that the decentralized U.S. foreign policy apparatus and competition among domestic interest groups can produce variation in U.S. and foreign environmental policy (Falkner 2005; 586, 589). Falkner concludes that "renewed US [*sic*] environmental leadership is only possible as a result of strong public demand, supported by institutionalized pressure from environmental groups and business interests acting in favor of international regulation" (2005, 597). Falkner's basic outline of the conditions necessary for the U.S. to assume environmental leadership is helpful in creating a model for promoting positive change in U.S. environmental policy.

Leadership by the U.S. is necessary to create a strong plan for reducing the effects of climate change. As Falkner argues, since the U.S. is the global hegemon, it has the ability to work unilaterally or multilaterally, an option that impedes stable global cooperation on climate change. American hegemony is not a constant, however; it is in decline. It is in the United States' best interest to lead the world in climate negotiations, not only to protect the environment and current related American interests, but also to secure an advantage in the international climate agreement that will serve future American interests. Many American leaders might reject this argument, so it is important to look at a case study in order to understand the conditions under which the U.S. would assume the necessary leadership role. U.S. environmental and business interests aligned because of the mutual reinforcement of scientific evidence and widespread public support. The alignment between these two core interests allowed the U.S. to lead efforts that resulted in the creation of the Montreal Protocol. The U.S. used its power as hegemon to help create the Montreal Protocol, which in turn helped maintain future U.S. advantages in certain areas.

Even without the threat of future decline, it is in the United States' interests to work multilaterally to mitigate the effects of climate change, as environmental consequences will directly harm U.S. national interests and cannot be stopped unilaterally. Climate change has

already had a substantial net negative impact on food production, foreshadowing the food insecurity that will result from climate change (IPCC 2005; 5, 13). More indirectly related security threats may arise as well; natural disasters, which have and will continue to increase in frequency and severity “may, when coupled with other triggers, do more to destabilize the government than an armed attack on the nation or its capital” (Busby 2008, 476). The U.S. has an interest in preventing states from failing, which can lead to regional conflict; so it has an interest in stopping events related to climate change. Furthermore, the U.S. will be expected to give aid to the most afflicted countries, and some of this money and support may come from the military (Busby 2008; 475, 476). Even if the United States were to remain a hegemon indefinitely, its interests lie in preventing climate change, not just for moral reasons, but for more pragmatic national interest reasons as well.

International cooperation is necessary for successful climate change action, and it will not occur without American leadership. The negative environmental actions of one country frequently affect other countries in unforeseen and unavoidable ways, so “individual states are ill-equipped to respond alone to the myriad of challenges posed by transboundary environmental, social, and health problems” (Schreurs 1997, 1). Additionally, due to the costs of being the first state to act and the problems that can arise with free riders, the international community needs a regulatory system to ensure the long-term viability of any international efforts to combat climate change (Figueres 2012). For several reasons, this will not happen without American leadership. Not only has the U.S. historically been a force for developing international organizations and treaties, but treaties that are not supported by the U.S. are often seen as less legitimate (Ivanova 2008, 58). Furthermore, because the U.S. is the largest contributor to man-made climate change, it is essential the U.S. visibly work to find a solution, otherwise other countries will argue that it is unfair for them to pay to fix the problem that the U.S. had a large part in creating (Falkner 2005, 591). In short, without American participation, no international environmental action can have true legitimacy, stability, and success (Falkner 2005, 591).

Falkner is correct that while America remains a hegemon and does not see environmental issues as a matter of national security, it will continue to have the choice to act unilaterally or multilaterally, and this choice will be decided by domestic politics. One thing that he does not consider is that while America does have flexibility in international environmental politics now, it will eventually lose the power that comes with being a hegemon. Because of this, it is in the United States’ long-term interests to establish an international climate change agreement now, using its power to create a system that will benefit it when American power diminishes in the future. To do this would not be to act under structural pressure, but to foresee a situation where structural forces may have more power. This means that the U.S. will not automatically work to create a climate change agreement, so it is necessary to use Falkner’s arguments to determine what domestic conditions must exist for the U.S. to act in its long-term interests. Domestic politics are primarily influenced by environmental interests, business interests, and public opinion, which are informed by scientific evidence and consensus, determining factors that Falkner does not adequately address. All of these arguments can be seen in the case of American leadership preventing destruction of the ozone through the Montreal Protocol.

American power has peaked; it should work while it still has a significant advantage over other countries to maximize its power and capabilities for the future, when it exists in a multipolar world. Although its military advantage will likely remain strong for the foreseeable future, trade war is currently much more likely than traditional inter-state conflict. The American military is useful in engaging in regional conflicts, but it is less relevant in the negotiation of environmental treaties (Young 1994, 136). On the other hand, economic power can increase a hegemon's bargaining power, as a hegemon can better cajole and coerce using the promise of trade or assistance, soft power, or the threat of sanctions (Falkner 2005, 588). However, the American share of the world economy has been decreasing since 1950, while the Chinese share of the world economy has been increasing since then and is now larger than the American share (Thompson 2012, Thompson 2015). As "the old order dominated by the US [*sic*] and Europe is giving way to one increasingly shared with non-Western rising states," American dominance is coming to a close, even if not in the immediate future (Ikenberry 2011, 56). In an increasingly multipolar world, the U.S. will not be able to act unilaterally or multilaterally depending solely on its domestic politics. Instead, the international system, and the great powers in the international system, will have a larger influence on how America acts.

In order to preserve American interests, the U.S. would benefit from establishing international environmental treaties that favor U.S. interests and give the U.S. a position of power for future negotiations, thus "locking in" American power that might otherwise dissipate. In the past, across a variety of issues, the U.S. has created structures that favor it, and thereby has "spun a web of institutions that connected other states to an emerging American-dominated economic and security order" (Ikenberry 2001, 21). This can be seen in the United Nations, where the U.S. has veto power due to its permanent seat on the Security Council. Even though these institutions have been built primarily by Western nations, rising nations do not want to change the structure or guiding rules of the international order; they want to gain more power within it (Ikenberry 2011, 57). This indicates that there might be little pushback against an international treaty concerning climate change, so long as it includes developing nations. Although this may partially restrain the U.S., "now may be the best time for the United States and its democratic partners to update the liberal order for the new era, ensuring that it continues to provide the benefits of security and prosperity that it has provided since the middle of the twentieth century" (Ikenberry 2011, 58). This means creating a comprehensive international treaty to mitigate the effects of climate change while preserving American interests before they must be ceded to a multipolar world order.

The Montreal Protocol is often cited as the best example of both international cooperation and American leadership on an environmental issue. In 1973, scientific evidence began to indicate that certain chemicals used in refrigerants and aerosols, among other things, could be destroying the ozone layer, which would increase levels of skin cancer and damage crops. The agreement to phase out these ozone-depleting substances (ODSs) was ratified in 1985, a mere twelve years after the first scientific discovery. At this point in time, all nations in the United Nations have ratified the original Montreal Protocol (UNEP 2014). In this case the U.S. was a

key player, and it led the successful phase-out of ODSs that were damaging the ozone layer (Ivanova 2008, 57). The role of American hegemony in creating this treaty provides a coherent, though perhaps overly simplified, model for what needs to happen for American leadership to occur on a climate treaty, as prescribed by Falkner. In the case of the Montreal Protocol, industrial interests shifted to favoring increased regulation after a vocal public demanded it. This shift was founded on the increasingly clear scientific evidence of the reality of ozone depletion. Additionally, the treaty gave an advantage to and protected the American chemical industry in the long term.

Support from the chemical industry was crucial in allowing the U.S. to have a pro-international regulation position, as business interests often impede environmental legislation. According to Falkner, “environmental groups and business interests frequently pull in opposite directions when it comes to managing environmental problems,” which causes “rifts within the domestic constituency of US foreign environmental policy” (2005, 595). Businesses often feel it is unfair for their economic interests to be sacrificed for the sake of environmental protection, and they lobby heavily in the name of protecting the U.S. economy (Sussman 2004, 352). In this they are often successful, as they have political access and money to donate to politicians’ campaigns (Harris 2001, 22). However, businesses will strongly support international legislation if they are already subject to similar domestic regulations, and “much international environmental regulation appears on the international agenda through the process of internationalizing domestic regulation” (Falkner 2005, 595).

The chemical industry eventually supported ODS regulation due to falling sales and the realization that this regulation would give them an advantage in creating substitutes. As soon as the ozone depletion theory became widespread, the sale of products using ODSs in the U.S. fell by nearly two thirds (Benedick 1991, 28). Although initially the industry was opposed to any regulation, “soon after the first signs of consumer disquiet showed, industry opposition to the CFC-ozone theory began to crumble” (Harris 2001, 164). In response to this pressure, firms began developing alternatives to ODSs (Benedick 1991, 31). Because of this shift, American chemical companies began to support international regulation that would then “level the playing field” and stop foreign companies from using the cheaper ODSs for their competing products (Benedick 1991, 31). They realized that this regulation would create a market for substitutes that only large, wealthy corporations could develop, and since the major American corporations had already started developing these alternatives, they recognized that international regulation would give them a long-term advantage (Schreurs 1997, 75). This support gave legitimacy to pro-regulation advocates and made it easier for American legislators and diplomats to champion this regulation at home and abroad.

It is clear that business support would not have occurred without pressure from the public, which has also helped to shape environmental legislation. Although politicians do listen to the preferences of businesses, “if enough of their constituents are concerned about an issue, they will usually work to promote those concerns in policy,” as they want to be reelected (Harris 2001, 22). Generally, strong public support is required for the U.S. to take action in global

environmental policy initiatives, so environmental groups often spend much of their time lobbying citizens in addition to lawmakers, in an effort to achieve widespread bottom-up pressure (Sussman 2004, 352).

The widespread public reaction to the unfolding reality of ozone depletion spurred American leadership on international ODS regulation. As stated before, once the scientific community coalesced around the new theory, “US [*sic*] consumer response was swift and significant,” which influenced the position of the chemical industry (Schreurs 1997, 75). This response was the result of the “powerful and evocative pictures of ozone depletion simulations [that] appeared in magazines” and “captured the US [*sic*] public’s imagination” (Schreurs 1997, 75; Benedick 1991, 27). Americans had access to and were interested in the data and results that American scientists, from prominent universities and organizations such as the University of Michigan, NOAA, and NASA, were finding. Because of that, Americans began acting on their environmental concerns (Benedick 1991, 29). Citizens changed their purchasing habits and lobbied their representatives in office, and in this way, “a well-informed public was the prerequisite to mobilizing the political will of governments and to weakening industry’s resolve to defend the chemicals” (Benedick 1991, 5).

Until this point, Falkner’s argument fits the narrative of American leadership in creating the Montreal Protocol. However, he underestimates the role of scientific evidence and consensus in strengthening public support and weakening business leverage. Because businesses do not want to appear anti-environmentalist, much of their resistance comes in the form of questioning the scientific evidence and conclusions drawn. Due to this tendency, “the more uncertain the science, the more interest group politics will come into play” (Schreurs 1997, 89). Additionally, people are more likely to care if there seems to be imminent danger to themselves or their way of life, so “robust action by the United States is much more likely if there is clear scientific evidence that the health of Americans or the U.S. economy would be harmed or if there are clear signs that environmental changes are causing substantial human suffering abroad” (Harris 2001, 17). From this perspective, environmental change can be seen more clearly as a matter of national security, which will both increase public pressure for action and induce more reticent public officials to acquiesce. Finally, collaboration between scientists and government officials can be crucial in helping legislators understand what is at stake, which will encourage them to take action (Sussman 2004, 350).

The role of science and scientists was pivotal in building public support, degrading industrial opposition, and pushing government officials to stop ozone depletion. None of the widespread public support would have been possible without credible evidence. In particular, “the public announcement during 1985 of the Antarctic ozone hole played an important role in mobilizing public concern” (Young 1994, 44). It is also telling that “the entire public policy debate revolved around the validity of scientific claims and whether those claims were strong and significant enough to pursue active regulation of CFC products,” as it indicates that scientific evidence was the primary point of dissension, not whether or not the proposed risks were worth accepting (Harris 2001, 187). Eventually, after more scientific research, it was widely accepted that damage to the ozone layer would be harmful both to human health and the environment,

which was the turning point in creating both a domestic and international coalition that was powerful enough to create the international regulations (Benedick 1991, 22). In addition, collaboration between scientists and government officials was critical in that scientists provided them with clear measures that were needed to prevent further ozone depletion (Benedick 1991, 5). Conclusive scientific evidence was the motor that propelled the U.S. to demand international regulation on ODSs, and without it there will be little incentive for any future environmental regulation.

Besides illustrating the conditions necessary for domestic consensus, the Montreal Protocol demonstrates how American hegemony can influence international environmental regime building and how it can preserve American interests for the future. As argued earlier, U.S. leadership is necessary in creating successful international environmental legislation, and the Montreal Protocol was no exception (Ivanova 2008, 59). Because the U.S. emitted the largest amount of ODSs and greenhouse gases, other states would have felt exploited if the U.S. did not participate in ODS regulation (Benedick 1991, 206). Instead, “the US [*sic*] government set the example by being the first to take regulatory action against the suspect chemicals,” which encouraged other states to participate as well (Benedick 1991, 206). The U.S. went beyond this, however, as they threatened trade restrictions against nations that did not take responsibility for emissions and “made certain that the implications of this threat were not lost on foreign governments, pointing out that there might be a price to pay for not joining in meaningful efforts to protect the ozone layer” (Benedick 1991, 29). The U.S. was able to apply pressure because of the American economy’s “nodal position” that “affords it a unique opportunity to use economic pressure in the pursuit of environmental objectives” (Falkner 2005, 590). Restricting trade with other countries was an asymmetrical threat, as other countries could not individually create the same level of restrictions. In these ways, American hegemony allowed the U.S. to do more to form an international coalition against ozone depletion than any other single nation could have done.

Because of American leadership on the treaty, the Montreal Protocol institutionalized American interests for the future, even in a fairly narrow area of regulation. The primary benefit of the U.S.’s role in the Montreal Protocol was that it allowed American chemical companies to have an advantage in the international market, as their greater resources and early research on alternatives allowed them to “capture” the market for the chemicals that replaced ODSs, which gave them a long-term advantage (Benedick 1991, 206). Furthermore, the U.S. established itself as a leader on the issue, ensuring that any future international ozone agreement must be agreed upon with the U.S. This power, though less tangible than the business advantage, guaranteed long-term American influence on the subject and afforded the U.S. the opportunity to shape future regulations in favor of American interests. In this case, besides protecting global human and environmental health, American hegemony secured American interests that would not have been assured otherwise. For environmentalists who want to stop climate change and for policymakers who realize that American power is temporary, the Montreal Protocol, under an analysis similar to Falkner’s, offers the foundation of a plan to institutionalize an American approach to climate change. In order to use American hegemony to create an international treaty



that attacks climate change while securing American interests, these environmentalists and policymakers must work to establish certain domestic conditions that will favor multilateralism. There is already government-funded climate change research, but this should be expanded and protected because without scientific evidence, it will be impossible to defend against those who believe international regulation is unnecessary. Without this evidence, it will also be difficult to know which measures will be most effective in alleviating climate change. This information should be widely spread throughout the media and in information campaigns, which will help garner public support. Finally, although adjusting to regulations may be difficult for American companies, it will be much easier for them than for companies in other countries.

This perspective should be discussed with major companies, and policymakers should listen to what the central industry stakeholders would like to see in a climate deal. This will help the climate treaty maximize American business interests and win industrial support. Currently, the U.S. is in a unique position in which they are simultaneously in the best position from which to act on environmental issues and powerful enough to ignore environmental issues entirely and suffer few consequences. However, acting now would speed international progress and environmental safety while protecting the U.S.

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# Invisible Precedents: The U.S. Drone Strike Program under the Obama Administration

Ava Shafiei

*Swarthmore College*

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## Introduction

On December 12 2013, the United States launched a drone strike in Yemen, based on the claim that the individuals targeted by the strike were terrorists associated with Al-Qaeda in the Arabian Peninsula (AQAP) (Human Rights Watch, 2014). The strike resulted in twelve deaths and fifteen injuries. After the fact, eyewitnesses revealed that most participants were attending a wedding procession and were civilians. Due to conflicting accounts, it is unclear as to whether the procession did in fact include terrorists associated with the AQAP (Human Rights Watch 2014). The legality of this attack, as with all drone attacks, depends on the designation of targets as civilians or combatants. The norms of international humanitarian law and the “policy requirements on targeted killings that President Barack Obama outlined in May 2013”<sup>1</sup> clearly indicate that drone attacks on civilians are illegal (Human Rights Watch 2014). Such incidents, although not a representation of the drone strike program entirely, raise troubling questions. What are the legal precedents that undergird the drone strike campaign? Furthermore, how are these legal precedents related to US counterterrorism strategy? Along with the humanitarian and ethical concerns regarding the drone strike campaign, there are clear political and legal problems at play.

The drone strike program has been expanded in an unprecedented manner under the Obama administration, both legally and in terms of total drone missions. Under the Obama administration, drone strikes increased fourfold, followed by a significant legal and bureaucratic infrastructure built to sustain the campaign (Masters 2013, 3). This expansion is latent with “invisible precedents,” which I define in this paper as implicit norms that are not made apparent by existing legal language. Invisible precedents create a precarious environment for counterterrorism policy in the long run. Therefore, this article shifts the nexus of focus from a mere evaluation of the effectiveness of the drone strike program to an examination of the norms undergirding the legality and legitimacy of drone strikes, calling into question the core norms of the program. Two central arguments follow this shift in perspective. First, the drone strike campaign should be viewed within a larger US counterterrorism policy set up by the Authorization for Use of Military Force (AUMF) under the Bush Administration. Second, the expansion of the drone campaign is latent with “invisible precedents,” which are disjoint with the norms that undergird international humanitarian law.

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<sup>1</sup> The policy requirements here refer to the Presidential Policy Guidance (PPG) which is also commonly known as the drone playbook.

To frame these claims, I will review existing literature on drone strike policy to show how current counterterrorism rhetoric fails to accurately address long-term implications of drone strikes, such as the possible radicalization of the very groups the strikes seek to hinder. The focus on long-term implications of counterterrorism policy will then inform the historical and political background behind the expansion the drone program, namely the AUMF and the Bush administration's framing of a borderless War on Terror. Building on this political history, I will look at the Presidential Policy Guidance (PPG) as the culmination of the ambiguous legal language that mirrors the legacy set by the AUMF.

### **The Existing Literature: Misinformed Counterterrorism Policy**

To understand the problematic nature of the drone strike program, we must first look at how the literature on "effectiveness" shapes the language and latent assumptions in U.S. counterterrorism policy. The current counterterrorism rhetoric has potential to harm future US strategic interests and further the radicalization of the very terrorist groups these policies seek to eliminate.

Most of the literature on the effectiveness of drones focuses on benefits such as fewer civilian casualties, elimination of key leaders, and deconstruction of terrorist safe havens (Byman 2013). Such rationale measures the success of the drone program according to its tactics alone, rather than a broader scale strategy that views counterterrorism strategy in terms of both short term and long term goals (Cronin 2013). Furthermore, the rationale for the "effectiveness" of the drone campaign fails to consider elements of secrecy and ambiguity of the law. For example, civilian casualty counts recorded by the government largely differ from those of independent research groups that track public information about drone strikes (Jaffar 2016, 14). This means that the apparent "effectiveness" of the current counterterrorism policy is masked by a lack of public knowledge and accountability measures. Therefore, although drones can serve U.S. interests in the short term, they "may be creating sworn enemies out of a sea of local insurgents" in the long term (Cronin 2013).

Furthermore, the question of effectiveness only applies in the "narrow sense that drone strikes sometimes [kill] their targets" (Jaffar 2016, 15). The dichotomous portrayal of the drone program in the literature creates a dangerous precedent for meaning and the way in which the law is interpreted. In essence, it contributes to an oversimplification of the narrative of counterterrorism. Analysis based on effectiveness alone creates policies that lead to further radicalization. For example, the drone strikes conducted in Pakistan have led to the perception of indifference for the lives of Muslims and alienation of local populations, all while driving "new recruits to the very terrorist and insurgent groups" the United States was trying to initially disband (Jaffar 2016, 15). The potential for further radicalization reveals the importance of understanding the connection between local responses to drone strikes and US counterterrorism policy in the long run. A broader conceptualization of the effects of drone strikes, one that considers long term and local effects, is apparently necessary given the dominant discourse and literature analyzing their effectiveness.

In sum, a discourse based in "effectiveness" fails to consider how notions of sovereignty

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and safety have informed the radicalization of terrorist groups. Drone strikes are received well domestically and in the short run; however, in the long-run they set a dangerous precedent in terms of international perception while also simultaneously laying ground for unquestioned invisible precedents in U.S. counterterrorism policy. A question of “effectiveness” abstracts the consequences of drone strikes, one that is mirrored in our legal language. The prevalence of a discourse on drone strike “effectiveness,” calls for a shift in perspective, one that considers implicit norms that undergird the narrative of US counterterrorism policy.

### **Theoretical Framework of Analysis**

In order to avoid the pitfalls of a limited discourse on “effectiveness” while also drawing attention to humanitarian concerns, this article takes a constructivist approach to analyzing drone strikes. Informed by constructivist traditions in international relations theory, this article views language as rule-based and socially defined (Fierke 2013,199). Key in this approach is not only viewing language as existing in an either/or subjective or objective realm, but instead viewing language put to use by social actors as they construct their world” (Fierke 2013, 197). This view is supplemented by a consideration of the ways in which language and the law can create “invisible precedents,” a term I will use in this paper to signify misguided norms underlying counterterrorism policy in the long run.

Furthermore, a constructivist approach complicates the unprecedented expansion of drone strike campaigns, as related to the long-term norms that have guided U.S. counterterrorism policy from the Bush administration and beyond. Legal language viewed in a socially constructed context takes on a whole different meaning. Counterterrorism policy relies on defining terms like “imminent threat,” creating meanings that are subjective and temporally bound. In turn, these subjective meanings frame “invisible precedents” set outside of the eye of the public, where meaning is identified by a small group of social actors.

A constructivist approach not only identifies invisible precedents set by legal reasoning such as the borderless war rationale for the War on Terror, but it also allows one to see how U.S. counterterrorism policy (the action on the part of social agents, interpreting meaning) can actually “contribute to the construction of the very problems [policymakers] seek to address” (Fierke 2013, 199). One answer to such a problem may be to consider the role of norms in legal language, viewed as different experiences of reality, some rooted in observational knowledge and others in institutional knowledge (Kratochwil 1989, 21). By understanding that there are various realms of possible truths, one could open up the complexity of the problem at hand. Embedded in this orientation towards multiple perspectives is also a question of security narratives, and the policies they create in the long run (Krebs 2015, 3).

There have been few studies on targeted killings from a constructivist perspective. The discourse on drones is often reduced to a traditional realist analysis, one concerned with the effectiveness of drones alone. The analytical utility of a constructivist approach is situated in not only its theoretical novelty, but also its scope of focus. In sum, the constructivist tradition allows one to consider the ways in which the U.S. drone strike campaign is situated in a larger counterterrorism policy framework latent with invisible precedents.

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**Long Term US Counterterrorism Policy: President's Bush, Obama, and the AUMF**

In this section, I will take a step back from the drone strike program in particular to analyze the political and legal landscape that shaped US counterterrorism policy under President Obama. The nature of counterterrorism policy in the United States is closely related to the invisible precedents set forth from the legal and bureaucratic expansion of the drone strike program.

After the September 2001 terrorist attacks, the United States increased the magnitude of its counterterrorism policy. The ways in which the U.S. responded to the 9/11 attacks required a new language, a language that could encompass a state, the US government, fighting non-state actors, such as Al Qaeda and its affiliated terrorist networks. This shift in national security discourse was both quick and unprecedented. The result of this discourse was the AUMF, adopted only three days after the attacks occurred. The AUMF stated that the President could use “all necessary and appropriate force against all nations, organizations, or persons he determines planned, authorized or aided the terrorist attacks that occurred on September 11 2001” (Murray 2015,177). The AUMF provided the Bush administration expansive executive authority allowing the Executive Branch to “act contrary to federal statutes... [and] most notoriously to avoid limits on interrogations and surveillance” (Johnsen 2016, 4). The most dangerous legacy left by the Bush administration’s

use of the AUMF was the justification for a counterterrorism policy that primarily followed a “war-fighting model” (Murray 2015, 175-6). This model went on to be at the core of the legal rationale used by the Obama administration to justify the expansion of state-sanctioned targeted killing. Both Obama and Bush have used the AUMF to justify controversial legal practices, stretching the law “far beyond [its] original congressional intent” (Murray 2015, 175). The discourse shift post-911 signaled “terrorism” and “terrorists” as not actors and actions that did not exist materially, in an objective manner, but instead they constituted a “radical Other” (Buzan and Hansen 2009, 245). The implications of such a discourse carry much further than just the realm of security, affecting not only the law, but the legal precedents it obscures.

Obama inherited a climate from Bush with a suspended notion of the rule of law, one he hoped to end with a “recalibration” of the War on Terror (Bergan and Rowland 2013, 7). The Obama administration claimed to reject the narrative of the Global War on Terror and instead to see counterterrorism policy “as a series of persistent targeted efforts to dismantle specific networks of violent extremists” (Jaffar 2016, 37-8). However, his counterterrorism policy in the area of drone strikes is a clear example of a policy area in which the Obama administration failed to recalibrate the complicated legal precedents set by the Bush administration’s use of the AUMF. The AUMF set the precedent for a theory of borderless war, which gave the United States government legal rationale to conduct complicated counterterrorism policy in far reaching places such as Pakistan and Yemen (Bergan and Rowland 2013).

The secrecy about counterterrorism policies in both the Bush and Obama administrations further complicates the conversation of legality. It seems that the “instinct towards secrecy in the national security sphere transcends political parties and administrations... whatever their rhetorical commitment to openness” may be (Jaffar 2016, 28). Under the Obama administration,

details regarding the drone strike program such as statistics on civilian casualties, identities of targets and the legal reasoning developed to undergird the program were kept secret. The dimension of secrecy in counterterrorism policy creates the possibility for the language of the law to be defined behind closed doors. Furthermore, the discourse that shaped the drone strike campaign fell under the same legal precedents set by the AUMF. The drone strike program is no stranger to the dominant discourse in security narratives. Without considering the precedents behind the drone strike program—that is the norms that undergird the counterterrorism program as a whole—the United States risks more than just its strategic interests; the drone strike program threatens the very stability of international humanitarian law.

### **Invisible Precedents in Action: The Presidential Guidance (PPG)**

To exemplify the problematic legal language the drone strike program was justified in, I will now look at how the PPG mirrors the language and legal rationale set up by the AUMF. The PPG, the most formal legal justification for the drone campaign thus far, is an example of the ways in which a misinformed legal rationale can transfer across presidencies, all the while contributing to problematic narratives focused on the “effectiveness” of counterterrorism policy instead of its long term implications.

The PPG is often called the “drone playbook,” and it is seen as the culmination of the Obama administration’s attempt to “govern the use of lethal force against suspected terrorists” (Jaffar 2016, 21). The document was signed in 2013, but the full (albeit heavily redacted) document was only made public in the summer of 2016 due to a federal court order initiated by the American Civil Liberties Union (ACLU)<sup>2</sup>. The PPG largely normalized and bureaucratized the drone campaign by delineating the ways in which Executive Branch officials decided to use lethal force against terrorist targets. The document was seen as attempt to defend both the legality and effectiveness of the drone campaign by including more legal rationale rooted in human rights principles instead of rules of war (Jaffar 2016, 41-4). However, it instead served to “preserve executive discretion” in drone strike policy (Jaffar 2016, 41-4).

The language of the PPG fails to clearly delineate a legal and logical rationale for the drone strike campaign. For example, it describes future terrorist threats that warrant actions as both “imminent” and “continuing” and fails to describe the conditions in which such a threat would materialize (Jaffar 2016, 21). The language of that the PPG fails to substantially change the paradigms in which we view counterterrorism policy, further situating the drone campaign in the complicated “borderless war” rationale set initially by the AUMF and the Bush administration.

The PPG is a clear example of the danger in leaving unanswered questions, masked in the language of the precision of the law. These unanswered questions range anywhere from the specific rationale between choosing kill or capture missions to deciding which threats are

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<sup>2</sup> A redacted copy of the Presidential Policy Guidance (PPG) can be found at the following link: [https://www.aclu.org/sites/default/files/field\\_document/presidential\\_policy\\_guidance.pdf](https://www.aclu.org/sites/default/files/field_document/presidential_policy_guidance.pdf).



supposedly “imminent”. The PPG may be termed as the President’s “playbook,” but it is a playbook without rules, one that leaves too much room for invisible precedents to continue taking a dominant place in US security narratives and policy.

### **Summary**

The core problem with Obama’s extension of the drone strike campaign is the legal dilemma created by circular counterterrorism policy rooted in the theory of borderless war, a discourse initially set up by the AUMF post 9/11. The PPG, as well as the drone strike program as a whole, create invisible precedents for future counterterrorism policy, as well as a complicated domino effect on the growing prevalence of terrorism. Alongside the need for decreased secrecy and release of public information, a clear legal rationale that undergirds drone strikes as a counterterrorism policy is imperative and necessary.

The constructivist theoretical tradition invoked in this essay points to the need for a paradigm shift in U.S. counterterrorism policy. Counterterrorism policy should focus more on long-term implications instead of short term “effectiveness”. Inherent in this paradigm shift is the need to re-evaluate the core legal rationale underlying American counterterrorism policy, which is that of a borderless war decided by executive powers. Moving towards a policy with “legally justified, transparent, and rare” drone strikes is a place to start (Cronin 2013, 7). But to solve the core of the problem, there must be a “publically explained legal and moral framework for the use of drones, making sure they are a part of a long-term political strategy” (Cronin 2013, 7). Ideally, changing the law would also constitute a change in practice as well as a broader consideration of the shaky legal basis of post-9/11 counterterrorism policy. However, the invisible legal precedents that underlie U.S. security narratives and policy paint a different story.

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# The War on “Killer Robots”: Goals and Strategies in the Transnational Campaign Against the Offensive Use of Lethal Autonomous Weapon Systems

John Fan

*Swarthmore College*

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At the opening of the 2015 International Joint Conference of Artificial Intelligence, AI scholars presented an open letter, calling for a preemptive ban on autonomous robots that can choose and kill targets without human intervention (Future of Life Institute 2015). The letter cautions against a “global AI arms race” that will eventually make killing easier for terrorists, dictators, and warlords—once autonomous weapons can be mass produced as the technology matures. Even though the kind of fully autonomous weapons system described in the letter has not been developed yet, the letter warns that the development and deployment of lethal autonomous weapons systems (LAWS) are possible in the next few years. The letter was signed by leading AI researchers such as the CEO of Google DeepMind Demis Hassabis, as well as famous academics and technology experts such as physicist Stephen Hawking, CEO of SpaceX Elon Musk, Apple co-founder Steve Wozniak, and linguist, philosopher, cognitive scientist and social critic Noam Chomsky. As of November 2016, the letter has been signed by more than 20,000 people (Ibid.).

Even though many scholars and technology experts have voiced concerns about the development and future deployment of LAWS, discussion of a preventative ban in the UN has been largely unfruitful (Vilmer 2016). This paper views the inability to reach international consensus on a LAWS ban from the perspective of “transnational activists” (Tarrow 2005; Keck and Sikkink 1998), and attempts to answer the following two questions. First, what effects on domestic policy and international law should activists strive for? Second, what available strategies can transnational activists adopt to address the political impasse on the international arena?

On the first question, this paper argues that activists should push for a “ban + regulation” framework that incorporates both a partial ban on LAWS and a set of regulations that mandate their responsible use. The necessity and appropriateness of the framework are motivated by ethical and legal objections to the use of LAWS without direct human control. On the second question, this paper embraces a “two-tier approach” of transnational advocacy that addresses various causes of the impasse from both the domestic level and the international level.

This paper uses the definition of LAWS proposed by Heather Roff: LAWS are *learning* machines that can *autonomously target and fire* without human intervention (Roff 2014, 212-214). Although very broad, a more precise definition is unnecessary. As this paper shall demonstrate later, disagreement on the definition of LAWS has been a significant barrier to international consensus on the regulation of LAWS, and the international community has come to recognize that a comprehensive definition is too early at this point (Vilmer 2016). The

definition that this paper adopts should be sufficient for laying out the groundwork of LAWS policy discussion. The following sections explore the problems that transnational activists are faced with and propose some tentative solutions to the identified problems.

### **The Problems: The History and Contemporary Politics of LAWS**

The use of military “robots” in warfare traces back to World War I, when the United States designed a gyroscope-guided missile called the “Bug,” and Germany designed remote-controlled motorboats that could be fit with explosives (McCormick 2014). However, military AI research really began when the Pentagon gave Massachusetts Institute of Technology significant funding in 1963 (Ibid.). Much progress has been made worldwide since. By 2001, the United States had fully developed drones that could carry Hellfire missiles (Ibid.). In 2005, due to legal and technical concerns, the United States military canceled the plan to build a cruise missile that could autonomously kill targets on a battlefield, even though the technology for such a weapon had long existed (Gubrud 2015). In 2006, South Korea unveiled sentry robots that could automatically track and engage targets, although it was reported that human approval was required before the robots could fire (McCormick 2014).

During the past several years, artificial intelligence research has achieved results that were almost unimaginable in the past. *The Economist* (2016) reports that, due to the use of new techniques such as “deep learning” and “neural networking,” the year 2012 marked the beginning of several groundbreaking developments in the field of artificial intelligence. In 2012, a research team at the University of Toronto significantly improved the image identification ability of previous AI algorithms. Three years later in 2015, an AI algorithm beat the average human level of 95% accuracy in image identification for the first time in history. The same report also mentioned that in 2016, DeepMind, the AI research branch of Google’s parent company Alphabet, made headlines when its AlphaGo system beat Lee Sedol, one of the best human players in the world, in the ancient Chinese board game Go (Ibid.). For human players, the game of Go, in comparison to chess, is a much more intuitive rather than calculative game. Even though chess has already been “solved” in the past by machines using brute force algorithms, solving the game of Go was considered “a grand challenge for AI” that would lead to significant development of AI technology in many areas of application (Gelly et al. 2012, 107). These new techniques of artificial intelligence will most likely find military applications and accelerate the development of LAWS.

The quick development of AI technology supports the researchers’ conclusion in their open letter that “artificial intelligence (AI) technology has reached a point where the deployment of such systems is — practically if not legally — feasible within years, not decades” (Future of Life Institute 2015). Military AI and the deployment of LAWS will revolutionize robotic warfare. In response to this trend, different institutions and organizations have reacted differently. For example, the Obama administration issued a guideline on the responsible use of autonomous weapons systems (Department of Defense 2012), even though the directive is described by one commentator as “unremarkable in substance and arguably should apply to any weapons system” (Gubrud 2015). Its definition of LAWS has also been criticized for lack of

clarity (Roff, quoted in Conn 2016). UN Special Rapporteur Christof Heyns submitted a report on LAWS to the Human Rights Council in 2013, and the report's main recommendations included national moratoria on the development of LAWS and a panel study of the technology's implications (United Nations Human Rights Council, 21). Since 2014, during the annual UN Convention on Certain Conventional Weapons (CCW), experts and countries have met and discussed disarmament of LAWS (Vilmer 2016). However, very little consensus has been reached during the three meetings, due to technical and political reasons (Sayler 2016). First, since most of the discussion revolves around whether LAWS should be banned or not, states have been cautious with their definitions, and little progress has been made as a result (Ibid.). Second, despite a shared understanding that LAWS can be dangerous, many states are still unwilling to adopt a binding framework or implement a preventative ban just yet (Vilmer 2016; Sayler 2016).

### **The “Accountability Problem” and the “Strategic Robot Problem”**

Without a robust regulatory framework or a comprehensive ban, the deployment of LAWS can significantly challenge the force of international law and undermine the military command and control structure. LAWS can cause what can be termed the “accountability problem”: assigning blame (legal or moral) is impossible or extremely difficult after an accident happens. Unless the artificial intelligence that underlies an autonomous weapons system is capable of “higher-order intentionality” about its own beliefs, it usually cannot be morally (or legally) responsible for the harm it causes (Dennett 1996, 354). The question, then, is who else should be responsible for the harm that LAWS may cause, especially since personal accountability is central to international law (Human Rights Watch 2015, 13).

Unless a set of procedures is in place that ensures human involvement whenever an important tactical or strategic decision is made, meaningful personal accountability is nearly impossible. In particular, if human intervention is impossible after LAWS is deployed,<sup>1</sup> and the system violates the international law by, for example, not respecting the humanitarian law requirement of proportionality, either the person(s) who chose to deploy the weapon (the commander), or the person(s) who programmed the system (the programmer) should take responsibility. Lewis (2015, 1324) concludes that the first option is appropriate based on a similar requirement in landmine regulation. However, unless the commander was fully aware that the deployment of LAWS will or will likely lead to violation of international law, it seems unreasonable that the commander should be blamed for their unpredictability, especially if the use of LAWS is permitted by international law. As for landmines, there is already a well-

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<sup>1</sup> Note that even semi-autonomous weapons systems defined in the DOD directive does not require human intervention after deployed, and semi-autonomous weapons systems are allowed to use lethal force under the current guideline. See Department of Defense, *Department of Defense Directive 3000.09: Autonomy in Weapon Systems* (Arlington, VA: United States Department of Defense, 2012), 3, <https://www.hsdl.org/?abstract&did=726163>.

established norm against their use, and therefore it is appropriate to blame the commander for any unjustified harm that his or her deployed landmines cause.

The second option also seems inappropriate, since LAWS are unlike other automated weapons that “respond to a preprogrammed set of constraints” (Roff 2014, 212). The programmer cannot fully control the autonomous learning process of LAWS. The programmer need not even be familiar with the international law, just as the developers of AlphaGo did not need to know how to play Go (Gibney 2016, 445).<sup>2</sup> In conclusion, unless human control is present in every step of LAWS operation, assigning criminal responsibility is almost impossible, and international humanitarian law violations may not be punishable.

Even if the “accountability problem” can be overcome, LAWS that are used without a high level of human involvement can still create what Roff calls the “Strategic Robot Problem” (Roff 2014). Since the battlefield evolves very rapidly and the list of targets must be constantly reviewed and updated by commanders, the deployed LAWS must either possess preprogrammed lists of targets, or be “commanders” that can generate their own target lists. In the first case, LAWS must frequently be recalled to receive updated lists, undermining the claim that LAWS can be cost effective. In the second case, LAWS might generate conflicting military goals with each other, and the multiplicity of strategic actors can undermine the command and control structure and make interoperability, an important element of modern warfare, “mere fiction” (Ibid., 219-220). Moreover, since LAWS operate in isolation and cannot be held morally responsible for their decisions, “moral authority and responsibility [...] vanishes” (Ibid., 220). For those who believe that moral and criminal accountability are normatively indispensable, both the “accountability problem” and the “strategic robot problem” weigh heavily against the use of LAWS without a high level of human control and a robust command and control structure.<sup>3</sup>

### **The Solutions: The “Ban + Regulation” Model**

Many scholars and experts have advocated for a ban on LAWS (Future of Life Institute 2015). However, as the past three meetings at CCW show, the disagreement over definition and the lack of political will to comprehensively ban LAWS have resulted in a gridlock (Vilmer 2016; Sayler 2016). Arguing that regulation, rather than a ban, is more effective in ensuring compliance and protecting human life, John Lewis (2015, 1310) advocates for LAWS regulation modeled after that of landmine use. However, dividing the available action space into ban versus regulation presents a false dichotomy. This section argues that a “ban + regulation” model is more politically practicable and directly deals with the technical problems mentioned in the previous section. Roff (2016, 123) also concedes that regulation is important if a ban cannot be

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<sup>2</sup> In the case of AlphaGo, it was a general-purpose algorithm and was not preprogrammed with any Go paradigms.

<sup>3</sup> For more discussion on the ethics of LAWS, see Peter Asaro, “On Banning Autonomous Weapon Systems: Human Rights, Automation, and the Dehumanization of Lethal Decision-Making,” *International Review of the Red Cross* 94, no. 886 (2012), 687-709, doi: 10.1017/S1816383112000768.

accomplished, and that we should think about how ban and regulation can together eliminate the dangers of LAWS. This section offers some thoughts on this suggestion.

First, due to the nature of AI technology, a “comprehensive” ban on LAWS without regulatory support is difficult, if not impossible. As Owen (2016) argues, technology such as artificial intelligence cannot be “banned” in the usual sense, especially since AI is a “dual-use” technology that has already been developed for peaceful use. He argues that procedural regulations can be more effective, since it is the individuals who are accountable (Ibid.). Moreover, in contrast to its physical manifestations as “devices,” technology is fluid and cannot be neatly “boxed in” by a comprehensive ban. For example, Marshall (1997, 1392) observes that even though antipersonnel laser weapons that purposefully blind or severely impair soldiers’ vision have been banned by international treaty law, many other military devices that use the technology but are not explicitly “antipersonnel” are left out from the treaty and can still blind soldiers. Examples include “range finders, target illuminators, and anti-sensor systems.” Since it is the devices rather than the technology that are prohibited, the “ban” on laser weapons cannot completely eliminate the inherent risk of laser technology.

Lewis (2015, 1323-1324) argues that LAWS regulations should follow the example of those of landmines. In his view, regulations should take into account their technical details and capacity, appropriate environment for their deployment, possible evasion techniques and mistargeting, level of human control, and other factors. Borrowing from landmine regulations is helpful, especially since there is a high level of compliance with landmine regulations among signatories (Bryden 2013, cited in Lewis 2015, 1318). On the issue of human control, Roff and Moyes (2016) prefer the concept of “meaningful human control” that ensures informed human control and possibility for intervention in every step of the process.

In addition to a regulatory framework, a partial ban on certain possible kinds of LAWS that are clearly dangerous or unacceptable should still be implemented. Lewis (2015) argues against banning LAWS, citing again the landmine example where many states were unwilling to accept a ban on landmines and instead opted for moderate regulations of the Amended Protocol II (1318-1319). However, Article 3 of the Amended Protocol II, in fact, prohibited the use of non-detectable landmines, self-deactivating landmines or landmines that are designed to “cause superfluous injury or unnecessary suffering (United Nations 1996, 135-136). Following this example, LAWS that cause “unnecessary suffering” as part of their designs should also be banned.

### **A Two-Tier Approach**

How, then, should activists strive to achieve an international regulatory regime based on the “ban + regulation” model? This section of the paper draws from the constructivism literature and transnational advocacy network (TAN) literature in IR theory, and argues that activists should adopt a more aggressive and creative approach of norm entrepreneurship and international contention.

As constructivist theorist Alexander Wendt (1992, 397) argues, relationships between states are characterized by “intersubjective understandings and expectations” rather than just



pure material interests. Kenneth Waltz's conception of "self-help" (1979), according to Wendt, is only one of many different ways the international system could be organized (Wendt 1992, 400). Wendt further argues that "positive interdependence of outcome" can create new understandings and expectations in the form of social norms, and commitment to these norms can supersede egoism in states' behavior (Ibid., 417). If constructivism correctly describes the ontology of international relations, then establishing a norm of LAWS disarmament may prevent a global LAWS arms race and lead to more responsible military use of AI technology.

Neo-realists who believe world politics is fundamentally a system of self-help, however, would criticize this vision as hopelessly utopian. As Waltz (1979, 102-105) argues, the international system encourages power-seeking behavior and pursuit of relative gain. Both characteristics tend to encourage a global arms race of LAWS, especially since autonomous weapons have been regarded as "the third revolution in warfare" (Future of Life Institute 2015). Even Wendt does not "contest the neorealist description of the contemporary state system as a competitive, self-help world" (1992, 396), and cautions that the transformation of interest and identity faces numerous constraints (Ibid., 418). However, the example of nuclear nonproliferation shows that pessimism or even fatalism is unwarranted. As Sagan (1996/97, 71-73, 82-86) observes, domestic actors and constraining international norms can both lead to nonproliferation. There is also a strong international norm against the use of nuclear weapons (Tannewald 1999, 435). Moreover, between the United States and Russia, significant progress has been made in nuclear arms control (Arms Control Association 2014). Thus, self-constraining behavior is possible if there is an established norm of disarmament or nonproliferation that stems from a shared understanding of the weapon's danger.

Jean-Baptiste Jeangène Vilmer's (2016) report of the third and most recent meeting on LAWS at the CCW shows a shared understanding among the states of the potential risk of LAWS, but the meeting fell short of building a consensus on its preventative ban. Russia, in particular, only wanted a "discussion" on LAWS at this point rather than negotiation of a formal framework, and even states that opposed LAWS lacked the political will to advocate for a moratorium or preventative ban (Ibid.). In other words, beyond the shared understanding that LAWS can be dangerous, states did not feel obligated to agree to a ban. Furthermore, even without a ban, there was significant disagreement on what types of regulations should apply (Ibid.). For activists who want to create an international norm against the use of LAWS, a two-tier approach that focuses both on the domestic level and the international level is appropriate.

On the domestic level, activists should try to establish a norm against the use of LAWS. There have been numerous works published on "norm entrepreneurship" by constructivist and transnational advocacy networks (TAN) scholars. Norms are defined as "standard[s] of appropriate behavior for actors with a given identity," such as the norm against the use of landmines (Finnemore and Sikkink 1998, 891). According to Martha Finnemore and Kathryn Sikkink (Ibid., 893), "[m]any international norms began as domestic norms and become international through the efforts of entrepreneurs of various kinds." Before norms are institutionalized as international rules and organizations, norm entrepreneurs must dramatize or even "create" issues by using language that resonates with preexisting moral and cultural

understandings, a process usually referred to as “framing” (Ibid., 897-901; Tarrow 2005, 61; Keck and Sikkink 1998, 19). Successful framing should depict the issue in unequivocal terms, and make experts’ technical information easily digestible for the targeted publics and policymakers (Keck and Sikkink 1998, 19). Successful framing should also attempt to “graft” the new moral standards onto preexisting ones, especially in disarmament politics (Carpenter 2007, 103-104). Moreover, since a significant role of transnational activism is to provide information and argue for a moral position, a useful frame must “show that a given state of affairs is neither natural nor accidental, identify the responsible party or parties, and propose credible solutions” (Keck and Sikkink 1998, 19).

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Over the past decade, the expanded use of unmanned armed vehicles has dramatically changed warfare, bringing new humanitarian and legal challenges. Now rapid advances in technology are resulting in efforts to develop fully autonomous weapons. These robotic weapons would be able to choose and fire on targets on their own, without any human intervention. [The Problem](#) describes numerous ethical, legal, moral, policy, technical, and other concerns with fully autonomous weapons.

Giving machines the power to decide who lives and dies on the battlefield is an unacceptable application of technology. Human control of any combat robot is essential to ensuring both humanitarian protection and effective legal control. A comprehensive, pre-emptive prohibition on fully autonomous weapons is urgently needed. [The Solution](#) outlines how a ban could be achieved through an international treaty, as well as through national laws and other measures.

In recent years, the benefits and dangers of fully autonomous weapons have been hotly debated by a relatively small community of specialists, including military personnel, scientists, roboticists, ethicists, philosophers, and lawyers. They have evaluated autonomous weapons from a range of perspectives, including military utility, cost, policy, and the ethics of delegating life-and-death decisions to a machine. Our [Bibliography](#) provides a list of recent publications about this challenge, while [Statements](#) contains documents issued by the Campaign to Stop Killer Robots.

See:

- [The Problem](#) explained
- [The Solution](#) and other measures
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Figure 1. A webpage on the website of a campaign against LAWS. *Source:* Campaign to Stop Killer Robots, “Learn,” *Campaign to Stop Killer Robots*, 2015, <https://www.stopkillerrobots.org/learn/>.

**CAMPAIGN TO STOP KILLER ROBOTS**

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## The Problem

Over the past decade, the expanded use of unmanned armed vehicles has dramatically changed warfare, bringing new humanitarian and legal challenges. Now rapid advances in technology are resulting in efforts to develop fully autonomous weapons. These robotic weapons would be able to choose and fire on targets on their own, without any human intervention. This capability would pose a fundamental challenge to the protection of civilians and to compliance with international human rights and humanitarian law.

Several nations with high-tech militaries, particularly the United States, China, Israel, South Korea, Russia, and the United Kingdom are moving toward systems that would give greater combat autonomy to machines. If one or more chooses to deploy fully autonomous weapons, a large step beyond remote-controlled armed drones, others may feel compelled to abandon policies of restraint, leading to a robotic arms race. Agreement is needed now to establish controls on these weapons before investments, technological momentum, and new military doctrine make it difficult to change course.

Allowing life or death decisions to be made by machines crosses a fundamental moral line. Autonomous robots would lack human judgment and the ability to understand context. These qualities are necessary to make complex ethical choices on a dynamic battlefield, to distinguish adequately between soldiers and civilians, and to evaluate the proportionality of an attack. As a result, fully autonomous weapons would not meet the requirements of the laws of war.

Replacing human troops with machines could make the decision to go to war easier, which would shift the burden of armed conflict further onto civilians. The use of fully autonomous weapons would create an accountability gap as there is no clarity on who would be legally responsible for a robot's actions: the commander, programmer, manufacturer, or robot itself? Without accountability, these parties would have less incentive to ensure robots did not endanger civilians and victims would be left unsatisfied that someone was punished for the harm they experienced.

For more information see the [Bibliography](#) as well as:

- *Losing Humanity: The case against Killer Robots* report by Human Rights Watch, 19 Nov. 2012
- *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns*, 9 Apr. 2013

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@Gibbyk1 @summeryaal No government has made that case yet. Only Israel & United States wish to discuss possible benefits & advantages.  
November 26, 2016 6:37 am

@summeryaal @Abnoxius @Gibbyk1 Actually 14 countries want a ban & dozens more want to retain

Figure 2. A webpage on the the website of a campaign against LAWS. *Source:* Campaign to Stop Killer Robots, “The Problem,” *Campaign to Stop Killer Robots*, 2015, <https://www.stopkillerrobots.org/the-problem/>.

### What Similarities Do Killer Robots Share with the Terminator?

- Both can select and fire targets on their own, without human intervention.
- Both are based on artificial intelligence for decision-making.
- Both are machines that cannot be held morally responsible for their killings.
- Neither can be bargained or reasoned with, or feel pity, remorse, fear, or stop before they kill the target.

### Do you know?

- Under the Department of Defense guideline, the Terminator is classified as “semi-autonomous” and is allowed to use lethal force.

Figure 3. Using cultural symbols such as the Terminator to illustrate the problem of LAWS.

Bearing in mind these lessons, this paper proposes that advocacy campaigns should frame the regulation and ban of LAWS in terms of well-known cultural symbols that illustrate the familiar fear of technology running amok. One such example is the movie *The Terminator*, where a cyborg killer, the Terminator, is sent back in time to kill all women named “Sarah Connor” in a particular area (*The Terminator* 1984). The website of a current campaign against LAWS called “Campaign to Stop Killer Robots” (Figure 1 and Figure 2) displays only dry and technical information about LAWS that has little appeal to those unfamiliar with the subject. Figure 3 uses the Terminator as a reference point to illustrate the dangers of LAWS. The last point of the section “What Similarities Do Killer Robots Share with the Terminator?” alludes to an iconic scene in the movie (*Ibid.*). The “Do you know?” section informs the reader about current United States internal policy on LAWS and its inadequacy (Department of Defense 2012, 3; Gubrud 2015). Using cultural symbols such as the Terminator, activists can frame the issue of LAWS not as a technical issue of weapon regulation or moral philosophy, but as an issue of unaccountable and unconstrained use of potentially dangerous technology.

Reframing the same issue can be effective in several ways. First, there is already a well-established norm against the use of Terminator-like technology. A senior Department of Defense official, for example, emphasized that the autonomous weapons under development are less like the Terminator and more like the Iron Man from the eponymous movie (Rosenberg and Markoff 2016). There is no need to emphasize the dissimilarity between LAWS and the Terminator unless a norm against the development of technology similar to the latter already exists. Thus, this paper’s proposed frame follows the “grafting” strategy in issue framing (Carpenter 2007, 104). Second, the proposed frame casts the issue in a morally unambiguous way. It also allows the activists to emphasize and illustrate aspects of LAWS that public opinion polls have shown to be the most unnerving, such as circumvention of human decision-making and the machines’ lack of moral conscience (Carpenter 2014). Third, as Figure 3 illustrates, the use of cultural symbols can make technical information memorable and easy to understand. Fourth, just as Skynet is “responsible” for the creation of the Terminator, the proposed frame identifies the governments as the responsible parties for the issue (Keck and Sikkink 1998, 19). Finally, just as the movie is about the potential danger of misused technology, the proposed frame emphasizes the need for regulation and invites concerned citizens to take action against their states’ continued development of LAWS and unwillingness to commit to a regulatory framework.<sup>4</sup>

One objection is that such framing is similar to a scare tactic. Intuition may differ here as to whether this is the case. If the goal is to inform the public in a creative and memorable way, the use of popular culture references should not be problematic. It is important to note that

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<sup>4</sup> Much of the discussion here is U.S. based, mainly because of the importance of the United States in international decision-making, the advanced level of technology development in the United States, and the fact that the United States is the only country so far to have a written guideline on LAWS. See Vilmer, “Autonomous Weapon Diplomacy.” The same strategy, however, applies to all western democracies where there is a cultural norm against similar technology.

calling LAWS “killer robots” is itself an instance of framing, and public opinion research on LAWS shows that the label “killer robots” itself does not make the respondents more opposed to LAWS. It is the idea of LAWS that is feared (Carpenter 2013). Framing is primarily a tool of persuasion and illustration rather than manipulation. While survey research shows that respondents often react unfavorably toward the use of LAWS after the concept is explained clearly to them (Ibid.; Open Roboethics Initiative 2015, 5), this framing technique aims to increase awareness about this highly technical issue and galvanize the public into action.

One may also argue that the proposed strategy is better suited for a campaign that aims for a complete ban on LAWS rather than a seemingly more compromised position of “ban + regulation,” since the proposed frame seems to appeal primarily to the public’s fear of certain technologies. Even if it is the case that the strategy will cause people to push for a complete ban, international activists can capitalize on that momentum to advocate stricter sanctions and regulations on the use of technology than are otherwise possible, especially when partial bans on certain clearly dangerous weapons are met with political resistance from nations. As such, the end result would ideally look very similar to what the “ban + regulation” model prescribes.

On the international level, activists should continue to persuade and offer expertise on the subject. Despite the observation that international norms usually begin as domestic norms (Finnemore and Sikkink 1998, 893), activists need not only focus on the domestic level, especially since CCW meetings are open to experts from NGOs, and there is already a common understanding among most participants of the third CCW meeting that LAWS can be potentially dangerous (Vilmer 2016). The inability to achieve a binding framework or a preventative ban reflects not only the lack of political will, but also the genuine technical difficulty of the subject. Activists and experts of LAWS can provide information and propose a regulatory framework to facilitate the discussion. The following are some suggestions. First, activists should remind participant countries that it may still be too early to settle on any particular definition of LAWS, and activists should try to push the discussion toward a more constructive direction. Second, activists should continue to advocate that LAWS should be subject to “meaningful human control,” where human control takes place or is possible before, during, and after LAWS is deployed (Roff and Moyes 2016). Activists should emphasize that only humans can and should be responsible for the actions of LAWS. Third, activists should highlight certain similarities between LAWS and landmines and “frame” certain regulations of LAWS in terms of landmine regulations. This can lead to a helpful shift from the unfruitful discussion of whether all LAWS should be banned to the identification of the basic elements of a regulatory element. Fourth, activists should advocate for some method of inspection and investigation similar to nuclear inspection, so that AI experts, human rights and extrajudicial killings experts, and military experts can verify that states are not abusing AI technology or violating international law in the development of LAWS. Finally, as more information becomes available and the unacceptability of particular types of LAWS becomes well understood, activists should advocate for the ban of these types of weapons.

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