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COLLEGE OF INTERNATIONAL STUDIES

BY THE COMMITTEE CONSISTING OF

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Table of Contents

Introduction……..……..1

Chapter 1 Ethical Dilemmas of War:
The Impact of Drones on International Law and Just War Theory……..……12

Chapter 2 Unidentified Targets: Signature Strike Implications in Just War Theory…….…..…… 41

Chapter 3 The Mind and War:
Psychological Components of Signature Strike Operations…….…..……..71

Conclusion…….…….……96

References…….…..……101

Abstract

Much of the ethical debates surrounding the use of force are primarily concerned with permissibility and with compliance with just war tradition principles. However, these moral elements do not fully grapple with the ethical shortcomings of drone warfare, in which there is a removal of physical risk only to the United States. However, this lack of physical risk- the radically asymmetric nature of drone operations, removes the foundation of whether a war may be justifiable: reciprocity. The lack of reciprocity fundamentally challenges our understanding of whether the use of force might be morally justifiable. With the removal of risk to the United States, war becomes a unilateral occurrence, in which individuals from the other side of the conflict are unable to defend themselves; thus, the use of force is less similar to war than it is to murder. In this paper, I seek to address these moral and ethical shortcomings of radically asymmetric warfare by examining the United States use of drone warfare. I first seek to contextualize the moral justification for the use of force by examining current debates on the ethics of drone warfare, specifically addressing both just war tradition and international law. Next, I examine the application of drone warfare by analyzing the morality of signature strike and personality strike operations, and how these are further complicated by risk-asymmetry. Lastly, I argue that risk-asymmetry is not risk-free to soldiers by examining the psychological consequences of waging radically asymmetric war.

Key words: *risk-asymmetric, drones, warfare, ethics of war*

Introduction

Contextualizing Drone Warfare

> "Mamana Bibi, aged 68, was tending her crops In Ghundi Kala village [within Pakistan] . . . on the afternoon of 24 October 2012, when she was killed instantly by two Hellfire missiles fired from a drone aircraft. "She was standing in our family fields gathering okra to cook that evening," recalled Zabuair Rehman, one of Mamana Bibi's grandsons, who was about 119ft away also working in the fields at the time. Mamana Bibi's three granddaughters . . . were also in the field. . . another of Mamana Bibi's grandsons, 15-year-old Rehman Saeed, was walking home from school. . . Then, before her family's eyes, Mamana Bibi was blown into pieces by at least two Hellfire missiles fired concurrently from a US drone aircraft."- Amnesty International, "Will I be Next?"[1]

In the aftermath of the strike that killed Mamana Bibi, her two grandsons rushed to the scene, only to find her body in pieces. The two boys, acting in fear, rushed to flee the scene, only to have another set of Hellfire missiles launched towards them. One of the grandsons, Kaleemul, recalls feeling his leg hit by shrapnel, then losing consciousness; he survived the attack, but he and other family members were shocked as to why their elderly grandmother would be targeted by United States drones.[2] Her granddaughter, Nabeela, eight years old, recalls hearing her grandmother's screams, then fleeing the scene while trying to wipe away blood from her body. [3]

Mamana Bibi's story, like many others, reveals the daunting ethical shortcomings within the United States drone program. Drone strikes in regions outside of war leave haunting imprints on civilians while taking the lives of many noncombatants, such as Mamana Bibi. Yet, drones are intended, in theory, to be morally superior weapons. Indeed, there are drone operations that

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[1] Amnesty International. *" Will I be Next?": US Drone Strikes in Pakistan*. Amnesty International, 2013. (pages 18-19).
[2] *Ibid.*
[3] Devereaux, Ryan. "Family of Grandmother Killed in US Drone Strike arrive for Congress Visit" Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 373-380). New York u.a.: Idebate Press, 2015.

do not result in civilian casualties; however, even when a drone operation might be otherwise morally justifiable, there is no sense of potential reciprocity in these strikes. Without the ability to defend oneself in war, a lack of reciprocity begins to mirror that of murder, not warfare. The lack of reciprocity within war, thus, fundamentally challenges our perceptions of what is required to kill another person, as Strachan and Scheipers note:

> War rests on contention. If one party attacks another, the other must respond for war to occur, or else what will follow will be murder, massacre, or occupation. This reaction means that possibly the most important feature of war is reciprocity.[4]

War is heavily reliant on the necessary element of reciprocity in which individuals from both sides of the conflict have the ability to harm the other; this sense of reciprocity has often informed an overarching moral justification for the act of going to war itself.[5] However, the United States drone operations in regions of Pakistan and Yemen have removed this element of reciprocity; thus, creating a "risk free" method of warfare.[6] The supposedly risk-free nature of drone operations does, however, create further tensions in the already disputed ethical application of drones. As discussed later in the paper, scholars have continuously debated on the morality of the use of force with drones, especially through the language of just war tradition. Furthermore, when drones might be deemed morally justifiable according to just war tradition, the ethical question thus becomes whether "disparities of physical risk between opponents in war may reach such a degree as to render ambiguous what would otherwise be morally unproblematic use of military violence."[7] This paper, thus, seeks to identify whether the United

[4] Strachan, Hew and Sibylle Scheipers. 2011. 'Introduction: The Changing Character of War'. In The Changing Character of War, edited by H. Strachan and S. Scheipers. Oxford: Oxford University Press. (Pages 7-8).
[5] Renic, 34.
[6] Enemark, Christian. "Drones, risk, and perpetual force." *Ethics & International Affairs* 28, no. 3 (2014): 365-381.
[7] Renic, 3.

States drone operations becomes morally ambiguous and problematic due to its radically asymmetric nature.

As for the terminology utilized throughout the paper, I will refer to the continuous drone strike operations as "drone warfare." The scope of this paper, however, is narrowed to specifically examine drone warfare conducted by the United States, with a great degree of moral ambiguity occurring within Pakistan. However, the moral concern for radical asymmetry does incorporate U.S. drone strikes in other regions that will be discussed, too; notably, information drawn from strikes occurring within Afghanistan offer significant insight into the psychological implications of radically asymmetric warfare. Nonetheless, scholars somewhat diverge in what they refer to as drone warfare, with the language often including "targeted killing," "assassinations," and often referring to the continuous strikes as "drone operations."[8] This paper refrains from these three for numerous reasons. Firstly, drone strikes could not be appropriately labeled as assassinations, given that there are existing threats of terrorism. While these threats do not necessarily constitute the majority of strikes, the threat should not be reduced to the extent that all drone strikes are labeled assassinations. Furthermore, "targeted killing" assumes that those killed by drone strikes are identified targets. As I will discuss in Chapter 2, this is often not the case; there are notably high numbers of civilian casualties (when compared to the U.S. claims of both precision and few civilian casualties), as well as the issue of flawed target identification mechanisms. Individuals identified within the national security apparatus are often misidentified by drone pilots, resulting in unnecessary collateral damage:

> With each failed attempt to assassinate a man on the Kill List, who filled the body bag in his place? In fact, it is more accurate to say "body bags": many other lives are sacrificed

[8] Jaffer, Jameel, ed. *The Drone Memos: Targeted Killing, Secrecy and the Law*. New Press, The, 2010.

> in the effort to erase a name from the Kill List. In one case, it took seven drone strikes before the US killed its target. In those strikes, as many as 164 people died, including 11 children. In total, as many as 1,147 people have been killed during attempts to kill 41 men, accounting for a quarter of all possible drone strike casualties in Pakistan and Yemen. . . In Pakistan, 221 people, including 103 children, have been killed in attempts to kill four men, three of whom are still alive and a fourth of whom died from natural causes.[9]

Given the scope of these drone strikes, as well as their repetitive nature, referring to the strikes as drone operations might fail to fully capture the magnitude of the use of force. Moreover, the severe impact on civilians, both with the loss of life and the psychological trauma that follows for many others, the conditions of drone warfare are extremely similar to war. While there are successful drone operations that do not result in civilian casualties and do not leave civilians paralyzed in fear, there remains to be significant physical and mental impacts on these regions existing outside of warzones; thus, mirroring the effects of war that could be noted in a traditional warzone. Therefore, to not reduce the severity of the U.S. drone program, I will refer to the continuous drone strikes as drone warfare throughout the entirety of this paper.

The ethical framework for this paper will primarily utilize just war theory in the efforts to contextualize the current discourse surrounding the use of drones. Just war tradition provides insight into the current understanding, and contestation, of permissibility in the use of force. Applied to drone warfare, the incorporation of just war theory in tandem with radical asymmetry thus provides a greater context into what might be moral or immoral, and how asymmetric warfare challenges these notions. The connection to just war tradition should not be ignored, as

[9] Reprieve, U. S. "You Never Die Twice: Multiple Kills in the US Drone Program." *Reprieve* (2014).

there is significant overlap between the concerns for permissibility and concerns for radically asymmetric warfare:

> Obtaining a full and accurate account of the moral significance of radical asymmetry is of both theoretical and practical value. For those who participate in war there are few questions more important than precisely when is it permissible to kill? 'Lethality', wrote U.S. General (Gen.) Martin E. Dempsey, 'is the foundation on which everything we do must be built, but lethality brings with it incredible obligations and responsibility.'[10]

This paper, thus, seeks to contextualize the morality of radical asymmetry in tandem with just war tradition, while seeking to examine whether the principles of just war tradition might fully grapple with the ethical dilemmas of drone warfare. Indeed, there are alternative ethical frameworks that might seek to further understand the moral conditions of war; notably, pacifism, utilitarianism, and deontology, amongst numerous others. Several possible routes of the ethical debate do overlap with elements of just war theory, yet these alternative ethical paradigms are not typically within the language of drone warfare discourse. Hence, to maintain consistency with the language used by scholars, high-ranking U.S. government officials, and military officials, this paper will primarily focus on assessing drones through the ethical lens of the just war tradition. Furthermore, the primary scope of this paper- in identifying the moral or immoral status of conducting asymmetric warfare- most appropriately examines the moral question when discussed in tandem with just war theory, rather than with alternative ethical paradigms. Ultimately, by utilizing the language of just war, I am able to critique from within in terms that military decision-makers, policymakers, and scholars share to address the dilemmas of drone strikes in the in-between spaces of war and peace.

[10] Renic, 2.

While the just war tradition continues to be the language of ethics in war, the emergence of drone technologies presents a challenge to traditional categories of just war theory. Drone warfare conducted in regions outside of designated warzones, such as Pakistan and Yemen, often do not meet the criteria *jus in bello*. For example, if the primary purpose of *jus in bello* is to assess the justice of conduct during a war, how could principles of *jus in bello* begin to assess the ethical status of drone operations outside of war zones? Indeed, the principles of discrimination and proportionality remain increasingly important in both regions of conflict and non-conflict. However, drone warfare complicates the assessment of proportionality, as operations outside of war zones are conventionally subject to international human rights law (IHRL), thus civilian casualties are considered murder and not collateral damage. In both regions of conflict and non-conflict, the principle of discrimination is also often highlighted, with high levels of civilian casualties noted in the aftermath of drone strikes.[11] Through discrimination, there is an expected higher bar for the ability to differentiate civilians from combatants; the purportedly precise nature of drone technologies should, in theory, yield little to no civilian casualties. However, there are significant failures in discrimination during drone strikes, with notably disproportionate rates of civilian deaths to the deaths of combatants, as noted previously in the case of Pakistan and Yemen. The high levels of civilian casualties, of course, comes with the overuse of drones against low-level militants, rather than high level targets that could conceivably pose a reasonable threat to the United States. Therefore, by asserting that the laws of war exist wherever terrorists operate, the U.S. has tacitly raised the threshold for the acceptability of civilian casualties in areas where IHRL should apply.

[11] The Bureau of Investigative Journalism. 2020. Drone Warfare Database. https://www.thebureauinvestigates.com/projects/drone-war

Indeed, there are instances in which drone operations would fall under the scope of *jus in bello;* In regions of declared wars, such as Afghanistan and Iraq, drones would fall under these necessary conditions. Yet, drone operations within these war zones remain to be controversial in their application, notably through concerns with *jus in bello* principles but also through the concern of radical asymmetry. Operations often violate principles of *jus in bello*, suggesting not that these drone operations require different principles of just war tradition, but rather the human application falls short of existing ethical guidelines. Hence, even in the most permissive war environments, drones are like any other weapon to be governed by *jus in bello* principles, still sometimes violate these guidelines. These categories are useful for convention war but not for sustained drone campaigns short of war, such as operations within Pakistan or Yemen. Within regions of non-conflict, also referred to as the "in-between spaces" by Michael Walzer, drone operations are heavily contested in their legality and ethical status.[12] While the United States asserts that war exists anywhere that terrorists operate, the legal and ethical frameworks surrounding the use of force are typically only applicable to full-scale war. Yet, at the same time, Pakistan openly invited the United States to operate within the Pakistani borders.[13] So although issues of sovereignty were hotly contested in the height of drone strikes in Pakistan in 2010, the U.S. had the explicit consent of the Pakistani government, while allowing them to condemn us publicly. If there is to be a moral assessment of these in-between spaces, conditions of just war theory must then consider what extent of asymmetry is permissible through these measures short of war; that in which *jus in bello* fails to provide.

[12] Walzer, Michael. "On fighting terrorism justly." *International Relations* 21, no. 4 (2007): 480-484.
[13] Mazzetti, Mark. "A Secret Deal on Drones, Sealed in Blood." The New York Times. The New York Times, April 6, 2013. https://www.nytimes.com/2013/04/07/world/asia/origins-of-cias-not-so-secret-drone-war-in-pakistan.html.

To overcome the shortcomings of just war theory applied to drone operations, some scholars have attempted to recalibrate the understandings of just war tradition. Moreover, there is an understanding by some scholars that the moral limitations of the just war tradition, thus, prompt a necessary evolution of these principles. As Daniel Brunstetter notes, recalibration of just war theory does not necessitate an entirely new moral framework. Rather, refining and recalibrating just war tradition might yield a more practical set of conditions necessary to assess the morality of the use of force. In efforts to overcome the shortcomings of conventional just war tradition, Brunstetter adopts *jus ad vim* as a moral compass for understanding ethical conditions and circumstances surrounding the use of force. Arguing in favor of the application of jus ad vim, Brunstetter notes that recalibration of the just war tradition to better understand limited force, asserting that "limited force lies in a distinct category compared to war."[14] Where *jus in bello* properly assesses ethics of war and conduct in drone operations within regions of Afghanistan and Iraq, these frameworks are not as apt to address the dilemmas of Pakistan and Yemen. Examining the ethical shortcomings of drone conduct through a more calibrated lens might aid in seeking to formulate conditions permissible in the use of force outside of war within these in-between spaces. Yet, while this recalibrated understanding of just war principles might attempt to generally prevent the use of force in overly permissive situations, thus perhaps removing a degree of civilian casualties, it does not fully address the broader ethical dilemmas unique to drones.

Drones have raised new moral questions about the ethics of war, the nature of risk asymmetry, and how technology seeks to solve our tension between liberal values and killing in

[14] Brunstetter, Daniel. *Just and Unjust Uses of Limited Force: A Moral Argument with Contemporary Illustrations*. Oxford University Press, 2021. page 20.

war. To fully address these dilemmas in moral calculations, Chapter 1 will address the moral and legal framework in which drone operations might occur. Ethics of the use of force are often assessed using conventional technologies operating within conventional war zones. However, drone warfare complicates the conditions necessary to assert *jus in bello*, given that drones are an unconventional technology and often operate outside of declared warzones.[15] The unconventional nature of this new technology increases accessibility to assumed targets, giving the U.S. a more permissive range to conduct both CIA and military operations. Therefore, risk is heightened within regions of U.S. operations, whilst simultaneously removing the risk for U.S. soldiers; thus, transferring the risk from the soldiers to the civilians.[16]

In chapter 2, I focus on the targeting methodologies of drone operations and how these are repeatedly inconsistent with the normative frameworks for assessing morality; namely, just war tradition and international law. Furthermore, this chapter illuminates the ethical dilemmas from chapter 1 concerning the asymmetric use of force outside conventional warzones through the examination of signature strikes: drone strikes in which targets are determined through a pattern of life analysis. Utilizing signature strikes, I argue that drones operating both in regions of war and outside of war zones are particularly problematic given their targeting mechanisms and subsequent collateral damage. Drones are often framed as a precise method of conducting warfare, with claims of precision often misinterpreted to mean low civilian casualty rates.[17]

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[15] Brunstetter, Just and Unjust Uses of Limited Force.

[16] Shaw, Martin. "Risk-Transfer Militarism, Small Massacres and the Historic Legitimacy of War." International Relations 16, no. 3 (December 2002): 343–59. https://doi.org/10.1177/0047117802016003003.

[17] This misinterpretation is, indeed, informed by the Obama administration by asserting that drones effectively target only individuals who are intended to be targeted, with few civilian casualties. I examine these misinterpretations within Chapter 2; for further reading, see Benson, Boyle, Obama
Benson, Kristina. "Kill Em and Sort It out Later: Signature Drone Strikes and International Humanitarian Law." Pac. McGeorge Global Bus. & Dev. LJ 27 (2014); Boyle, Michael J, "The legal and ethical implications of drone warfare, The International Journal of Human Rights," (2015) 19:2, 105-126, DOI: 10.1080/13642987.2014.991210;

Indeed, there is an alternative targeting mechanism, referred to as personality strikes, within the U.S. drone program in which targets are typically identified prior to the strike; The names of many targeted individuals will be put on the "Kill List," but strikes against these targets are also highly inaccurate and inconsistent with just war principles and international law. As noted above, there is a relatively high rate of collateral damage associated with personality strikes, especially within regions of Pakistan and Yemen. Ultimately, this chapter demonstrates that the radically asymmetric nature of drones allows for an overly permissive use of force; that of which would not be applied without the application of drone warfare. Many signature strikes and personality strikes reveal considerable problems for moral justifications of the use of force, yet risk-asymmetry takes these concerns a step further by removing the ability to defend oneself and entirely removing the foundations of reciprocity in war.

Lastly, chapter 3 will focus on the psychological components of drone warfare that are often overlooked when assessing ethical and legal frameworks of war; the psychological consequences of risk-asymmetry, as opposed to outcomes of asymmetry or symmetry, have left a haunting impact on both civilians and drone pilots. In regions outside of warzones, specifically Pakistan and Yemen, high rates of PTSD are heavily correlated with a sense of war amongst the civilian population; yet these civilians are unable to defend themselves, and often become collateral damage to strikes against low-level militants.[18] While there is not an official war against Pakistan, civilians on the ground are experiencing ramifications of drone warfare as if the United States did declare war on the region. Furthermore, drone pilots also note significant psychological distress, and often PTSD, due to their experiences during drone operations. Issues

Obama, Barack. "Remarks by the President at the National Defense University." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 336–53. Idebate Press, 2015.

[18] Reprive.

of moral injury, cognitive dissonance, and PTSD are highly prevalent amongst drone operators. Yet, drone warfare is supposed to be more ethical than other means of combat given the lack of risk on soldiers. This supposedly removed risk, however, is merely physical; the psychological impact on pilots thus creates a wound in which many soldiers suffer without treatment. In the end, this risk-free war is not a panacea; it risks our soldiers with moral injury, their civilians with death and psychological trauma in a supposed non-war zone.

Through this, I argue that risk-asymmetry does significantly challenge the normative frameworks currently designated to assess the moral and ethical justification for drone operations. As the conditions surrounding the use of force are highly contested, assessing moral conditions necessary for the use of force is complicated; especially with blurred perceptions of war zones and regions of non-conflict exacerbating the diverging ethical interpretations of justified force. Even within regions of designated warzones, ethical conditions necessary for the use are often left unmet, as civilians are often targeted disproportionately to combatants and are unable to defend themselves. This radically asymmetric nature of drone operations, thus, sets a dangerous precedent for the future of war if left unregulated, overly permissive, and risk-free.

Chapter 1

Ethical Dilemmas of War:
The Impact of Drones on International Law and Just War Theory

> "If we are abiding by the legal standard when we engage combatants using RPA's, it should be considered an honorable kill. Actually, the legal standard is only one part of the test. The moral and ethical standards must be passed as well, and prove to be more complex than the legal question. . . The legality of whether we can kill someone in combat is binary, a series of "yes" or "no" . . . morality isn't that simple."- Lt. Col. Wayne Phelps, *On Killing Remotely* [19]

At first glance, drones seemingly present a method of warfare that is precise, ethical, and risk-free to US soldiers. Indeed, drones have the potential for ethically superior conduct in war; this is claimed to be especially possible when assuming that drone strikes could serve as a means of coercive action implemented to prevent a full-scale war.[20] Through this method of war-prevention, drone warfare is often framed as a means of contending with security threats without "deploying troops or conducting an intensive bombing campaign."[21] However, many of the security threats that drones seek to neutralize are not a matter of choosing between drone strikes or intensive bombing campaigns. Drone strikes operating by the current methodologies, in reality, result in a plethora of civilian casualties, many of which are a result from strikes targeted at individuals that did not perish in the strike.[22] Furthermore, through the evolution of emerging war technologies, key components of just war tradition are fundamentally challenged. To address the changing conditions in which drones operate, scholars have frequently called for a

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[19] Phelps, Wayne. *On Killing Remotely: The Psychology of Killing with Drones*. New York; Boston ; London: Little, Brown and Company, 2021, 178.
[20] Brunstetter and Braun, The Implications of Drones on the Just War Tradition, 339.
[21] *Ibid.*
[22] Reprieve, U. S. "You Never Die Twice: Multiple Kills in the US Drone Program." *Reprieve* (2014).

recalibration and evolution of the just war tradition. According to Cian O'Driscoll, the just war traditions "must be subject to the processes of negotiation and re-negotiation as its advocates seek to re-interpret and apply it to new scenarios and historical contexts."[23] Indeed, drones as a technology do not in and of themselves conflict with international laws and ethics; the ethical and legal concerns surrounding drone warfare are derived from methods of conduct and outcomes of operations. Nonetheless, with technological advancements utilized in order to remove risks to soldiers, the morality of these technological advancements should be further examined. These assessments, however, must also go beyond the scope of just war tradition; while there is significance in just war thinking, there is also the shortcoming of a failure to tackle the dilemma of reciprocity. Furthermore, the assessment of the relevancy of reciprocity in war becomes crucial in determining whether risk-asymmetry is either morally justifiable or is instead distorting the "reciprocal imposition of risk between enemies to such a degree as to obscure the 'vital distinction between war and murder.'"[24]

Drawing on the scholarship for both the support and dismissal of recalibrating just war tradition, this chapter seeks to contextualize how scholars conceive just war tradition, and how this is ineffective in assessing the morality of drones. Where these principles might effectively apply to the use of force in warfare generally speaking, morality of this use of force becomes problematized when risk is entirely removed to one side of the conflict. The current appropriate for drone strikes within regions of war zones, such as Afghanistan. However, the just war tradition seemingly fails to properly assess drone warfare occurring outside of regions of

[23] Daniel Brunstetter and Megan Braun, The implications of drones on the just war tradition, 338.
[24] Renic, 5.

warzones, notably in Pakistan and Yemen. In these regions of war, law and ethics become blurred when determining permissibility of force.

Conventionally, the U.S. would not conduct extensive operations within states that are not currently at war with the United States or perhaps it's allies. However, drone warfare has created significantly less risk to the United States, creating a risk-free war scenario; thus, creating a dangerous precedent in which there is a continuous ability to initiate war-like operations without legal or ethical restraint. In Chris Brown's words, "if we believe that it is desirable to reduce the role of violence in human affairs this should simply stimulate us to rework the relevant categories to try to produce a more viable account of the circumstances under which the resort to force might be justified."[25] In this chapter, I will examine the current frameworks for just war theory that are, in some ways, inadequate in addressing the full moral scope of drone warfare. There have been efforts to rework just war principles to better assess these conditions necessary to use force, but just war theory only allows for a partial understanding of ethics in a radically asymmetric war. Therefore, I conclude that the radically asymmetric nature of drone operations is a crucial element in determining the moral understandings of war, especially within contested conflict areas such as Pakistan and Yemen. If drones might be morally justifiable within the just war framework, radically asymmetry renders this justification impracticable and incomplete. In numerous circumstances, just war theory can effectively deem drone strikes as immoral; however, in these circumstances, radical asymmetry provides further insight into the extremity of these moral shortcomings.

[25] Chris Brown, "From Humanised War to Humanitarian Intervention: Carl Schmitt's Critique of the 'Just War Tradition'", in Louiza Odysseos and Fabio Petito (Eds.), The International Political Thought of Carl Schmitt: Terror, Liberal War and the Crisis of Global Order (London, UK: Routledge, 2007), pp. 56–70."

Just War Tradition

The ethical status of drone warfare is often assessed through *jus in bello.*[26] *Jus in bello*, however, often fails to fully address strong ethical and legal dilemmas of drone operations for numerous reasons. Firstly, just war theory requires that the use of force must satisfy all the principles of *jus in bello,* in which drone operations often do not meet the necessary requirement; in this regard, jus ad vim becomes a more appropriate assessment as discussed further into this chapter. Indeed, within warzones, such as Afghanistan, drone operations are within the scope of *jus in bello*, but this is primarily due to the nature of the conflict occurring within a designated warzone. In regions of Pakistan and Yemen, there is no declared warzone, thus complicating the application of *jus in bello* principles by means that its principles allow for collateral damage, yet these regions are not at war; without a war zone, the use of force then becomes much closer to small massacres and murders. These small massacres often become normalized as accidents, something that cannot necessarily be avoided in the nature of warfare.[27] *Jus in bello* traditionally focuses on the conduct of soldiers and militaries within a given war, with a focus on principles of discrimination and proportionality.[28] In assessing just war theory requirements, Brunstetter and Braun posit that drones maintain the same just war tradition requirements for *jus in bello*, but the

[26] There are notable distinct principles of *jus in bello* and *jus ad bellum*. According to Brunstetter and Braun, there are six principles of *jus ad bellum*: right intention, legitimate authority, proportionality, just cause, last resort, and probability of success With scholars like James Turner Johnson, Anthony Hartle, and Thomas Hurka, the criterion for *jus ad bellum* is significantly larger than that of jus in bello; they are concerned with approximately six to seven principles of *jus ad bellum*, as opposed to merely two to three principles of jus in bello. Moreover, the resort to war is necessarily a higher threshold than the conduct within war once it has commenced. A notable exception to the standard principles of *jus in bello*, Orend cites four other additional criteria for principles of *jus in bello*: "Obey all international laws on weapons, discrimination, proportionality, no means mala in se, no reprisals, and benevolent quarantine for POWs."
For further examination of this material on just war principles, see: Toner, Christopher. "The logical structure of just war theory." *The Journal of Ethics* 14, no. 2 (2010): 81-102. (Page 82-83).
[27] Owens, Patricia. "Accidents Don't Just Happen: The Liberal Politics of High-TechnologyHumanitarian'War." *Millennium* 32, no. 3 (2003): 595-616.
[28] Pavlischek, Keith. "Proportionality in Warfare." *The New Atlantis*, no. 27 (2010): 21–34. http://www.jstor.org/stable/43152525. (Pages 21-22).

technological advancements of drones should, theoretically, yield better compliance with principles, such as discrimination and proportionality.[29] However, the US drone program includes drone strikes initiated by the CIA outside of legally declared war zones; thus, producing a ripple in the application of these principles.[30] Furthermore, *jus in bello* applied to drones regards soldiers as accountable for their conduct.[31] Yet, accountability is severely lacking with drone pilots when they are removed from the battlefield and might be subject to identification errors; this is particularly problematized with the CIA program.[32] In essence, the US asserts that the laws of war exist wherever terrorist operate, setting a dangerous precedent for the acceptability of collateral damage globally. Indeed, this assertion is heavily concerned with international law informing the acceptable conditions for the use of force; those of which just war tradition tends to overlap. However, these conditions are blurred in the "in-between spaces" outside of designated warzones.

Indeed, drone operations occurring within designated war zones are often ethically assessed through the current just war principles yet drone operations within these regions tend to fall short of satisfying all of the conditions necessary to use force due to the severe lack of reciprocity, as well as consistently poor identification measure of which result in high rates of civilian casualties.[33] Some scholars place just war principles at a higher value than others, but these principles also sometimes go hand-in-hand. For example, James Turner Johnson and Jean

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[29] *Ibid.*
[30] Braun, Megan, and Daniel R. Brunstetter. "Rethinking the criterion for assessing CIA-targeted killings: Drones, proportionality and jus ad vim." Journal of Military Ethics 12, no. 4 (2013): 304-324. (Page 310).
[31] Kaempf, Sebastian. "Postheroic U.S. Warfare and the Moral Justification for Killing in War." Essay. In *The Future of Just War: New Critical Essays*, edited by Caron E. Gentry and Amy Eckert, 79–97. Athens: Georgia University Press, 2014. (page 81).
[32] For example, see: Aikins, Matthieu, Christoph Koettl, Evan Hill, and Eric Schmitt. "Times Investigation: In U.S. Drone Strike, Evidence Suggests No Isis Bomb." The New York Times. The New York Times, September 10, 2021. https://www.nytimes.com/2021/09/10/world/asia/us-air-strike-drone-kabul-afghanistan-isis.html.
[33] Reprieve.

Bethke Elshtain notably place a strong emphasis on just cause and right intention.[34] Additionally, Amy E. Eckert argues *jus ad bellum* is fundamentally concerned with moral philosophy, which might coincide with concerns of just cause and right intention. However, this moral consideration is also coupled with the physical capabilities of the state in question. Therefore, the probability of success criterion in a war must be assessed when considering conditions of *jus ad bellum.*[35] The concern for the probability of success is somewhat difficult to approach with drone warfare, especially given the declared intentions of drone operations to combat ongoing threats of terrorism and security risks to the United States.[36] While there is debatable potential to fully eliminate individual terroristic threats, there is also little likelihood for the United States to eradicate terrorism as a whole. Furthermore, the probability of success in anti-terrorism warfare also has the repeated unintended consequence of civilian casualties. Drone operations, while often seeking to eliminate terrorist threats, consistently result in high levels of civilian casualties. As noted in the introduction, within Pakistan, 221 civilians, of which 103 were children, died in the efforts to kill four men who were never actually killed by a drone strike.[37] Hence, the US is attempting to perfect the means of war by adopting drone warfare, while also neglecting both the ends of war and the moral measures necessary to go to war. Reciprocity is an essential element to conducting war that is overlooked by the United States in their efforts to preserve the lives of

[34] Brustetter and Braun, 342.

[35] Eckert, Amy E, William W Keller, and Scott A Jones. "Private Military Companies and the Reasonable Chance of Success." Essay. In *The Future of Just War: New Critical Essays*, 62–75. Athens, Georgia: Georgia University Press, 2014. (Page 63).

[36] This was first asserted in the Bush Administration for the Authorization to Use Military Force (AUMF), and later reasserted by the Obama Administration. For more information, see Johnsen, Gregory D. "60 Words and a War Without End: The Untold Story of the Most Dangerous Sentence in U.S. History." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 234–58. New York u.a.: Idebate Press, 2015; Obama, Barack. "Remarks by the President at the National Defense University." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 336–53. Idebate Press, 2015.

[37] Reprieve, U. S. "You Never Die Twice: Multiple Kills in the US Drone Program." *Reprieve* (2014).

U.S. soldiers, yet only transfer the risks from soldiers to all others living within regions of drone operations.

The moral justifications asserted by the United States for the use of force within these regions is often framed by asserting the importance in fighting the threat of terrorism. In terms of just war tradition, this concern thus falls under consideration of legitimate authority and just cause. Just cause is particularly problematized when the use of force that follows is the use of drone warfare. If the cause is to fight the threat of terrorism, despite any concerns of geographical limitations, then states like Pakistan and Yemen ultimately fall into these in-between spaces in which civilians become collateral damage, yet there is no war that might allow for any permissibility of collateral damage. Furthermore, the core concern of just cause does not entirely negate the necessity of practicality in eradicating the threat of terrorism; the threat has not reduced significantly because of drone operations, and frankly does not significantly pose a threat to individuals outside of war zones.[38] This claim of just cause also does not necessarily dictate that the United States can and should operate anywhere within the world solely on the basis of a terrorist threat. Furthermore, the principle of "legitimate authority" is highly contested, especially in the era of the War on Terror. Typically, right intention is defined as the intention to "fight the war only for the sake of a just cause. Having the right reason for launching a war is not enough: the actual motivation behind the resort to war must also be morally appropriate, that is aimed at securing the just cause."[39] The Bush Administration's stance on combatting terrorism is often framed through legitimate authority, lending U.S. support to any military action that

[38] Mueller, John, and Mark G. Stewart. "The terrorism delusion: America's overwrought response to September 11." *International Security* 37, no. 1 (2012): 81-110.
[39] Orend, Brian. "Michael Walzer on resorting to force." *Canadian Journal of Political Science/Revue canadienne de science politique* 33, no. 3 (2000): 523-547. (Page 525).

effectively combats terrorism.[40] In terms of domestic action, these efforts became solidified in the immediate aftermath of the attack on September 11th, 2001, as congress asserted the Authorization to Use Military Force (AUMF):

> That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.[41]

The resolution from numerous individuals, including the former dean of Yale Law School, Harold Koh; Koh asserted that the broad nature of AUMF problematically served as justification for surveillance, torture, and detentions.[42] Therefore, "legitimate authority" becomes increasingly difficult to identify, or counter, when drone operations are intended to target terrorist threats, yet the war itself contributes to controversial ethical conduct. Of course, there is the possibility of a just cause for going to war, *jus ad bellum*, while not operating in a just manner, *jus in bello.* Nonetheless, Michael Walzer looks towards the Iraq war as "a significant expansion of the doctrine of *jus ad bellum*."[43] Given that drone operations have been framed through the war against terrorist, one must consider Walzer's notion of the existing expansion of *jus ad bellum*. Drone warfare, however, operates short of full-scale war and while it expands geographic reach, it also lowers the level of conflict

[40] Kevin Jon Heller, "One Hell of a Killing Machine," 92.
[41] Johnsen, Gregory D. "60 Words and a War Without End: The Untold Story of the Most Dangerous Sentence in U.S. History." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 234–58. New York u.a.: Idebate Press, 2015. (Page 240).
[42] *Ibid*, 246.
[43] Brustetter and Braun, 342.

Moreover, even if the application of drone warfare, an undeniable extension of significant War on Terror military operations, complies with standards of "right intention," there remains the issue of proportionality. Brunstetter and Braun address this problematic feature of drone warfare by drawing attention to the disproportionate response to terrorism and security threats posed at the time.[44] Indeed, these concerns or proportionality and intention would be existing regardless of the technology used to obtain the security goals; yet drones are almost always framed as different from other technologies in that they remove the risks of war while simultaneously effectively combatting terrorism. Nonetheless, terrorism used to be a crime, rather than an act of war; whereby extensive law enforcement measures were utilized to combat it and put terrorists in jail. The Bush expansion of the definition of terrorism as an act of war enabled a host of escalations and assassinations that could be deemed disproportionate, especially when conditions of last resort have not been met. Helen Frowe, however, claims that conditions of *jus ad bellum* must be a continuous observation in war, as opposed to assessing just cause before a war begins. Frowe focuses on aspects of *jus ad bellum* that might change throughout the duration of the war, such as the reasonable chance of succeeding in the war.[45] Frowe's argument does not come without contestation, as Walzer asserts *jus ad bellum* and *jus in bello* are fundamentally separate:

> Distinguishing *jus ad bellum*, the justice of war, from *jus in bello*, justice in war. These grammatical distinctions point to deep issues. *Jus ad bellum* requires us to make judgments about aggression and self-defense; *jus in bello* about the observance or violation of the customary and positive rules of engagement. The two sorts of judgment are logically independent. It is perfectly possible for a just war to be fought unjustly and for an unjust war to be fought in strict accordance with the rules.[46]

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[44] *Ibid.*
[45] Frowe, 120.
[46] Walzer, 21.

Walzer's stance on *jus in bello* and *jus ad bellum* is, however, heavily contested amongst other scholars. *jus in bello* and *jus ad bellum* function as one, as the "justice of conduct in war largely presupposes the justice of the recourse of war."[47] Under Walzer's explanation of the relationship between *jus ad bellum* and *jus in bello*, even if the United States satisfied the conditions necessary to go to war through the principles of *jus ad bellum*, the actual determination of drones as an ethical conduct would primarily be assessed through *jus in bello*; therefore, even if the United States had a just cause for the War on Terror, the actions and conduct of drones remains to be the primary concern for operations that fall within the scope of *jus in bello*. Indeed, this is a rather hypothetical assessment, as the status of *jus ad bellum* applied to the War on Terror and drone operations is debated.

The conditions and application of *jus ad bellum* is, however, confined to sovereign entities that possess legitimate authority. Walzer notes that legitimacy determines perceived morality.[48] Therefore, a lack of legitimacy might prevent any notion of moral conduct, thus compliance with *jus ad bellum*. Caron E. Gentry pushes back against the notion of legitimate authority, which she argues is derived from Westphalian roots of the definition of sovereignty. Under this system, legitimately sovereign nations assume moral authority - not necessarily through a superior moral philosophy but rather through political legitimacy and identity power; Gentry argues the combination of these elements leads to "epistemic injustice."[49] Furthermore, Gentry notes examples of fluctuating perspectives of morality through the international approval of movements against Gaddafi, and a lack thereof against the Tamils - regardless of the two

[47] Chistopher Toner, The logical structure of just war theory, 81.
[48] Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. 5th ed. New York: Basic Books, 2015. 8-9.
[49] Gentry, Caron E, William W Keller, and Scott A Jones. "Epistemic Bias: Legitimate Authority and Politically Violent Nonstate Actors." Essay. In *The Future of Just War: New Critical Essays*, 17–29. Athens, Georgia: Georgia University Press, 2014. (page 16, 23-24).

actors' domestic association with ethnic cleansing and genocide.[50] This has significant implications for revolutionary violence by citizenry or responses to colonial violence and oppression. Nonetheless, if the actor's legitimacy is a determining factor in morality, rather than their actions in question, is *jus ad bellum* equipped to adequately address contemporary dilemmas in drone warfare? Indeed, the assessment of *jus ad bellum* must also include the satisfaction of each additional criteria, but the issue of state legitimacy highlights ways in which scholars are not always in agreement with the principles of just war theory. A rather consistent concern throughout the entirety of this paper, interpretations of just war principles, as well as assigned credibility, are heavily debated. Alternatively, some scholars choose to discuss the morality of drone strikes through their compliance with international law.

International Law

Existing international law surrounding conduct in war and practices in peacetime are both applicable to the discussion of drone warfare. There is significant tension surrounding the use of drones in regions of existing war such as Afghanistan and Iraq; these ethical and legal conditions of war are quite permissive as compared to that of regions not at war, such as Pakistan or Yemen. Existing international humanitarian law (IHL), also referred to as the law of armed conflict (LOAC), is fundamentally concerned with the "conduct of parties to an armed conflict."[51] Throughout the last century, states have implemented and revised humanitarian laws. In the aftermath of significant humanitarian crises, new or improved doctrines have followed: WWI yielded the 1929 Geneva Conventions, the Holocaust influenced decisions in the 1949 Geneva Convention revisions, then conduct from WWII through the end of Vietnam influenced the 1977

[50] *Ibid*, 24.
[51] Droege, Cordula. "The interplay between international humanitarian law and international human rights law in situations of armed conflict." *Israel Law Review* 40, no. 2 (2007): 310-355.

Additional Protocols.[52] Both the Geneva Convention and Additional Protocol 1 to the Geneva Convention represent major rights for individuals in wartime, with the First Additional Protocol (AP1) of particular importance for civilian rights.[53] Articles 48-60 of AP1 define the parameters of legal conduct concerning hostilities and the civilian populations. Through these articles, drone warfare can be adequately assessed for compliance in targeting civilians, or with civilians' casualties as collateral damage. Furthermore, these existing laws in tandem with just war principles allow for further insight toward the moral implications of drone operations.

As far as IHL is concerned with war conduct, its application and standards are far more permissive of violence than international human rights law (IHRL). According to Sebastian Kaempf, IHL dictates that soldiers can morally kill another soldier due to the nature of "mutual risk," in which "only this reciprocal condition morally and legally licenses the warrior to kill another warrior."[54] Despite the United States' justifications for conduct in drone operations, various international entities are critical of US conduct. Brunstetter and Jimenez-Bacardi note that the human rights community (HRC), comprised of the United Nations Human Rights Office of the High Commissioner, the International Committee of the Red Cross, Amnesty International, Human Rights Watch, and various academic institutions, are in opposition to US standards and interpretations of just war principles; both of which overlap significantly.[55] The HRC plays a major role in identifying moral and legal concerns for drone warfare in both regions

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[52] Sandoz, Yves. "The International Committee of the Red Cross as Guardian of International Humanitarian Law." ICRC. International Committee of the Red Cross, December 31, 1998. https://www.icrc.org/en/doc/resources/documents/misc/about-the-icrc-311298.htm?msclkid=a0388237a60311ecbfc0bb5d5ad06d87.
[53] Brunstetter and Jimenez-Bacardi, 179.
[54] Kaempf, 81.
[55] Brunstetter, Daniel R., and Arturo Jimenez-Bacardi. "Clashing over drones: The legal and normative gap between the United States and the human rights community." *The International Journal of Human Rights* 19, no. 2 (2015): 176-198.

of IHL and IHRL; human rights organizations repeatedly inform the content of both chapter 2 and chapter 3.

Where IHL concerns areas of conflict, international human rights law (IHRL) focuses on individual rights and protections against human rights violations detailed within various treaties, each of which states are individually partied to respectively. As of 1966, the International Covenant on Civil and Political Rights (ICCPR) details 53 articles concerning rights and fundamental freedoms of individuals within states partied to the treaty.[56] Within ICCPR, in the discussion of the permissible use of force, article 6 requires that states partied to the covenant must not deprive individuals of the right to life[57] IHRL is intended to be an international law of peacetime.[58] However, through the claim of self-defense, the US asserts that Article 51 of the UN Charter removes the concern of compliance with IHRL. Different interpretations of IHL and IHRL are particularly complicated in this regard; for example, along with the US government, Ken Anderson argues against the conventional interpretation of IHL in that if a targeted killing is done in compliance with IHL, it is legal.[59] This perspective, however, is not widely held; there is a notable consensus that IHRL is applied anywhere not at war. Furthermore, the claim of force as a means of self-defense implies that this force is preemptive in nature.

However, any preemptive force would require an immediate threat in which the lack of self-defense would be dangerous to national security.[60] Drone operations instead are often more

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[56] International Covenant on Civil and Political Rights; for more information, see: https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights
[57] *Ibid*.
[58] Droege, 314.
[59] Heller, 91.
[60] Emery, John, and Daniel R Brunstetter. "Restricting the Preventive Use of Force: Drones, the Struggle against Non-State Actors, and Jus Ad Vim." Essay. In *Preventative Force: Drones, Targeted Killing, and the Transformation of Contemporary Warfare*, edited by Kerstin Fisk and Jennifer M Ramos, 257–82. New York University Press, 2016. (page 260).

adequately identified as a preventative force. Through this, Emery and Brunstetter argue that drone operations fall into a deeper category of "lagged imminence," in which an existing threat does not pose an immediate danger.[61] This alternative method of assessing the use of force ultimately reduces the permissibility of force itself. With a reduction of criteria that might be interpreted as an imminent threat, now referred to as lagged imminence, the discussion of last resort becomes far less pressing. If there is not an immediate sense of danger, then perhaps the use of force is not necessary in the first place; or, at least, the use of force is not necessary until the lagged imminence assumes a truly pressing imminence that might warrant the use of force. Therefore, lagged imminence aids in the understanding of last resort as a crucial factor when discussing drone operations.[62] This reinterpretation of last resort, however, falls into a separate category of just war tradition: *jus ad vim.* In an attempt to address the ethical shortcomings of just war tradition applied to an overly permissive use of force, scholars have attempted to recalibrate conditions necessary for the use of force.

In-Between Spaces: The Call for *Jus ad Vim*

These relatively defined parameters of both just war and legal conduct become incredibly blurry when assessing drone operations conducted by the CIA in regions of "in-between spaces," in which there is no warzone held to the rules of IHL, yet also no potential for police force interference.[63] For example, Mary Ellen O'Connell argues that drones are capable of being compliant with international law and *jus in bello* when operating in regions of war; however, the ability for drones to comply with legal and ethical frameworks is much more complicated within

[61] *Ibid*, 260.
[62] *Ibid*, 261.
[63] Emery and Brunstetter, 258.

regions of non-conflict.[64] Where operations in Afghanistan are somewhat less controversial, given the strikes occurred in a zone of war, CIA operations occurring outside of declared war zones have raised significant concern for conditions in which operations might occur. While the CIA drone program operates in regions outside of a declared warzone, such as Pakistan and Yemen. Typically, regions outside a warzone are typically subject to IHRL- a far less permissive set of rules in which civilians are, under no circumstances, justifiably killed. Rules of proportionality are not applicable to IHRL, only to the just war principles in IHL. However, the CIA can conduct itself through a separate legal framework than that of military operations.[65] Furthermore, as Jeremy Waldron also notes, drone operations conducted by CIA operatives are also not subject to the ethical obligations of the military combatants.[66] The lack of consistency in drone operation conducts and permissibility is increasingly problematic when attempting to analyze legal and ethical constraints in war.

Ambiguity surrounding morally acceptable use of force results in two additional concerns: are drones currently functioning under existing moral and legal frameworks and are these frameworks acceptable if applied to any entity that might adopt drone technology. Indeed, ethical debates concerning drone operations often lack consideration of how drones are currently utilized by the CIA; instead of focusing on existing and observable data for drone strikes, scholars often focus on merely the potential for moral conduct. Jeremy Waldron takes the position that drone warfare should be assessed for how it currently functions, rather than the possibilities of ethical improvements that may or may not happen in the future.[67] As Waldron

[64] Brunstetter, The implications of drones on the just war tradition, 345.
[65] Emery and Brunstetter.
[66] Waldron, Jeremy. *Drones Are Not Ethical and Effective | Prof Jeremy Waldron | Oxford Union*. *YouTube*. YouTube, 2013. https://www.youtube.com/watch?v=cpt-web6N6Y.
[67] *Ibid*, 2:00-2:30.

claims, drone warfare is conducted by CIA operatives who are not subject to the ethical obligations of the military combatants.[68] Without identifiable limitations to CIA operations, Waldron poses the dilemma of drone technology in the hand of adversaries, and how this might alter perceptions of ethical application of drones:

> When you acknowledge or maintain that a particular form of warfare, a new form of warfare, is legitimate, you can't just maintain that for yourself. You have to accept that it would be legitimate in the hands of your opponents or legitimate in the hands of any country that was engaged in hostiles. . . That *jus in bello* is neutral and it is symmetrical so that if we acknowledge that killing unlawful combatants on one side is permitted then killing unlawful combatants on the other side is prohibited. . . if drone attacks are permitted on one side, they're going to be permitted on one side, so we have to imagine a world not just which our adversaries have drones. . . but also countries that are not presently our adversaries. . . countries that are by no means Paragons of human rights and democracy.[69]

Waldron points out the dilemma of the unknown; would the US and its allies be accepting of drone warfare by their adversaries? While there is yet to be a clear answer, one could assume the United States would not be accepting of enemy forces using drones, especially without a clear understanding of what is or is not permissible in forces short of war. However, Waldron's stance on this matter is not shared amongst all scholars; Avery Plaw and João Franco Reis challenge Waldron's hypothesis by stating that norms surrounding force lend a neutral impression on individuals, in which individuals are thoroughly convinced that these strikes only occur against terrorist, therefore they do not have the emotional response towards the concept of permissive force.[70] These norms are often framed through humanitarian intervention, or that of the global

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[68] *Ibid*, 3:50-4:30.
[69] *Ibid*, 6:55-8:10.
[70] Plaw, Avery and João Franco Reis. "Learning to Live with Drones: Answering Jeremy Waldron and the Neutralist Critique," Journal of Military Ethics, 14:2, (2015): 128-145, DOI: 10.1080/15027570.2015.1067978

war on terror, notably against al-Qaeda.[71] Therefore, if individuals are convinced that drones operate for the greater good, then norms surrounding permissive force might create an environment in which drones are not strongly contested by the public.

Waldron, however, argues that there is a danger in norm creation surrounding targeted killings of civilians.[72] To which, Plaw and Franco Reis claim Waldron's argument is flawed in that it concerns a highly permissive norm that would allow for US strikes against civilians under conditions in which a civilian might be involved in terrorist activity; specifically, their concern is the escalation of this concept in which the US might target American citizens suspected of involvement in terrorist activity.[73] However, there is not much evidence to suggest the United States is actively pursuing targeted American civilians; furthermore, civilians who are actively participating in hostilities are typically deprived of their civilian status. To this extent, both arguments are somewhat flawed in that Waldron misapplies the conditions necessary to be a civilian, and Plaw and Franco Reis take his argument to a currently unforeseeable extent. Nonetheless, in an attempt to further their argument, Plaw and Franco Reis state, "most defenders of drone strikes in fact argue that such strikes should exclusively target combatants."[74] Indeed, there is seemingly a perception of morally superior engagements in war, notably understood to have few civilian deaths. Furthermore, the norms argued by Plaw and Franco Reis concerning individual perceptions of military operations framed as humanitarian intervention do not necessarily indicate that CIA operatives and military leaders are willing to accept those who are not adversaries acquiring drone technology as their argument attempts to use norms to

[71] *Ibid.*
[72] Waldron, Jeremy. "Justifying Targeted Killing with a Neutral Principle?", in: Claire Finkelstein, Jens David Ohlin & Andrew Altman (Eds), Targeted Killing: Law and Morality in an Asymmetrical World, New York: Oxford University Press. (2012): pp. 112–131
[73] Plaw and Franco Reis, 130.
[74] *Ibid,* 131.

dismiss Waldron's claim that drones would not be acceptable in the hands of countries that are not adversaries to the United States. Therefore, neither the concern for ethical conduct towards civilians nor the spread of technological advancement are adequately addressed in Plaw and Franco Reis' argument; this, indeed, also does not satisfy any reasonable counter to Waldron's claim. This contested stance on norms surrounding permissible uses of force highlights a significant concern with the use of force outside of existing war zones: if there is a strong belief that these operations only kill combatants, what is the likelihood for a strong push against these operations? Perhaps with a narrower calibration for permissibility, norm creation surrounding the use of force within these regions might illuminate the shortcomings of ethical conduct.

Given the development of new technological capabilities in tandem with a relatively recent change in war conduct occurring outside of regions in war, understandings of just war tradition should evolve with war. Where *jus ad bellum* and *jus in bello* do not adequately address drone operations in areas of non-conflict, *jus ad vim* allows for the discussion of justified force through "measures short of war," in assessing the types of forces, such as drone operations, that might occur without initiating a full-scale war.[75] *Jus ad vim*, however, functions under the recalibration of following principles, in which each principle might assess the conditions of the use of force within these in-between spaces: just cause, last resort, legitimate authority, probability of escalation, probability of success, proportionality, and right intention.[76] *Jus ad vim* differs from *jus in bello* and *jus ad bellum* by means of removing the notion of "actual warfare" as a necessity in order to use force, thus allowing for alternative interpretations of its principles. Increasing the threshold of force necessary before engaging in a full-scale war, in theory, would

[75] Brunstetter, The implications of drones on the just war tradition, 343.
[76] Brunstetter, Just and Unjust Uses of Limited Force.

seem ethically preferable compared to a full-scale war, under the assumption that uses of force short of war would not have as significant of an impact on the region in conflict than a full-scale invasion. Within these instances of limited force short of war, *jus ad vim* allows for a narrower calibration of perceivable threats worth attacking within times of peace, while consequently altering perceptions of justifiable permissibility in these in-between spaces. Indeed, *jus ad vim* does not indicate that these measures short of war are a necessary prerequisite to full-scale war. However, in some ways, the use of force through *jus ad vim* principles does allow for greater permissibility of force than that of *jus ad bellum*.[77] Therefore under these circumstances, there is a reasonable concern as to what extent of permissible force would constitute war.[78] Through the adoption of jus ad vim, there is a risk for the abuse of permissibility. Brunstetter highlights this risk as the probability of escalation principle, in which gauging the likelihood of ad vim turning into *ad bellum* is important in the ethical consideration of force occurring through *ad vim*.[79]

In efforts to lower the probability of escalation, jus ad vim requires an analysis of last resort. As previously mentioned, last resort is often framed through *jus ad bellum*, too; yet the interpretation of last resort through *jus ad vim* is seemingly less permissive than *jus ad bellum.* Through the rationalization that drone operations occur in a time of lagged imminence, as discussed above, last resort becomes much less feasible to argue in favor of a strike unless it satisfies a more thorough criteria of the use of force. Of course, for *jus ad bellum*, Walzer concludes that conditions for last resort require that it serves as a means in which no other alternative solution is possible; with no other alternatives, the only remaining solution is to go to

[77] Brunstetter, Daniel, and Megan Braun. "From Jus Ad Bellum to Jus Ad Vim: Recalibrating Our Understanding of the Moral Use of Force." *Ethics & International Affairs* 27, no. 1 (2013): 87–106. doi:10.1017/S0892679412000792 , (Pages 96-97).
[78] Brunstetter, Daniel. *Just and Unjust Uses of Limited Force: A Moral Argument with Contemporary Illustrations*. Oxford University Press, 2021.
[79] *Ibid.*

war.[80] Yet, drone warfare in the in-between spaces does not quite fit into this proposed narrative. Emery and Brunstetter propose three new conditions necessary for last resort through *jus ad vim*, in which states are held to a far more restrictive and comprehensive criteria before initiating lethal force:

> (1) That the person targeted is known by name; (2) that the level of ongoing threat he or she poses be explicated publicly (the first two are accomplished by public indictment); and (3) that he or she be afforded the opportunity to surrender and capture before a preventative strike is justified.[81]

Thereby, the role of law enforcement becomes increasingly relevant in jus ad vim. Emery and Brunstetter further this notion by stressing the importance of the first two criteria through legal indictment, arguing that this method has been previously utilized in counterterrorism. Indictments also illuminate low-level threats against high-valued targets; thus, properly informing the degree of imminence for attacking the target.[82] Certainly, an emphasis on legal indictment affords an attack more legitimacy than the lack thereof. However, this also becomes dependent on the legitimacy and effectiveness of the legal system within a given country. Even if not every country will have a robust legal system, the implications of law enforcement ethics is somewhat unknown. However, if there is a chance at seeking to neutralize terrorist threats without having to kill them with a hellfire missile, then surely law enforcement might serve as a hopeful alternative to overly permissive drone strikes as the only means of last resort. Through this method of determining last resort, jus ad vim becomes a far less permissive realm of force. As Chatterjee remarks concerning the use of drones, "Even [through] the use of force that is

[80] Emery and Brunstetter, 269.
[81] *Ibid*, 272.
[82] *Ibid*, 272-273.

short of full-fledged war. . . the hope of extending the line of last resort to war has made us live under the perpetual shadow of war."[83] Where the just war tradition fails to address this perpetual shadow of war, jus ad vim allows for a far more restrictive set of criteria/requirements in moral discussion of drone operations. However, these alterations and recalibrations of our understandings of just war tradition only address the concern primarily surrounding civilian casualties. Throughout the rest of this paper, I examine why drone warfare requires further examination of moral justification through the problem of risk-asymmetry. Indeed, risk-asymmetry, just war principles, and international law are consistently in conversation with one another when determining if a drone strike is morally justified or unjustified. Where international law and just war tradition might deem drone strikes individually to be justified or not, the nature of risk asymmetry might prove to be a moral element that claims otherwise. Additionally, for strikes in which there is no moral or legal justification, risk-asymmetry illuminates additional problematic features of asymmetric warfare; namely, the overly permissive use of force in which many of the immoral strikes occur against low-level threats or civilians, including children.

Radically Asymmetric Warfare

While some scholars have focused their efforts on the recalibration of just war principles to properly assess the ethical conditions for drone strikes to take place, there remains the problem of the radically asymmetric nature of drone strikes. Asymmetry, indeed, is not novel to modern warfare; there has been a consistent strive for removing risk for oneself and one's army, whilst continuing to pursue the use of force. This desire for risk-asymmetry, therefore, becomes seemingly optimal for soldiers and militaries, as "man taxes his ingenuity to be able to kill

[83] Chatterjee, Deen. "Beyond Preventive Force: Just Peace as Preventive Non-Intervention." *Preventive Force: Drones, Targeted Killing, and the Transformation of Contemporary Warfare* (2016): 313-340. (pages 313-314).

without running the risk of being killed."[84] However, Neil Renic challenges the moral justification for the use of drones by examining the moral relevancy of reciprocity in war:

> The distinctiveness of radical asymmetry is also a matter of scope. In the case of UAV-exclusive violence, an unprecedented degree of military imbalance has been imposed by one party, not merely in a specific battlefield encounter, but across entire conflict zones. The critical question is whether the scope and intensity of this imbalance constitutes as crossover point between morally unproblematic and problematic killing.[85]

The current frameworks for assessing the morality and ethics of the use of force tend to consider primarily the effects on enemy non-combatants, but the ethical concern should extend much further.[86] The existing ethical frameworks discussed above only examine a limited perception of moral justification; as to which radical asymmetry might severely complicate.

Furthermore, the assertion of a terrorist threat to the United States security and peoples is quite exaggerated.[87] During the Obama Administration, former President Obama spoke at the National Defense University, in which he discussed the success stories of military operations, but noted:

> Now, make no mistake, our nation is still threatened by terrorism. From Benghazi to Boston, we have been tragically reminded of that truth. But we have to recognize that the threat has shifted and evolved from the one that came to our shores on 9/11. With a decade of experience now to draw from, this is a moment to ask ourselves hard questions-about the nature of today's threats and how we should confront them. And these questions matter to every American.[88]

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[84] Greely, John Nesmith, and Robert Christie Cotton, eds. *Battle studies: Ancient and modern battle*. Macmillan, 1921. (Page 46).
[85] Renic, Neil C. *Asymmetric killing: risk avoidance, just war, and the warrior ethos*. Oxford University Press, 2020. (Page 5).
[86] *Ibid*, 20.
[87] Mueller, John, and Mark G. Stewart. "The terrorism delusion: America's overwrought response to September 11." *International Security* 37, no. 1 (2012): 81-110. (Page 91).
[88] Obama, Barack. "Remarks by the President at the National Defense University." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 336–53. Idebate Press, 2015.

However, despite the claims by President Obama, the terrorist threat level to the United States is much less than he asserts in his speeches. Information from terrorism datasets has estimated the probability of United States citizens dying in a terrorist attack; the results indicated that U.S. citizens only have a 1 in 3.5 million chance annually of being killed by a terrorist attack.[89] Furthermore, other studies have indicated that extremist Islamist terrorists have killed roughly 200-400 people in regions outside of war; roughly the equivalent number of Americans who die by drowning in the bathtub annually.[90]

Radically asymmetric warfare reveals further dilemmas in conventional war practice through the lack of consideration for psychological consequences of asymmetric war. Kaempf examines the "risk-free" nature of contemporary warfare. Postheroic qualities of warfare mark the end of warrior practices dated back to ancient Greece, in which the Greeks valued those who put their own lives at risk during combat, rather than engaging in fighting methods that would reduce the risk for soldiers. Through this criticism, Kaempf notes Victor D. Hanson's critique to the United States military conduct by stating that Americans "suffered from the most dangerous tendency in war: a wish to kill but not to die in the process."[91] Furthermore, drones enable the post-heroic dilemma with no physical risk of injury on the battlefield for drone pilots. This, however, does not consider the role of moral injury for pilots. Asymmetric warfare challenges just war tradition by removing the element of reciprocity. John Williams addresses issues of reciprocity by analyzing the relationship between radical asymmetry and "distant intimacy."[92] While reciprocity has historically been a component of ethical war conduct, Kahn notes that

[89] Renic, 174.
[90] Mueller and Stewart, 91.
[91] Kaempf 88-89.
[92] Williams, John. "Distant intimacy: Space, drones, and just war." *Ethics & International Affairs* 29, no. 1 (2015): 93-110.

"tactically, each side seeks to transcend any effective reciprocity in the application of force."[93] This comes as no surprise- historically, mankind has made efforts to reduce the distance between the individual and the perceived enemy; efforts to increase distance manifest through repeated upgrades to military technology.[94] Drones are no exception to this dilemma. However, ethical concerns of asymmetric warfare extend beyond post-heroic concerns and reciprocity; psychological elements must also be considered in the discussion of just war dilemmas.

Christian Enemark posits that moral injury should become an alternative method of assessing morality in the use of force, a method and concern that traditional just war theory does not necessarily consider.[95] Conventional just war tradition primarily focuses on casualties and conduct that might result in casualties; there is little attention given to the moral justification of inflicting psychological trauma on soldiers. Soldiers often experience moral injury, an injury that is not merely physical but is rather an incredibly intense sense of guilt. The sense of guilt is fundamentally different from that of PTSD in that "PTSD refers to the lasting psychological ramifications of experiencing a moment of mortal terror. . . moral injury is rooted in feelings (shame and guilt) one has about harm one has done to another."[96] As discussed in Chapter 2, leaked Pentagon files reveal recurrent instances of operations resulting in civilian casualties, likely contributing to experiences of moral injury. These documents allow for the conversation of moral injury by first acknowledging US government data concerning the high levels of innocent

[93] McSorley, Kevin. "Predatory war, drones and torture: remapping the body in pain." *Body & Society* 25, no. 3 (2019): 73-99. (Page 91).
[94] Phelps, 3-20.
[95] Enemark, Christian. "Drones, risk, and moral injury." Critical Military Studies, 5:2 (2019): 150-167, DOI: 10.1080/23337486.2017.1384979 (pg. 151).

[96] *Ibid,* 157.

civilian deaths.[97] Through moral injury, pilots often report their emotional stress linked to guilt and how this weighed on their minds.

Yet, moral injury can also be noted through two separate conditions that deviate from typical notions of moral injury: when an individual is preparing for war and must learn to kill, and when a soldier has already killed but experiences no emotional reaction. Ned Dobos addresses the moral dilemma of soldiers who claim zero remorse or psychological damage from killing. In his book, he examines two soldiers who recalled their psychological responses to killing: one soldier reportedly could not hold his own newborn child due to the psychological guilt of killing innocent civilians, while another soldier boldly asserted his lack of emotions in the aftermath of killing:[98]

> One of the bullets bounced off his spinal cord and came out his eyeball, and he's lying there in a wheelbarrow clinging to the last second of his life, and he's looking up at me with one of his eyes and just pulp in the ther. . . I just stared at him. . . and walked away. And I will. . . never feel anything about that. I literally just don't care whatsoever. . . I think I even smiled. . . You learn to kill, and you kill people, and it's like, I don't care. I've seen people get shot, I've seen little kids get shot. You see a kid and his father sitting together and he gets shot and I give a zero fuck.[99]

Moral injury, according to Dobos, can take on the form of complete indifference in which the killer feels no emotions; that the lack of emotions, the "numbness" is its own form of moral injury that must be considered.[100] Furthermore, there remains to be possible moral injury for

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[97] Khan, Azmat, Lila Hassan, Sarah Almukhtar, and Rachel Shorey. "The Civilian Casualty Files." The New York Times. The New York Times, December 18, 2021. https://www.nytimes.com/interactive/2021/us/civilian-casualty-files.html#credible-reports.

[98] Emery, John R., and Hadley Biggs. "Human, All Too Human: Drones, Ethics, and the Psychology of Military Technologies." (Page 5)

[99] Dobos, Ned. *Ethics, Security, and the War Machine: The True Cost of the Military*. Oxford University Press, USA, 2020. (Page 33).

[100] Emery, 5.

soldiers who have yet to kill. Ned Dobos addresses this form of moral injury by examining the morally damaging mindset in preparing for war. Through the understanding of "*Si vis Pacem, Para Bellum* – if you want peace, prepare for war," moral injury may be considered as a biproduct of merely preparing to kill another human.[101] Through these two additional manifestations of moral injury, the psychological implications of *jus post vim* are increasingly highlighted; if drones are ethically superior due to their lack of risk to soldiers, what is to be said of the psychologically paralyzed or traumatized soldiers that return to everyday life?

While there are efforts to frame drone operations as ethical by means of avoiding civilian deaths, leaked Pentagon reports reveal numerous confirmed strikes with civilian casualties.[102] Moral injury of drone operations heavily incorporates civilian casualties; innocent civilian deaths have notably led to increased psychological trauma among pilots. Often noting the horrific experiences of killing innocent civilians, Brandon Bryant reflects on his own experiences and interactions between himself and other drone operators:

> "Bryant, shut up and do your job" . . . There was no feelings, there was no heartache or grieving. . . it was just toxic masculinity. It felt like I lost a part of my soul. And no one in the military that I knew would grieve with me. They would cheer about it, and then when I would tell them how I felt, they would be like, "Oh, don't be such a fucking bitch," "Don't be a pussy."[103]

Bryant's traumatic experiences, coupled with the indubitable reality that drone strikes often kill civilians, reveals the dismissive characteristics of the military in response to issues of moral

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[101] Emery, John R., and Hadley Biggs. "Human, All Too Human: Drones, Ethics, and the Psychology of Military Technologies." (Page 4).

[102] Khan, Azmat. "Hidden Pentagon Records Reveal Patterns of Failure in Deadly Airstrikes." The New York Times. The New York Times, December 18, 2021. https://www.nytimes.com/interactive/2021/12/18/us/airstrikes-pentagon-records-civilian-deaths.html.

[103] VICE. "The Gamer Who Flew "Killer Drones" for the US Army | Super Users." YouTube Video, 6:36. December 2, 2020. (Accessed January 20, 2022).

injury. In Bryant's experience, there is a peculiar overlap between his experiences of grievance coupled with the sheer disconnect from his fellow pilots. Of course, there are some pilots who have the ability to psychologically distance themselves from the horrors of war. These pilots often use methods of dehumanization and cognitive dissonance to achieve their distance. However, there is some indication that these two psychological alternatives to moral injury are equally as dangerous to ethical practices in drone operations. Ultimately, these psychological components in tandem with the overly permissive nature of radically asymmetric warfare reveal that this method of conducting war does indeed result in a risk to the psyche of drone pilots whilst transferring the physical risk on to those living within regions of U.S. drone activity.

Conclusion

The advent of new technologies, especially that of drones, enables the use of force in new geographic areas with zero risk to U.S. soldiers. With no physical threat to these soldiers, there is some indication that this leads to "lowering the barriers to the use of force."[104] Furthermore, this phenomenon of zero-risk warfare ultimately encourages an overreliance on drones for counterterrorism, thus sparking debates concerning the laws of in-between spaces, such as Yemen and Pakistan. Moreover, the removal of risk in this radically asymmetric application of drone warfare thus raises concerns for how drones might operate in the future in compliance with accepted ethical frameworks. In the same degree, drone operations spark debates on whether radically asymmetric means of conducting war are morally justifiable in modern warfare.

Previously, principles of the just war tradition would suffice in addressing ethical concerns and limitations of war conduct. Indeed, this remains seemingly true for operations

[104] Fisk, Kerstin, and Jennifer M. Ramos, eds. *Preventive force: Drones, targeted killing, and the transformation of contemporary warfare*. NYU Press, 2016. (page 17).

conducted within war zones; yet many of the ethically concerning drones discussed within this paper are complicating the understandings of ethics by concerns for risk-asymmetry. Assuming that the United States will not all-together halt the US drone program, an alternative analysis of the ethical criteria to be met before engaging in the use of force should be further assessed. As is currently, drone warfare is creating a rift in ethical debates with some scholars siding in favor of drones as ethically adequate, while others strongly oppose drone operations. Through this discourse, some scholars have suggested updating the current frameworks for assessing permissiveness of the use of force, while others disagree by noting these alterations are not entirely necessary. However, a further complication in this debate lies with the potential relevancy of risk-asymmetry: can a radically asymmetric method of warfare "distort battlefield conditions to such a degree as to render uncertain what would otherwise be a morally uncontentious use of lethal force?"[105] Furthermore, does the current discussion of asymmetry fully undertake the scope of risk-asymmetry, in that the ethical dilemma concerns both the civilian risk but also the risks of the pilots?

Throughout the next two chapters, I seek to address the current ethical shortcomings of drone operations through the target acquisition methodologies, as well as through the human experience of conducting war. The psychological components of war, notably the dehumanization of the perceived enemy, in tandem with poor guidelines for target acquisitioning results in devastating outcomes for civilians in regions of drone operations. Poor target acquisitioning is not necessarily unique to drone warfare; yet the ability to conduct these operations consistently with purportedly no risk to U.S. troops is indeed unique to drone warfare.

[105] Renic, 20.

This risk-asymmetric quality of drone warfare, thus, allows for an overly permissive use of force that would otherwise not occur without the removal of risk.

Chapter 2

Unidentified Targets: Signature Strike Implications in Just War Theory

> It is hard to overcome your natural tendency to not want to kill another human. It must be painful to kill, it must be injurious, it must always be difficult. It should never be easy to put someone in the line of fire or we lose our humanity. . . The true impact of killing on this generation of operators will not be realized for some time. . . Nothing about it was illegal, and perhaps that was the hardest thing of all to understand and reconcile.[106]

With the use of force, legality and morality are heavily intertwined. Beyond the psychological obstacles of killing another person-especially civilians- soldiers are faced with the oddities and shortcomings of existing international law practices. Where international law attempts to address concerns for war conduct, drone operations frequently bypass these legal and ethical guidelines under the rationale of either humanitarian intervention or combatting terrorism. Scholars continuously debate the legal and ethical implications of drone technology, often disagreeing on the extent of civilian casualties. Furthermore, to preserve public opinion, rhetoric pushed by the Obama administration framed drone warfare as increasingly humane with few instances of civilian casualties. This rhetoric in tandem with the research disregarding data on civilian causalities thus results in a misperception of the moral justification for the use of drones. Indeed, there are instances in which drones might comply with the general understanding of morally justifiable uses of force. Yet, the radically asymmetric nature of drone warfare renders those morally justifiable strikes instead perhaps unjustifiable. If reciprocity remains crucial to the morality in the use of force, then these strikes perhaps are not as justifiable as just war tradition

[106] Phelps, 134-135.

principles might imply. Alternatively, strikes that are already deemed morally unjustifiable are, to some degree, exacerbated by the radically asymmetric nature of drone warfare. As this chapter seeks to address, there are numerous instances in which drone strikes target individuals that would likely otherwise not be targeted without the constant presence of drones; many of these individuals of which are low-level targets and civilians, including many children.

Indeed, drone warfare is often viewed as an alternative means of addressing international security concerns while preserving the health and safety of pilots. Occasionally, scholars might support the US drone program as an alternative method in addressing these concerns, claiming that drone operations comply with both legal and ethical concerns. Drones are touted as 'the Most Humane Form of Warfare Ever' and 'morally obligatory' weapons.[107] Furthermore, Kenneth Anderson believes that the drone:

> provide a *deus ex machina* and an escape from the *jus in bello* proportionality trap . . . The technology provides force protection to (one side's) combatants; it provides greater protection to civilians through precision targeting. What's not to like? No weighing up of perplexing values needs to take place, because everything is on the plus side, win-win.'[108]

However, the assumption of civilians protected through precision targeting mechanisms is rather fallacious when examining empirical data surrounding drone operations. Drone warfare often occurs under conditions of signature strikes: attacks in which individuals are identified as a terrorist threat primarily due to circumstantial occurrences, geographic location, and even by the

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[107] Lewis, M. W. 2013. "Drones: Actually the Most Humane Form of Warfare Ever." *The Atlantic*, August 21. ; and , Strawser, B. J. 2010. "Moral Predators: The Duty to Employ Uninhabited Aerial Vehicles." *Journal of Military Ethics* 9 (4): 342–368.doi:10.1080/15027570.2010.536403.

[108] Anderson, K. 2012. "Efficiency in Bello and Ad Bellum: Making the Use of Force Too Easy?" In *Targeted Killings: Law and Morality in an Asymmetric World*, edited by J. D. O. Claire Finkelstein and A. Altman, 374–402. Oxford: Oxford University Press.

age and gender of the individual. Signature strikes often result in high rates of civilian casualties, as they regularly misidentify civilians as combatants.[109] In this chapter, I argue that signature strike operations present a strong area of concern for traditional just war principles by neglecting primary concerns of just war theory, including issues of both proportionality and discrimination. Drone strikes too often result in such a high degree of civilian casualties that there is no clear compliance with just war tradition; however, the unjustifiable conditions of these strikes are worsened by their risk-asymmetry. Assuming the United States is unlikely to send ground troops or cruise missiles to target low-level militants and civilians, many of the innocent individuals that perish in these immoral strikes would otherwise likely not be targeted without the consistent presence of drones. Yet, the removal of risk to U.S. pilots allows for an overly permissible and consistent presence within the region, likely resulting in significantly more civilian casualties. Therefore, I conclude that drone warfare raises new legal and ethical concerns about the nature of war and the role of civilian casualties in contemporary conflict zones. The radically asymmetric nature of drone strikes sets a dangerous precedent for ethical understandings of war, as civilians (and low-level combatants) are overly exposed to deeply permissive methods of waging war; all of which might be avoided with the removal of radically asymmetric warfare.

Methodology and Legality

As the moral justification for drone strikes is often discussed by their legality or compliance with just war tradition, there is significance in recognizing strikes in which the legality is contested. Thus, understanding it through the lens of risk asymmetry might inform whether strikes could

[109] The number of civilian casualties by United States drone strikes can be found at the following: The Bureau of Investigative Journalism. 2020. Drone Warfare Database. https://www.thebureauinvestigates.com/projects/drone-war

potentially be morally justified, as well as expanding on why strikes might be more morally unjustified than previously considered. Throughout both the Bush and Obama administrations, the AUMF fundamentally stretched international law beyond recognition. Under international humanitarian law (IHL), there are few circumstances in which drones might operate in compliance with IHL. Kevin Jon Heller has identified fourteen types of signature strikes, in which five are legally adequate signatures to target individuals involved in potentially nefarious acts. Of these fourteen, four alternative signature types are deemed unlawful by international humanitarian law; these patterns highlight consistent intelligence failures, thus allowing insight into ethical dilemmas in drone warfare. Lastly, the remainder of the fourteen are in somewhat of a grey area; five signatures are interpreted as illegal/legal through conditional detailed circumstances and context surrounding a given strike. The legality of these signatures may be noted in Table 1 listed below. [110]

[110] Heller, 94-97.

Potential Legality of Identified Signature Strike Patterns	
Legally adequate	Individuals planning an attack
	Individuals transporting weapons that contribute to military efforts
	Known Al-Qaeda compounds that function strictly as AQ compounds
	Al-Qaeda training camps that must contribute to military efforts
	Individuals handling explosives
Conditionally Legal	Groups of armed men traveling in the direction of conflict
	Operating an Al-Qaeda training camp
	Individuals actively training to join Al-Qaeda
	Individuals who facilitate terrorist activity
	Locations identified as rest facilities for combatants
Legally inadequate	Military-age male (MAM) within regions of identified terrorist activity
	Individuals seen consorting with known militants
	Armed men traveling in trucks in AQAP
	Areas suspicious of being Al-Qaeda camps

Table 1- Information source Heller, Kevin Jon. "'One Hell of a Killing Machine' Signature Strikes and International Law." *Journal of International Criminal Justice* 11, no. 1 (2013): 89-119.[111]

Throughout these fourteen signatures, there is a notable inconsistency with ethical concerns of the just war tradition. Lawful signatures perhaps raise concerns for what criteria are morally acceptable to justifiably kill a target, while illegal signatures reveal state conduct that is inconsistent with conventional just war principles. These legal inadequacies and ethical shortcomings demonstrate emerging ethical dilemmas through the advent of drone warfare. As illustrated throughout this section, drone operations, both legal and illegal, are not necessarily always compliant with moral concerns. Indeed, illegal drone strikes pose the most concern for

[111] This table serves as a heuristic. Indeed, Heller's findings are assumably contested, but this table seeks to aid in thinking through and categorizing the mass complexity of drone strikes. Several drone strikes within the table are useful examples of the dilemmas discussed throughout the chapter, while others fall out of the frameworks of primary concern within the paper; that is, however, the limit of conceptualizing them in this way.

the ethical dilemmas of radical asymmetry, in which pilots are more frequently able to target low-level combatants, and civilians, with no risk to themselves.

The United States drone program claims to operate in the pursuit of maximally humane/ethical combat methods, while simultaneously targeting threats of terrorism. The U.S. asserts that IHL applies, and a state of war exists wherever terrorists operate, including outside of declared warzones like Yemen and Pakistan. However, United States drone operations tend to attack individuals based on their age, gender, and location; a type of pattern referred to as "military-age male" (MAM). Under this signature, any male, who is of military age and located within an area associated with terrorist activity is deemed liable to be killed by a hellfire missile from a Predator drone.[112] On the basis of legality, the MAM signature is by no means in compliance with existing IHL and IHRL. The criteria for determining a target as "MAM" is, therefore, in direct violation of multiple existing documents concerning both the definition of civilian and instances in which a civilian might be killed. According to the International Committee of the Red Cross (ICRC) and treaties concerning non-international armed conflict (NIAC), civilians are defined as individuals who do not either assume a continuous combat function (CCF) or do not directly participate in hostilities (DPH).[113] Furthermore, Article 50 of AP1 defines the civilian population as any person who is not a prisoner of war, member of a militia, member of armed forces, and those who do not "spontaneously take up arms to resist the invading forces." [114] Article 50 further recognizes that "the presence within the civilian

[112] Heller, 97.
[113] Heller, 92-93.
[114] Article 50 specifically notes that a civilian is not an individual belonging to Article 4 A (1), (2), (3), (6) of the Third Convention of the Geneva Convention concerning who might be considered a prisoner of war. The information for article 50 can be located at: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=E1F8F99C4C3F8FE4C12563CD0051DC8A ; Additionally, information for Article 4 of the Third Convention is available at: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/9ac284404d38ed2bc1256311002afd89/2f681b08868538c2c12563cd0051aa8d

population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character."[115] The lack of willingness to conduct strikes discriminately, thus avoiding civilian casualties as much as possible, is worsened by signature strikes and intelligence failures due to their lack of ability to properly distinguish civilian from combatant; a pattern of life analysis is not adequate in determining the threat level of a target, especially when this pattern of life is primarily informed by the age and gender of the potential target. Drone warfare, in theory, should allow for greater compliance with just war principles, especially that of discrimination and proportionality. Yet, empirical data suggests that even if the *jus in bello* criteria applied, the policies of the U.S. would result in violations of these principles; let alone a stricter criterion for assessing drones.[116]

Drone operation methodology for determining targets results in a greater chance for intelligence failures, thus a greater chance for civilian casualties. While the United States claims that drones will only operate in regions outside of hostilities under the condition that there is a "continuing, imminent threat to U.S. persons."[117] Furthermore, according to an ISR study, the U.S. claims to have strict standards in determining targets even to the extent that few terrorists' threats truly satisfy the requirements. An unnamed former senior special operations officer reported this study is often referred to as the "bitch brief," in which there are not adequate resources to actually meet the required criteria during operations.[118] If there is an existing criterion for drone strikes that would result in fewer deaths but is ignored because officials do not want to be restricted, then the human agency of strikes becomes increasingly problematic with

[115] *Ibid.*
[116] Daniel Brunstetter and Megan Braun, The implications of drones and just war tradition, 338.
[117] Scahill, Jeremy. "Leaked Military Documents Expose the Inner Workings of Obama's Drone Wars." The Intercept, October 15, 2015. https://theintercept.com/drone-papers/the-assassination-complex/.
[118] *Ibid.*

ethical dilemmas of drone warfare. In a later section of this chapter, I will further address the targeting mechanisms for drone strikes. Nonetheless, the United States has existing criteria that reduce casualties, but these are hardly notable during the actual operations witnessed thus far; signature strikes relying on in-the-moment intelligence are highly flawed and further exacerbate dilemmas in conducting a truly morally and ethical method of warfare. Furthermore, these strikes are further ethical complicated by their risk-asymmetry, in which pilots are consistently present and enabled to target extremely low-level targets, often civilians, of which they would not be likely to target as frequently- if not at all- without the removal of risk via drones.

Moreover, Table 1 describes issues of discrimination with additional legally inadequate signatures identified by Heller; namely, issues of intelligence failures derived from improper associations to terrorist groups. Exposure by media sources has indicated that individuals who are found "consorting with known militants" are also in danger of being targeted. This form of signature strike essentially negates innocence strictly through patterns of life, while bypassing a legal requirement for an indisputable indication of threat. Pilots assuming patterns of life can indicate a viable terrorist threat also lacks consideration of forcible encounters, rather than desirable association. For example, a study conducted by the Colombia Law School Center for Civilians in Conflict includes an examination of circumstances in which drone strikes occurred due to misinterpreted surveillance. A resident of North Waziristan, Daud Khan, detailed his experience with US drone strikes:

> The day before some Taliban had come to the house and asked for lunch. I feared them and was unable to stop them because all the local people must offer them food. They

> stayed for about one hour and then left. The very next day our house was hit. . . My only son Khaliq was killed. I saw his body, completely burned.[119]

Drone pilots conduct operations while lacking cultural awareness, leaving them incapable of identifying normal patterns of behavior.[120] Signatures informed by culturally ignorant operators inevitably negate the tribal aspect of life; thus, contributing to an unnecessary loss of innocent lives. The case of Daud Khan exposes the social reality of regions such as North Waziristan, in which day-to-day interactions with combatants are interpreted as an automatic assumption of terrorist affiliation. Furthermore, false identification of a terrorist threat through this signature pattern ultimately fails to comply with Article 50 of AP1, in which combatants present in a civilian location does not deprive the location of its civilian status; therefore, attacking Khan's house without proof of non-civilian status would have been potentially illegal under IHL.[121] Additionally, the "consorting with known militants" signature violates just war principles in the same manner as that of the MAM signature; both of which might not occur as frequently without risk-asymmetry.

The American public is becoming more exposed to ethical issues of accurate data and intelligence with the increasing exposure of intelligence failures and issues of transparency during drone attacks, namely the attack on Kabul.[122] In late August, drone pilots conducted an

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[119] Shah, Naureen, Rashmi Chopra, Janine Morna, Chantal Grut, Emily Howie, Daniel Mule, and M. Abbott. "The civilian impact of drones: Unexamined costs, unanswered questions." *Columbia Human Rights Clinic* (2012). (Page 42).

[120]Benson, Kristina. "Kill Em and Sort It out Later: Signature Drone Strikes and International Humanitarian Law." Pac. McGeorge Global Bus. & Dev. LJ 27 (2014).

[121] The information for Article 50 can be located at: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=E1F8F99C4C3F8FE4C12563CD0051DC8A

[122] Khan, Azmat. "Hidden Pentagon Records Reveal Patterns of Failure in Deadly Airstrikes." The New York Times. The New York Times, December 18, 2021. https://www.nytimes.com/interactive/2021/12/18/us/airstrikes-pentagon-records-civilian-deaths.html.

airstrike on supposed targets in Kabul, Afghanistan, that resulted in the death of seven children and three adults. The operation crew conducted the strike under the signature strike methodology frequently used: tracking the movements of expected targets in order to identify frequent visits to areas of known threat/terrorism. The individual targeted in the Kabul strike thus was identified as a target/threat his car leaving a suspected ISIS safe house.[123] The perceived threat-level is likely connected to a well-known signature for drone strikes: the assumption that the target is *potentially* consorting with terrorists. Unlike many strikes prior to the Kabul attack, the intelligence failure on August 29th exposed signature strike vulnerabilities and ethical flaws; this relatively uncovered topic suddenly became headline news across the country.[124] Signature strikes are not only problematic based on their pattern identifiers, but also due to the lack of agency associated with unjust killings. In the case of Kabul, as with a large majority of cases, little accountability and transparency left justice unserved. Despite public backlash, Lloyd J. Austin III, US Defense Secretary, officially decided not to punish those responsible for the drone strike; he claims the strike was not due to negligence or "leadership issues."[125] However, the strike in Kabul reveals the dangers associated with remotely piloted targeting; the lack of clear identification abilities in tandem with the ability to kill at any given moment ultimately results in such an overly permissive use of drones in which civilians are placed at a relatively high risk with no means of defending oneself.

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[123] Aikins, Matthieu, Christoph Koettl, Evan Hill, and Eric Schmitt. "Times Investigation: In U.S. Drone Strike, Evidence Suggests No Isis Bomb." The New York Times. The New York Times, September 10, 2021. https://www.nytimes.com/2021/09/10/world/asia/us-air-strike-drone-kabul-afghanistan-isis.html.

[124] Major US news outlets include both the New York Times and the Washington Post. Two articles discussing the failures of the drone strike are available at: https://www.washingtonpost.com/national-security/2021/11/03/kabul-drone-strike-inspector-general-report/; https://www.nytimes.com/2021/09/17/us/politics/pentagon-drone-strike-afghanistan.html

[125] Schmitt, Eric. "No U.S. Troops Will Be Punished for Deadly Kabul Strike, Pentagon Chief Decides." The New York Times. The New York Times, December 13, 2021. https://www.nytimes.com/2021/12/13/us/politics/afghanistan-drone-strike.html

The shortcomings of radically asymmetrical warfare extend further, with drone pilots often targeting individuals based on their geographic location. Locations of concern for drone pilots are predominantly those in which terrorist organizations obtain control over the region, or areas generally associated with terrorist threats.[126] Therefore, if civilians are located within a location previously associated with terrorist activity, the civilians are automatically deemed potential terrorist threats, thus potential targets. In these situations, legally (and ethically) problematic signatures often include attacks against compounds/camps within geographical regions of terrorist activity. However, correlating a compound/camp with terrorism is exceptionally problematic in consideration of the fact that these locations are often populated by civilians.[127]

Relying on location as a key factor in determining targets/threats presents fundamental errors in properly identifying targets according to international humanitarian law. Journalism reports have indicated that drone operations target armed men traveling within regions controlled by Al-Qaeda, namely within Al-Qaeda in the Arabian Peninsula (AQAP). These armed men do not have to assume continuous combat function (CCF), nor do they have to be directly participating in hostilities (DPH).[128] The signature fundamentally insinuates the prohibition of assembled armed men within regions associated with Al-Qaeda, disregarding if the men have no correlation to Al-Qaeda. Therefore, people cannot be armed in these regions without risking their own death. The correlation between an armed civilian and a terrorist threat is exceptionally troubling given that Pakistan is ranked at number six in the world for gun ownership per capita. Gun owners in Pakistan account for approximately 1 in every 10 civilians.[129] There is almost a

[126] Heller, 98-99.
[127] *Ibid.*
[128] Heller, 98-99.
[129] Benson, 39.

cruel irony in US drone operations associating armed civilians with terrorism, given the 2018 United States civilian population had roughly 87 times the number of firearms owned by the US military.[130] Regardless, the only potential signature in which armed civilians may be a perceived threat justifiable by international law is in the case of armed civilians traveling in the direction of combat. Even then, the signature is contentious, and legality does not necessarily indicate morality.[131]

Additionally, drone operators who lack cultural knowledge of conflict regions are notably susceptible to their own ignorance, especially with locationally informed strikes. For example, tribal communities within regions of Pakistan are required to include high-ranking officials during their community meetings, also referred to as a "jirga." Within these areas, high-ranking officials might include Taliban members. Civilians living within a tribal community, in which Taliban members hold the status of a high-ranking official, does not rationally lead to an automatic assumption of those civilians posing a terrorist threat, nor does it reasonably conclude those civilians are engaged in terrorist activities.[132] Despite that, on March 11th, 2011, a drone strike targeted a jirga meeting in Shiga, Pakistan. Ultimately thirty-eight civilians perished in this strike, with merely four Taliban members deceased.[133] The disproportionate number of deaths in this attack suggests that strikes are not operating within the parameters of just war thinking, specifically with reference to proportionality. Instances of geographically dependent signature

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[130] Data located at https://americanmilitarynews.com/2018/06/us-civilians-own-400-million-guns-compared-to-militarys-4-5-million-survey-shows/#:~:text=A%20report%20issued%20by%20the%20Small%20Arms%20Survey,ownership%20in%20the%20U.S.%20also%20continues%20to%20rise.

[131] Heller, 100.

[132] Shah, Naureen, Rashmi Chopra, Janine Morna, Chantal Grut, Emily Howie, Daniel Mule, and M. Abbott. "The civilian impact of drones: Unexamined costs, unanswered questions." Columbia Human Rights Clinic (2012). Information from report available at: https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/The%20Civilian%20Impact%20of%20Drones.pdf

[133] Benson, 37.

strikes have proven ineffective whilst simultaneously worsening issues of moral dilemma through the bloodshed of innocent civilians. Likewise, the disproportionate death of innocent civilians clearly indicates an indifference to civilian casualties and proves drone strike targeting methods are highly flawed.

Despite severe ethical lapses, the United States often will dismiss responsibility for civilian lives lost. Indeed, there is little expectation that states and government officials will readily admit to ethical failings; however, the United States often dismisses the importance of civilian casualties whilst claiming there are few that occur in the first place.[134] For example, in response to the jirga attack mentioned above, the Pakistani Army Chief, General Ashfaq Parvez Kayani, claimed the U.S. drone strike had "complete disregard to human life."[135] However, the United States met General Ashfaq Parvez Kayani's claim by attempting to justify the use of force against both the combatants and civilians at the jirga meeting. Foreign affairs specialist for the Office of the Secretary of Defense, Ryan J. Vogel, claimed the protected civilian status is justifiably overridden by activities in which there is an effective contribution to the war effort.[136] However, there are a few complications in classifying the actions of an individual/group, or the location of the attack, as an effective contribution to the war effort. First, Article 52(2) of the Additional Protocol 1 states that a military objective, defined by the state of making an effective contribution to a war effort, must also be of such importance that "total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military

[134] Notably, the Obama administration frequently pushed aside the importance of civilian casualties while pushing for support in the War on Terror. This is discussed in more detail below in the section titled, "The Obama Administration"; for further information, see Obama, Barack. "Remarks by the President at the National Defense University." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 336–53. Idebate Press, 2015.
[135] *Ibid.*
[136] *Ibid.*

advantage."[137] Furthermore, Article 52(3) goes on to state that in situations in which there is doubt of "whether an object which is normally dedicated to civilians . . . is being used to make an effective contribution to military action, it shall be presumed not to be so used."[138] Therefore, unless the drone operators knew without doubt that the location of the strike was not typically occupied by civilians, the attack violates international humanitarian law. Additionally, Article 50 (3) of the Additional Protocol 1 states, "the presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character."[139] Thus, without definitive evidence incriminating the civilians or the location of the meeting, the strike has little contribution combatting war efforts or combatant threats. The lack of ability to adequately identify the civilian population is exacerbated through signature strikes and intelligence failures. Even if the technology were able to precisely kill targets, if intelligence failures inform the strike, then the civilian population is at risk; similarly, if strikes continuously occur under these signature conditions, then civilians are at a much greater risk. Again, drone warfare, in theory, should allow for greater compliance with just war principles, especially that of discrimination and proportionality, yet these strikes are resulting in a much higher threshold of civilian casualties than suggested by officials.[140]

Other instances of signature strikes fall into an almost grey category between potentially legal and illegal. Within this category, as listed in Table 1, there are numerous instances in which

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[137] Protocol Additional to the Geneva Convention of 12 August 1949, Article 52(2), available at: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F08A9BC78AE360B3C12563CD0051DCD4

[138] Article 52(3), Additional Protocol 1: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F08A9BC78AE360B3C12563CD0051DCD4

[139] Article 50 mentioned by Benson, page 38; The direct quote is located and available at: https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=E1F8F99C4C3F8FE4C12563CD0051DC8A

[140] Daniel Brunstetter and Megan Braun, The implications of drones and just war tradition, 338.

case-by-case conditions may indicate the legal or illegal status of the strike. As discussed above, a group of armed individuals heading in the direction of conflict can raise a red flag to drone pilots. However, even in this situation there is an identification issue of no clear recognition of non-civilians; therefore, a legal argument would be difficult to make, especially in areas where there are plenty of combat zones surrounding the civilian population.[141] Less controversial (but still technically illegal) signatures also include individuals who facilitate terrorist activity and individuals who are actively preparing to join Al-Qaeda. In terms of those who are recruited to join Al-Qaeda, international law somewhat supports drone strikes against them.[142] However, these strikes are limited to only individuals who will, without a doubt, join Al-Qaeda and will not return to civilian life.[143] Nonetheless, despite international law requirements, killing an individual who is a member of an organized group but is not actively engaging in hostilities lacks morality on its own. Morality and legality begin to diverge when assessing the legal justifications to kill that lack ethical substantiation. For example, referring to the ethical dilemmas of MAM, would an adolescent soldier who is not engaging in hostilities be held to the same standard to that of any identified adult-aged terrorist actively seeking/participating in hostilities?[144] Through these instances of morally unjustifiable uses of force, the problematic nature of radical asymmetry is illuminated. The risk-free method of warfare continues to only be *physically* risk

[141] Heller, 100-101.
[142] Heller.
[143] Heller, 102.
[144] Arai-Takahashi, Y. (2019, September 24). *War crimes relating to child soldiers and other children that are otherwise associated with armed groups in situations of non-international armed conflict. an incremental step toward a coherent legal framework?* QIL QDI. Retrieved April 1, 2022, from http://www.qil-qdi.org/war-crimes-relating-to-child-soldiers-and-other-children-that-are-otherwise-associated-with-armed-groups-in-situations-of-non-international-armed-conflict-an-incremental-step-toward-a-coherent-legal/

free for the drone pilots, with a significant transfer of risk from the United States on to the often low-level combatants and civilians in these regions of conflict.

The Obama Administration

The Obama administration regularly attempted to ethically validate drone strikes through various assertions of compliance with just war principles and legal concerns. However, these assertions are not aligned with stories from previous drone pilots; stories that frankly paint an entirely different narrative than the rhetoric pushed by the Obama administration. For example, in a speech given in May of 2013, President Obama claimed that drone strikes fully comply with just war proportionality and used as a "last resort" for self-defense.[145] While the United States argues that drone operations are ethical, insights by whistleblowers lends a greater insight to the conduct of these operations. Brandon Bryant, a whistleblower on the United States drone operations, claims that drone operations leading to "less consequences of war" is far removed from the truth.[146] As of 2006, Brandon Bryant served as a sensor operator for MQ-1B Predator drones. The role of a sensor operator is to work jointly with pilots in identifying targets, but their most important role is terminal guidance: guiding the missiles to their intended target.[147] Bryant pushes back against this idea of self-defense, in which he claims some shots are fired against individuals that did not show any signs of a terrorist threat.[148] However, last resort and self-defense are not the only two relevant principles in determining the ethical status of drone strikes; especially when a given strike results in disproportionate and indiscriminate civilian casualties.

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[145] Boyle, 105.

[146] VICE. "The Gamer Who Flew "Killer Drones" for the US Army | Super Users." YouTube Video, 6:36. December 2, 2020. (Accessed January 20, 2022).

[147] Power, Matthew. "Confessions of a Drone Warrior." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 163–81. Idebate Press, 2015. (Page 164-165)

[148] HARDtalk. "Hardtalk Brandon Bryant Former US Drone Operator - Youtube." Youtube.com. YouTube, April 13, 2015. https://www.youtube.com/watch?v=_U2kPuQ9TxE.

Furthermore, self-defense would require an immediate threat- that of which a civilian cannot impose, otherwise they would assume continuous combat function or be directly participating in hostilities, neither of which can be classified as civilian in character. Indeed, if the strikes occurred in regions at war, then there is a possibility of civilian casualties that, if proportional, would not go against just war tradition. However, looking towards the ethical concerns of radical asymmetry, a moral justification for the use of force is seemingly less convincing, especially in concerns for the liability to harm.

Nonetheless, President Obama's top counter-terrorism adviser, John Brennan, notes that drones are perfectly legal in international law. While the technology itself may not be illegal, the application of the technology is where concerns rise. In particular, the use of drones might become illegal if their conduct is not consistent with international law. For instance, Brennan previously claimed that no civilians were killed in drone strikes within the year of 2011. Under this assertion, if true, then drones would have operated without necessarily violating international law concerning civilian safety. However, he later admits that civilians do die during the strikes, but stated, "it pains us, and we regret it deeply, as we do any time innocents are killed in war."[149] During the same time of his denial of civilian deaths, others from the administrations claimed deaths of civilians were in the "single-digits."[150] The back-and-forth between acknowledging civilian casualties and claiming there are no civilian casualties, thus, results in seemingly flawed transparency and perhaps accountability. There is, indeed, an expected hesitation for the United States to admit to these ethical shortcomings; yet the rhetoric supporting drones is primarily rooted in this misleading claim of drones can better abide by the laws of war.

[149] Boyle, 46.
[150] Benson, 29-33.

Furthermore, the Obama administration asserted that drones kill few civilians due to their increased precision, in which the strikes are "exceptionally surgical and precise."[151] However, the precision of drone strikes is incredibly exaggerated. According to U.S. Air Force collateral damage estimations, hellfire missiles have a "kill radius" of 50 feet, and anything within 65 feet will be wounded. As Chamayou notes, "in what fictitious world" can a lethal blast radius of 50-65 feet be considered precise?[152] Furthermore, reports from previous drone pilots reveal that precision is not necessarily the solution to ethical dilemmas in drone operations. For example, Brandon Bryant recalls a strike in which a child was killed, but the operational crew denied there was a child by claiming the target was actually a dog. When vocally questioning if it was a child, a fellow operator replied, "No. That was a dog;" as to which Bryant later noted, "A dog with two legs?"[153] Bryant rejects that the strike hit a dog and not a child, as this claim of targeting a dog perhaps removed guilt; nonetheless, this instance illuminates how intelligence failures might override any assumptions of precision. Even though this strike would be considered collateral damage, the language of precision gives us a false sense of moral security in drone strikes that does not exist in practice. If the claims of precision are based off the blast radius, these claims are clearly misleading with the overkill that comes with hellfire missiles. If the claims of precision are, instead, anchored on the precision of only killing designated targets, then Byrant's case, along with many others detailed throughout the entirety of this paper, reveals that claims of

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[151] Purkiss, Jessica, and Jack Serle. "Obama's Covert Drone War in Numbers: Ten Times More Strikes than Bush." The Bureau of Investigative Journalism (en-GB). The Bureau of Investigative Journalism (en-GB), January 1, 1970. https://www.thebureauinvestigates.com/stories/2017-01-17/obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush.

[152] Chamayou, 142.

[153] Abe, Nicola. "Pain Continues after War for American Drone Pilot." DER SPIEGEL. DER SPIEGEL, December 14, 2012. https://www.spiegel.de/international/world/pain-continues-after-war-for-american-drone-pilot-a-872726.html.

precision are highly misleading. Yet drones are meant (and claimed) to be a morally superior technology for conducting war.

The ideal scenario for ethical drone strikes, of course, would occur in limited circumstances in which targets are properly identified and there are no civilian casualties. Indeed, the Obama administration often framed drone strikes under the conditions of this ideal scenario. Aside from manipulating public perceptions of civilian casualties, the Obama administration utilized emotional appeals to seemingly divert attention away from civilian casualties and towards the greater mission of eradicating a severe terror threat. In an emotional speech given at the National Defense University, Obama acknowledged the 7,000 soldiers who had fallen in the war on terror, as well as those who have "left a part of themselves on the battlefield, or brought the shadows of battle back home."[154] Yet, Obama immediately continues by claiming that drone operations (amongst other war-related factors) determine the "nation- and world- that we leave to our children."[155] While there is significance in the emotional appeal of drones, Obama has little acknowledgment for civilians' lives lost, while also claiming that drones only operate when there is almost absolute certainty that civilians will not die from the strikes. In fact, he continues later in the speech by noting only terrorist threats are targeted, with little risk to civilians:

> Beyond the Afghan theater, we only target al Qaeda and its associated forces. And even then, the use of drones is heavily constrained . . . we act against terrorist who pose a continuing and imminent threat to the American people. . . and before any strike is taken, there must be near-certainty that no civilians will be killed or injured- the highest standard we can set.[156]

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[154] Obama, Barack. "Remarks by the President at the National Defense University." Essay. In *Drones and Targeted Killings Ethics, Law, Politics*, edited by Sarah Knuckey, 336–53. Idebate Press, 2015.
[155] *Ibid.*
[156] *Ibid,* 344.

Of course, there are reasonable circumstances to initiate a drone strike, such as in response to a high-level terrorist threat. Additionally, Obama's speech does recognize that terrorist threats exist outside of the Afghan theater. Indeed, drones operate within 3 other distinct theaters of Pakistan, Yemen, and Somalia; some of which are expected to have no civilian casualties as they operate in areas outside of conflict. As noted previously, these regions outside of conflict, namely Pakistan and Yemen, have experienced significant concerns with the problematic nature of risk-asymmetry. Despite these ethical frameworks and their respective conditions necessary to use force, all the regions have experienced high ratios of civilian casualties.[157] When Obama asserts a criterion for civilian casualty rates, claiming there will be near certainty for no civilians to be killed, then any number exceeding that threshold is a high casualty rate. When comparing empirical data concerning civilian casualties to the criteria set forth by Obama, these high ratios of civilian deaths also notably inconsistent with the ethical and legal frameworks for both times of war and peace.

The Obama administration's stance on identification before strikes functioned more along the lines of "kill now, identify later" rather than identifying threat levels prior to initiating strikes in the first place; all whilst claiming strikes only occur against genuine terrorist threats. [158] However, many of these supposedly "imminent" threats are of no true imminence at all. In the next section, I will address the lack of imminence in tandem with a discussion of the role of law enforcement in drone operations outside of regions of war, such as strikes within Pakistan. Indeed, the narratives of the Obama administration are parallel to that of other scholars; both of

[157] For more information on civilian casualty numbers, see The Bureau of Investigative Journalism. 2020. Drone Warfare Database. https://www.thebureauinvestigates.com/projects/drone-war
[158] Emery and Brunstetter

which do not adequately satisfy the necessary conditions of just war tradition required for the use of force. The lack of an imminent threat coupled with the overly permissive use of force both create a dangerous precedent for asymmetric warfare. If pilots can be consistently present on the battlefield with zero-risk to their physical bodies, then the question becomes whether these pilots are enabled to kill low-level targets far more frequently than without the use of drones?

The Grand Illusion: Moral Limitations in Law & Ethics

The illusion of drones as an ethical technology is often misinformed by denial from government entities, as well as denial from scholars within the discourse of drone ethics. This illusion is further propagated through narratives claiming drone operations effectively contribute to bettering the lives of civilians in areas of conflict, or often through the denial of civilian casualties. In defense of drone operations, Daniel Byman, argues in favor of drones through the assertion that critics are ill-informed.[159] The following is an excerpt from his article, "Why Drones Work: The Case for Washington's Weapon of Choice," in which he elucidates misconceptions about drone casualties and signature strikes:

> The truth is that all the public numbers are unreliable. Who constitutes a civilian is often unclear. . . their numbers are frequently doctored by the Pakistani government or by militant groups. After a strike in Pakistan, militants often cordon off the area, remove the dead, and admit only local reporters sympathetic to their cause or decide on a body count themselves.. . As a result statistics on civilians killed by drones are often inflated. . . One of the truly independent on-the-ground reporting efforts, conducted by the Associated Press last year, concluded that the strikes "are killing far fewer civilians than in many in [Pakistan] are led to believe."[160]

[159] Byman's biography information is available at: https://www.brookings.edu/experts/daniel-l-byman/

[160] Byman, Daniel. "Why Drones Work: The Case for Washington's Weapon of Choice," Foreign Affairs 92, no. 4 (July/August 2013): 32-43. (Pages 36-37).

Byman's argument, however, does not acknowledge core issues surrounding the purported precision of drone strikes that inevitably- and often knowingly- leads to civilian casualties. Firstly, his argument does not incorporate the relevance of firsthand experiences and stories discussed by survivors, families of survivors, and witnesses.[161] Yet, the firsthand experiences detailed by drone strike survivors should be taken into account; otherwise, how might Byman, and others who dismiss civilian death counts, fully disregard civilian casualty totals that are often informed by firsthand encounters? As noted above, Byman's argument rests on the assumption that the Associated Press is "one of the few truly independent on-the-ground reporting efforts" but does not explain why we should trust his preferred singular entity over information collected by a multitude of other organizations and even secret government documents.[162]

US media data collection is also not strictly reliant on militants and government entities. As of 2021, the *New York Times* released leaked pentagon documents in which details of "credible" and "noncredible" reports are highlighted; if investigators found the strike to have "more likely than not" killed civilians, then the report is deemed credible, with noncredible indicating that investigators could not sufficiently indicate if the strike was credible.[163] Within the credible reports, numerous drone strikes resulted in relatively high rates of civilian casualties; the worst being an attack in Mosul, Iraq, on March 14th, 2017, resulted in 105 casualties.[164] While this strikes detailed in the leaked documents occurred in both Iraq and Syria, there is

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[161] For further examination of firsthand encounters, as well as the psychological impact of those survivors, see: Shah, Naureen, Rashmi Chopra, Janine Morna, Chantal Grut, Emily Howie, Daniel Mule, and M. Abbott. "The civilian impact of drones: Unexamined costs, unanswered questions." *Columbia Human Rights Clinic* (2012).
[162] For more information civilian casualties, see: The Bureau of Investigative Journalism. 2020. Drone Warfare Database. https://www.thebureauinvestigates.com/projects/drone-war
[163] Khan, Azmat, Lila Hassan, Sarah Almukhtar, and Rachel Shorey. "The Civilian Casualty Files." The New York Times. The New York Times, December 18, 2021. https://www.nytimes.com/interactive/2021/us/civilian-casualty-files.html#credible-reports.

[164] *Ibid.*

reasonable concern for the rates of collateral damage noted from drone strikes, assuming collateral damage does not strictly occur in only two theaters of operations and not within others. These high rates of civilian casualties from various sources indicate there remains to be concerns with both the precision of drone strikes, and the ability to properly distinguish civilian from terrorist threat.

Furthermore, Byman's argument further claims that drones are better than alternative methods of warfare due to their precision. In his argument, Byman directly claims that drones are "more precise blast zones that decrease the risk of unexpected structural damage and casualties."[165] As noted in the previous section, claims of precision are highly misleading. The most frequently used missile in drone operations has a blast radius of over 50-65 feet.[166] The strikes are hardly truly precise in that they reduce collateral damage; if anything, these strikes are overkill for anything within the blast radius, and unnecessarily damaging to people or objects on the periphery of the lethal blast radius. Nonetheless, there is not significant evidence that drones are precise enough in ways that would deem it a highly ethical technology.

Alternatively, additional scholars tend to disagree with arguments of drones as a precise- and therefore ethical- technology. While not directly addressing Byman, Maja Zehfuss pushes back against claims like that of Byman's argument, by asserting that "drones appear to amplify the ethical promise of precision bombing as a means of warfare, while in fact undermining it."[167] Furthermore, Emery notes the ethical dilemmas of conflating technological advancement with increased ethics by examining targeting mechanisms through algorithm data. The CIA drone

[165] Byman, 34.
[166] Chamayou, 142.
[167] Zehfuss, Maja. "Targeting: Precision Bombing and the Production of Ethics." In War and the Politics of Ethics. Oxford: Oxford University Press, 2018. Oxford Scholarship Online, 2018. doi: 10.1093/oso/9780198807995.003.0003. (page 82).

operations determine which individuals to target based on an algorithm, SKYNET, in which tracked SIM card metadata indicates the "probability of terroristness."[168] Algorithmic determination of guilt completely removes the humanity of targeting mechanisms- a practice that is not perfected, but at the very least is not automated and informed on preexisting human biases of perceived indicators of guilt.[169] Thus, moral shortcomings in the technological advancement of drones result in lack of accountability and assumes a truly ethical war is "only a few software updates away."[170] The removal of the human judgment in war weighs on the ethics of war itself. If ethical decisions are reliant on algorithms that are formulated from pre-existing human biases, is technology as a means of judgment any better than an individual in the moment or does this simply become another layer to the same outcome?[171] This undermines the foundations of humanity in war and erodes the potential for accountability. As noted by Zehfuss, technological advancements in war could actually increase the probability of civilian casualties by presenting alternative methods of exposure to civilians and potentially enhancing violence.[172] The implementation of AI within warfare removes the necessary element of accountability. Therefore, if there is no accountability for judgments made in drone operation- in which there is already an existing concern for the overly permissive and risk-free uses of force- then perhaps a

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[168] John R. Emery (2020): Probabilities towards death: bugsplat, algorithmic assassinations, and ethical due care, Critical Military Studies, DOI: 10.1080/23337486.2020.1809251

[169] Additionally, an alternative algorithm known as CDET, or bugsplat, has been used to determine how much collateral damage a strike would create. Bugsplat also emphasizes the potential danger of algorithms within drone operations, as it relies on a technological assessment that determines an actions ethical status. For example, as Emery notes in his article, "On opening day, the estimations presented to Gen. Tommy Franks 'indicated that 22 of the [30] projected bombing attacks on Iraq would produce what they defined as heavy bugsplat-that is, more than 30 civilian deaths per raid. Franks said, 'Go ahead, we're doing all 30.' "
For more information, see: John R. Emery (2020): Probabilities towards death: bugsplat, algorithmic assassinations, and ethical due care, Critical Military Studies, DOI: 10.1080/23337486.2020.1809251

[170] Emery, Probabilities toward death, 8.

[171] For further examination of the dangers of automated decision making in war, see: Roff, Heather M. "The strategic robot problem: Lethal autonomous weapons in war." *Journal of Military Ethics* 13, no. 3 (2014): 211-227.

[172] Zehfuss, 69.

technological determination of "terroristness" sets the stage for greater ethical dilemmas of war, especially given the complexities of ethical decisions in war.

The moral limitation of drone strikes is further complicated by strikes that are intended to strike a specific target- referred to as personality strikes- yet result in significant collateral damage. These strikes are often determined based off a kill list in which individuals are identified through extensive monitoring; once individuals are identified, intelligence analysts compile information on the targets to create a "baseball card" of their information.[173] Officials working in hierarchy of national security will meet weekly to determine which individuals should be sentenced to death via the kill list; this list is then sent to the office of the President, where the current President orally verifies and gives order to kill those on the kill list.[174] The kill list reportedly takes an average of approximately two months for the President to verify the list; after verification, the drone operators have up to 60 days to kill the designated targets.[175] Considering the rather long period of time following the approval of names for the kill list, one must question if these designated targets post any imminent threat? Yet, even if the Kill List were to solely target high-value threats, there remains to be significant collateral damage because of many personality strikes; or, the strikes might misidentify targets entirely. As noted in the introduction, an immensely disproportionate number of civilians have died in the pursuit of one targetm often without ever actually killing the intended target. If their death is not of crucial importance to counterterrorism, one then must question the moral implications of killing a target who does not pose an imminent threat, especially in a region outside of a warzone. Yet, drones consistently roam the skies seeking targets; this risk-free asymmetric practice might instead be

[173] Scahill, Jeremy. "Leaked Military Documents Expose the Inner Workings of Obama's Drone Wars." The Intercept, October 15, 2015. https://theintercept.com/drone-papers/the-assassination-complex/.
[174] Chamayou Grégoire, and Janet Lloyd. *Drone Theory*. London: Penguin Books, 2015.
[175] Scahill.

poorly informing pilots of targets, even those who are supposedly identified through the Kill List. Therefore, does the consistent overwatch of drone operations in tandem with poor identification mechanisms yield a dangerous precedent for asymmetric warfare?

Indeed, personality strikes have debatably had potential success stories, of which Byman's uses the singular case of Anwar al-Alwaki to assert that drones should be able to kill suspected targets without seeking authority if the threat is deemed imminent.[176] Anwar al-Awlaki, while a U.S. citizen, died by a drone strike due to identified terrorist affiliation; notably, al-Awlaki worked alongside individuals planning the 2009 attempted airplane bombing on Christmas day, as well as propagating jihadist declarations and threats to kill.[177] Byman compares the death of al-Awlaki to that of hostage-taker, stating "police are not required to ask a judge for authority to kill a hostage-taker or refrain from taking a clear shot if they have one."[178] His argument lacks substantiation and validity through both just war tradition principles, but also through international law criteria; both of which do not identify AUMF as a credible source of validity in the international use of force. Byman's analogy also serves no proper comparison; assuming that drone strikes can be compared to policemen is a rather slippery slope that serves no true indication of ethics and legality in drone operations. Instead of proposing a legitimate justification, he references a completely unrelated issue that lends hardly any substance to an argument for personality strikes. Furthermore, unless al-Awlaki was actively in the process of initiating an attack, then is he considered an imminent threat? Indeed, he would assume the status of a combatant, given his involvement in terrorist activities and planning, but his threat is far more suitable under conditions of lagged imminence, rather than an immediate imminence.

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[176] Byman.
[177] Phelps, 237.
[178] Byman, 40.

Under the *jus ad vim* principles, limited force might occur under last resort, but only once law enforcement is determined to be ineffective or unsuccessful.[179] In this circumstance, in which a kill is debatably morally justifiable, the concerns for radical asymmetry might instead determine the kill to be unethical. As al-Awlaki was killed in Yemen, in which there is no on-going war, the risk-asymmetry to American troops might instead inform this strike to be morally unjustifiable rather than the alternative.

Furthermore, narratives presented by Byman and the Obama administration surrounding zone of war are diametrically opposed to ethics of law enforcement. Given drone strikes frequently occur in regions outside of declared warzones, these strikes are subject to the jurisdiction of international human rights law (IHRL) and the sovereignty of the given state. Through both sovereignty and IHRL, law enforcement ethics are of great importance, as opposed to strictly assessing morality through just war tradition and international humanitarian law.[180] Ethics of law enforcement dramatically differs from that of just war principles and IHL, in which there are four main criterion for examining ethics in the use of force:

> (1) Only imminent threats to life permit the use of lethal force; (2) there must be certain identification of a threat before using force against him or her; (3) lethal force is justified only when nonlethal measures are not feasible for stopping the threat; and (4) any use of force must avoid foreseeable risk of civilian casualties.[181]

[179] Brunstetter, Just and Unjust Uses of Limited Force, 146-147.
[180] Jones, Ben, and John M. Parrish. "Drones and Dirty Hands." Essay. In *Preventive Force: Drones, Targeted Killing, and the Transformation of Contemporary Warfare*, edited by Kerstin Fisk and Jennifer M. Ramos, 283–312. New Delhi, India: Speaking Tiger Academic, 2017. (page 292).
[181] *Ibid*, 292.

The use of force in locations outside of warzones is far less permissive than IHL. Furthermore, Byman's argument in favor of drones specifically states, "drones have done their job remarkably well: by killing key leaders and denying terrorist sanctuaries in Pakistan, Yemen," while claiming that these operations result in fewer civilian casualties than other methods of warfare.[182] Yet, drone warfare should, of course, have fewer civilian casualties than other methods of warfare. Drone operations are not restricted to war zones, therefore drones operating in regions of peacetime should not be held to the same ethical standard as that of a wartime operation. If the intent of drones is to truly minimize the risks of war, including the chances of collateral damage, then drones should be held to a much less permissive framework, rather than initiating strikes against any suspicious target through these signature strikes. Furthermore, Byman only acknowledges the importance of international law restricting the use of drones when considering the possibility of other countries adopting drone warfare as well. With little concern for the use of drones by the United States, but a heightened concern if other states have this relatively unrestricted power, Byman's argument sets a dangerous precedent for rationalizing drone warfare by means of ignoring law enforcement unless the law enforcement furthers one's own interests. The problems illustrated through the Obama administration responses and by scholars, such as Byman, illustrate the contentions surrounding the use of drones. These problems, while not limited to asymmetry, are compounded and exacerbate the already existing dilemmas of war. Furthermore, these compounded concerns in tandem with asymmetry reveal a dangerous and immoral precedent for an overly permissive use of force.

[182] Byman, 32.

Conclusion

Drawing upon research examining the ethical implications of drone operations and the legal framework of the U.S. drone program, there is little indication that drone technology is increasing ethical standards in war. Contradictory to the commonly asserted notion of increased precision- and thus a reduction in civilian casualties-, drones are proving to regularly target civilians rather than strictly combatants. While civilians targeted may not be intentional, intelligence failures prove to be increasingly problematic in conducting remote warfare. Intelligence failures of remotely killing manifests in numerous ways, ranging from poor algorithm targeting mechanisms to sensor operator identification errors. Signature strikes illuminate these intelligence failures, while personality strikes portray a danger in utilizing algorithms to determine the guilt of an individual. However, despite the irrefutable data on civilian casualties and intelligence failures, previous presidential administrations pushed a rhetoric in favor of drones as a morally superior method of conducting war. Through these shortcomings, the lens of both just war tradition and legal frameworks are insufficient with grappling the ethical dilemmas of drone operations. While useful in many ways, these frameworks fail to account for the moral dilemmas of reciprocity and the unintended consequences of the lack thereof.

The moral and legal debates concerning drones are further intensified by the aftermath of drone strikes: psychological trauma. In the following chapter, I will look at how the strikes and methodologies discussed in this chapter ultimately impact the minds of both pilots and civilians, with an emphasis on the role of radical asymmetry plays on both parties. These post-drone-strike dilemmas are inescapable for many survivors and pilots, with little ethical consideration in the moral discourse of war. The psychological ramifications of drone warfare can be haunting, thus

present a necessary consideration in the conversation of a purportedly risk-free method of conducting warfare.

Chapter 3

The Mind and War: Psychological Components of Signature Strike Operations

> "I rushed to my house when I heard the blast. When I arrived, I saw my house and my brother's house completely destroyed and all at home were dead. . . Yes, the drone strikes hurt the Taliban. Most of the strikes are effective against the Taliban but sometimes innocent people also become the victim of such attacks. . . We were living a happy life and I didn't have any links with the Taliban. My family members were innocent. . . I wonder, why was I victimized?"[183]

Gul Nawaz, a North Waziristan civilian, watched his family of eleven all perish in a drone strike. Nawaz's experience, like the experience of so many other victims, is likely to haunt him for the rest of his life. Drone operation experiences on the ground leave devastating marks on survivors and often take the life of many innocent civilians. In this chapter, I will be examining the psychological implications of drone strikes on both civilians and pilots and how these implications are exacerbated by the very nature of radical asymmetry. Psychological ramifications of drone operations are often absent in areas of discourse supporting the use of drone warfare. However, I argue that the psychological implications of these operations are vital to the discourse concerning the moral and legal framework for drone technologies. Drone pilots and civilians are often left with horrifying memories of strikes; some of which result in PTSD for pilots and undeniable long-term mental health crises for civilian survivors. The radically asymmetric nature of drone operations ultimately repeatedly exposes drone pilots to the horrors of war, in which individuals may become dehumanized or traumatized, or even perhaps both.

[183] Williams, Brian Glyn. *Predators: The CIA's drone war on al Qaeda*. Potomac Books, Inc., 2013. (Chapter 10).

Trauma and dehumanization are not inherently novel to war, but the extensive surveillance of targets, and repeated instances of killing innocent civilians and children while targeting low-level combatants, results in a significant increase in trauma for pilots; all whilst traumatizing civilians, as well.

On-the-ground experiences leave a nightmarish impression on civilians in designated target zones, but a drone pilot's experience can be remarkably divergent. When questioned about the easiness of killing remotely versus killing in combat circumstances, a U.S. Army Sergeant RQ-7 pilot stated, "I have been responsible for deaths during ground combat, and UAS kills as well. Neither bothered me much."[184] However, many pilots experience the opposite reaction- as killing from a distance often inflicts high levels of trauma. Lindsay Clark notes statements from drone pilots, documenting their traumatic experiences. Damian Killeen, former Wing Commander of the 13th Squadron, notes in an interview, "The bit that hurts more are the days where you watch people die because we are in surveillance mode and the guys you are protecting stand in an improvised explosive device."[185]Heather Linebaugh, former U.S. Air Force imagery analyst and geo-spatial analyst for drone operations in Afghanistan and Iraq, published an article for the guardian concerning issues of drone warfare.[186] In her article, she states:

> "I know the feeling you experience when you see someone die. Horrifying barely covers it. And when you are exposed to it over and over again it barely becomes a small video, embedded in your head, forever on repeat, causing psychological pain and suffering that many people will hopefully never experience."[187]

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[184] Phelps, 122.
[185] Clark, Gender and Drone Warfare, 117.
[186] Linebaugh's biography available at: https://www.theguardian.com/profile/heather-linebaugh
[187] Linebaugh, Heather. "I Worked on the US Drone Program. the Public Should Know What Really Goes on | Heather Linebaugh." The Guardian. Guardian News and Media, December 29, 2013. https://www.theguardian.com/commentisfree/2013/dec/29/drones-us-military.

The horrors of war weigh heavily on the minds of some drone pilots, with rates of PTSD hardly reflecting the impact of consistent exposure to traumatic events. These events are often viewed under the assumption that drone warfare presents a moral opportunity in war conduct.

Overall, moral justification for killing during war is continuously debated amongst scholars. However, just war theorists have formulated conjectures of moral war practices that have ineffectively considered the full scope of drone operations. In the case of the United States, drone programs function on a basis of a morally higher ground by deploying fewer troops; therefore, fewer soldiers are at risk of dying while United States foreign interests remain actively pursued. The purportedly morally higher ground fails to acknowledge the psychological elements of war that continuously provoke ill-informed and immoral operations, while simultaneously impacting pilots on equal levels of pilots fighting within a battle territory. At the same time, distant warfare seemingly divorces the relationship between psychological trauma and killing. Moreover, drone warfare negates the long-term psychological impacts on civilians' mental health.

Psychological Implications on Civilians

Distinguishing between morally justifiable and unjustifiable drone strikes is often restricted to whether a strike will inflict physical injury to either the pilot or the civilian populations. However, there is strong evidence suggesting that civilians experience high levels of trauma and fear, especially when witnessing a strike or losing a family member or a friend to a strike. The psychological impact of merely hearing a drone flying has been described as an “unnerving symbol of unchecked American power.”[188] The distress and fear amongst civilians are

[188] M. J. Boyle, the legal and ethical implications of drone warfare, 116.

profoundly concentrated in rural areas of drone operation, with reports of Yemen civilians fearing the United States on equivalent levels of their fear for Al-Qaeda.[189] Areas of northern Pakistan are subject to nearly endless drone operations every day, leading to an overwhelmingly large number of civilians in constant distress and fear.[190]

The Center for Civilians in Conflict engages in research on the psychological impacts of civilians in drone warfare, including a focus on the psychological toll experienced by civilians in regions of conflict. Their research included interviews with individuals consistently in areas of drone operation, survivors of drone strikes, and living relatives of those who perished in a strike, with stories expressing the horrors experienced:

> "We fear that the drones will strike us again. . . we are depressed, anxious, and constantly remembering our deceased family" . . . Another man described the anguish of his sister-in-law, who lost her husband and two sons in a US drone strike in Pakistan: "After their death she is mentally upset... she is always screaming and shouting at night and demanding me to take her to their graves."[191]

Other interviews also included information on how frequently civilians (in the interviewer's area) spotted drones: approximately 10 to 15 drones are spotted every single day.[192] The intense and inescapable presence of drones indubitably would yield heightened fear amongst civilians. Furthermore, there is little credibility in the assertion that drone strikes are targeting high value targets, therefore collateral damage is proportionate to the target killed.[193] Indeed, there is

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[189] *Ibid.*
[190] Shah, Naureen, Rashmi Chopra, Janine Morna, Chantal Grut, Emily Howie, Daniel Mule, and M. Abbott. "The civilian impact of drones: Unexamined costs, unanswered questions." Columbia Human Rights Clinic (2012). (Page 24).
[191] Shah, Naureen, Rashmi Chopra, Janine Morna, Chantal Grut, Emily Howie, Daniel Mule, and M. Abbott. "The civilian impact of drones: Unexamined costs, unanswered questions." *Columbia Human Rights Clinic* (2012). (page 24).
[192] *Ibid.*
[193] Reprieve.

evidence suggesting that between 2004-2012, approximately 2% of deaths were high valued targets; during the Bush administration, roughly 33% of kills were civilian casualties.[194] The continuous presence of drones coupled with remarkably high rates of civilian casualties both contribute to alarming levels of trauma and fear amongst civilians. A narrow perspective of injury, reduced to only physical harm, does not adequately address injury to its fullest capacity; with psychological ramifications were considered, drone strikes are far less morally superior and humane towards civilians than previously boasted. Therefore, as noted through the civilian perspective, risk-asymmetric warfare intensifies the burdens on civilians in regions of drone operations. The overly permissive use of drones allows for drones to have nearly constant presence in these regions, resulting in not only a rise in civilian casualties (compared to the possibility without the use of drones) but also increases the trauma and fear experienced by many people living within these regions. Additionally, the radically asymmetric method of warfare only removes the physical risk of conducting war, as many pilots experience several haunting psychological impacts of conducting war by remote control.

Cognitive Dissonance in War

When pilots are put in a situation in which they must kill a target, there are several psychological outcomes. For the sake of this section, I will focus on two primary outcomes that overlap significantly: cognitive dissonance and its byproduct of dehumanization. Leon Festinger proposed the theory of cognitive dissonance in 1957, in which he defines cognitive dissonance as the psychological state experienced when an individual's actions are contradictory to the beliefs

[194] Bergen, P., & Braun, M. (2014, April 21). *Opinion: Obama's high-stakes drone war in Yemen*. CNN. Retrieved March 30, 2022, from https://edition.cnn.com/2014/04/21/opinion/bergen-yemen-obama-drone-war/index.html?page=1

and morals held by said individual.[195] Cognitive dissonance in war often manifests as a method of coping with the harsh realities of war itself. As common dilemma of traditional warfare, cognitive dissonance is especially noted through collections of World War I poems, in which soldiers recall the haunting experiences of war.[196] However, drones are intended to be different; there is supposedly no risk to soldiers. Yet, applied to drone warfare, there are notable instances in which soldiers will utilize this coping mechanism to rationalize their actions against others- often civilians. Through this, dehumanization of the enemy becomes a prominent methodology for pilots to distance themselves psychologically, and thus make it easier to kill.

Dehumanizing the enemy is a widely implemented psychological mechanism for soldiers tasked with killing. The necessity of dehumanization is manifested through a variety of psychological distancing factors: emotional, cognitive, moral, cultural, and physical distance. These elements produce the mentality of the enemy as less than human; thus, far easier to kill without overwhelming guilt.[197] The act of physical distancing itself, facing zero confrontation with a fellow human being, produces an environment adequate enough to yield the dehumanization of that which appears to be a small dot on the screen:

> "Dehumanization involves obscuring and/or distorting the human identity and qualities of an enemy (or victim) that are either known or unknown to the perpetrator of violence. The enemy (or victim) is seen as nothing more than objects- rather than anything human. . . where it is irrelevant whether the "target" is known or unknown just as long as it is dehumanized."[198]

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[195] Festinger, Leon. *A Theory of Cognitive Dissonance*. Stanford, CA: Stanford University Press, 1957.

[196] Poynor, David. "Meeting the Enemy in World War I Poetry: Cognitive Dissonance as a Vehicle for Theme." *Humanities* 8, no. 1 (2019): 30.

[197] Phelps, 185-186.

[198] Phelps, 186.

Lt. Col. Wayne Phelps, in his book *On Killing Remotely: The Psychology of Killing with Drones*, addresses several ways in which dehumanization manifests through the language of drone operators. Dehumanization of the enemy manifests in rather unique ways for drone pilots. Historically, dehumanization manifested through various racist tropes. However, drone pilots' methods degrade their targets through less direct matters. Pilots frequently refer to their targets as just that–targets. Rather than clearly stating their intentions are to kill a person, the civilian/combatants are instead referred to as a target; thus, reducing them (in name) to less than human and instead as something to be killed. In the same sense, people are also categorized in means that dehumanize them, such as describing a younger male as "MAM", or "military-aged male."[199] Haas further notes the relevance of dehumanizing the perceived enemy, especially through terminology that psychologically distances the individual from the pilot. In his experience, dehumanizing and distancing terminologies include referring to individuals as "fun-sized terrorist."[200]

Dehumanization can extend to the ways in which soldiers are taught about enemies. Morally, soldiers would potentially struggle in killing innocent people without a justified cause. Therefore, it is advantageous for the military to operate under the assumption that the enemy is evil and unjust. Killing an evil entity is far more rewarding than killing an innocent person. Under this line of thinking, many soldiers report feeling accomplished and a sense of pride in the aftermath of a "successful" drone strikes.[201]

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[199] Phelps, 187.

[200] NBC News. "Former Drone Pilots Denounce 'Morally Outrageous' Program | NBC News." Youtube.com. YouTube, December 7, 2015. https://www.youtube.com/watch?v=PJ1BC0g_PbQ. (2:20-2:30)

[201] Phelps, 188-189.

Understanding the circumstances leading up to a kill allows for greater insight to the dehumanizing process of drone operations. The kill chain incorporates every step necessary to authorize killing a target. Within this chain, there are many individuals partaking in the operation from start to finish, including sensor operators, intelligence analysts, pilots, and officials within military and government channels required to authorize the strike. Leaked documents acquired by *The Intercept* reveal that during the Obama administration, former President Obama would often approve targets; however, this is not always the case.[202]

In February of 2010, three vehicles (carrying approximately 30 people) were traveling in Afghanistan in the middle of the night. However, perhaps unbeknownst to these 30 individuals, the vehicles were travelling in the direction of a U.S. Special Forces patrol; resulting in drone pilot surveillance to monitor the vehicles. However, even when confronted with the possible identification of children in the area, an excerpt the operation crew dialogue is as follows:

> Mission intelligence controller: Screener said at least one child near SUV.
>
> Sensor: Bullshit. . . where? Send me a fucking still [picture].
>
> Pilot: At least one child. . . Really? Listing [him as a] MAM. . . that means he's guilty.
>
> Sensor: Well maybe a teenager, but I haven't seen anything that looks that short, granted they're all grouped up here, but.
>
> Mission intelligence controller: They're reviewing.
>
> Pilot: Yeah, review that shit. . . why didn't he say possible child, why are they so quick to call fucking kids but not to call shit a rifle.
>
> Pilot: Our screeners are calling 21 MAMs, no females, and two possible children.[203]

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[202] Currier, Cora. "The Kill Chain: The Lethal Bureaucracy behind Obama's Drone War." The Intercept, October 15, 2015. https://theintercept.com/drone-papers/the-kill-chain/.

[203] Cockburn, Andrew. *Kill chain: The rise of the high-tech assassins*. Henry Holt and Company, 2015. (Chapter 1)

Ultimately, many civilians lost their lives in this attack; each family received a $5,000 payoff and a singular goat.[204] Ultimately, the concerns for dehumanization and cognitive dissonance, indeed, are not necessarily unique to drone pilots. However, these psychological components in tandem with the removal of reciprocity results in often overly permissive uses of force against civilians. While it may not be intentional to kill civilians, pre-existing biases coupled with the dehumanization of the perceived enemy yields results such as the February 2010 tragedy. These pre-exiting biases, therefore, must be further addressed when discussing the risks of risk-asymmetric warfare.

Gendered Dynamics of Drone Warfare

In many unethical drone operations, drone pilots have initiated strikes based off pre-existing biases that inform their perception of "terroristness." Furthermore, gender plays a significant role in shaping perceptions of guilt assigned to targets. As discussed in Chapter 2, males in regions of previously identified terrorist activity are likely to be killed through the military-aged male signature pattern (MAM).[205] This gendered aspect of targeting methodology towards MAM is entirely opposite of accepted behavior in killing women and children. When women and children are killed in a strike, the strike is viewed as a "mistake," whereas MAM is viewed as a necessity to security.[206] Gender often determines guilt during drone operations; this issue is deeply exacerbated in a released transcript of the February 2010 drone strike in which 23 civilians perished. As the operation crew were discussing the strike in the aftermath, the crew members expressed frustration that the men in the attack were not helping the women, by stating, "These guys all need to get their asses kicked. . . These dudes over here. One's that are standing up

[204] *Ibid.*
[205] Heller.
[206] Wilcox, Lauren. "Embodying algorithmic war: Gender, race, and the posthuman in drone warfare." *Security Dialogue* 48, no. 1 (2017): 11-28. (page 14).

[versus those lying wounded or dead] . . . All their women are over here. Kids."[207] The bizarre reaction to wounded men not helping other wounded women is unsettling yet allows for insight towards the extremely unbalanced perceptions that gender can play in drone operations. The role of gender in drone operations is one that cannot be ignored. From issues of perceived masculinity, to assigning terrorist threats to people based on their gender, gendered dynamics fundamentally shape many perceptions during operations. These psychologically constructed difference between male-guilt and female-innocence reveals a significant shortcoming in drone operations. Men are not inherently combatants as women are not inherently always non-combatants. Gender in war looks at the ways that in which militaries construct threat and warrior culture; the extent we view MAM as legitimate targets, targeting methodologies erode in their compliance with the ethics of war. Yet, the psychological impacts of gendered dynamics in warfare extend further than these existing biases towards perceived terrorist threats.

The social construction of gendered roles in drone warfare fundamentally separates women and men's behavioral expectations and actions. This distinction between expected characteristics of femininity or masculinity is deeply politicized in the pursuit of division.[208] Women are separated into a category of feminine quality in which they are recognized as either hysterical or caring.[209] On the other hand, masculine qualities are considered far more desirable and courageous. Therefore, the supposedly courageous classification of masculinity in warfare pushes the notion that soldiers lack valor if they possess qualities associated with femininity.[210] Femininity in war is not necessarily acceptable, even to the extent that women must dress the

[207] De Volo, Lorraine Bayard. "Unmanned? Gender recalibrations and the rise of drone warfare." *Politics & Gender* 12, no. 1 (2016): 50-77. (pages 68-69).
[208] Clark, Gender and Drone Warfare, 38.
[209] Clark, Delivering life, delivering death, 4.
[210] Clark, Gender in Drone Warfare, 41-44.

same as man; while there are constraints on feministic qualities, women remain to be held to "stereotypical understandings of women's capacities and 'proper place.'"[211] The importance of masculinity is strongly preserved in warfare, creating a hierarchy in war with masculinity always more powerful femininity.[212] This distinction between feminine and masculine conduct is important in discussing the physical ramifications of pilots seeking redemption for a perceived lack of masculinity.

Minimization of masculinity for drone pilots generates an environment in which pilots actively seek risky battlefield engagement in the pursuit of masculine redemption. Drone pilots are often criticized for their lack of battlefield engagement, an element of warfare socially connected to masculinity and heroism. The minimization of masculinity for drone pilots extends further to media coverage of pilots, degrading them to labels such as, "button pushers", "remote control warriors", "office warriors", "warrior geeks", and "cubicle warriors."[213] Perceptions of masculinity require a degree of risk; consequently, perceptions of masculinity are removed with a lack of "real conflict," in which there is a physical risk.[214] Minimization of masculinity is also typically conflated with feministic qualities, with said qualities frequently depicted as psychologically and physically inferior to those associated with masculinity. Previously, women did not participate in combat roles by reason of physical inferiority. Supposed physical inferiority no longer poses a barrier for women seeking combat roles, especially roles within drone warfare. As a result, drone operations cannot be restrictive against women for due to physical capabilities; therefore, gendered discrimination is derived from socially constructed

[211] Sjoberg, Laura. "Women fighters and the 'beautiful soul' narrative." International Review of the Red Cross 92, no. 877 (2010): 53-68. (Pages 65-66).
[212] Clark, Gender and Drone Warfare, 103-104.
[213] Clark, Gender and Drone Warfare, 16.
[214] *Ibid*, 45.

psychological differences between male and female.[215] These reasons for minimizations of masculinity are inherently unique to drone operations as drone pilots are entirely removed from the traditional battlefield experience. The danger in these minimizations lies, as previously stated, within the concerns for potentially reckless conduct when seeking to kill a terrorist threat and gain valor. Drone warfare ultimately creates complications surrounding gendered assumptions in war, as well as assumptions surrounding perceptions of trauma in remote killing.

Psychological Impacts on Drone Pilots

I. Intimacy in Drone Operations

Assumptions surrounding remotely killing might conclude that the removal of risk also indicates a removal of trauma. Indeed, several scholars argue that distance in drone warfare creates a greater psychological distance from the individual: thus, making killing significantly easier for the drone operating crews. Chamayou notes that Dave Grossman, previously a soldier and psychologist, asserts that distance allows for soldiers to ignore the humanity of the individuals they are targeting.[216] While this may be true for some pilots, there are notably instances in which the exact opposite occurs. This exception is especially true when examining the nature of drone operations. With increased surveillance of targets, there is an increased realization of the other's humanity. While there are significant accounts of select drone pilots exhibiting patterns of indifference, psychological responses are remarkably varied amongst pilots. There is a belief that drone pilots can hold an ethically superior conduct from their ability to make more observations, thus minimal collateral damage.[217] For some pilots the opportunity for more observation

[215] Clark, Delivering life, delivering death, 3.
[216] Chamayou, 115.
[217] Enemark, Drones, risk, moral injury, 153.

increases the sense of distant intimacy between the pilot and targets.[218] This increased intimacy can be quite traumatic and haunting for pilots. A drone pilot recalls an instance in which he felt a deep sense of intimacy to individuals returning to the strike zone in the aftermath of the strike:

> I felt sorry for them. I felt some association with them because my dad used to take me for drives in trucks where he used to work. I felt an affinity with them. Then we were 'cleared hot' on them. . . They heard the sound of the missile as it approached, then one of them threw himself on top of the other. And that's just stuck in my head. I don't know why it's affected me. I don't know if it was the affinity with my father and the truck. I believe they were father and son because of the way the one threw himself on top of the other. And they were both lying there, dead. It's just something that's always stuck with me. They were men just like me.[219]

Distant intimacy proposes an alternative method of assessing morality of drone strikes. Rather than strictly examining the terrorist threat level of an individual, distant intimacy forces the pilot to mentally cope with the morality of killing another individual- with little ability to avoid facing the humanity of a person killed in a strike. The implications of distant intimacy, however, extend beyond the mere realization of another's humanity. Instead, distant intimacy forces pilots to remember gruesome and horrific encounters that, as mentioned above, stick with them for extended periods of time. In terms of dangers to the pilot, distant intimacy perhaps contributes to both moral injury and increasing rates of PTSD among drone pilots. While drones provide zero physical risk to the bodies of soldiers, the consistent surveillance of potential targets proves to be haunting and traumatizing for the pilots. Perhaps an unintended consequence of risk-asymmetry, yet the removal of physical risk seemingly enhanced the risks to the psyche.

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[218] Williams, John. "Distant intimacy: Space, drones, and just war." Ethics & International Affairs 29, no. 1 (2015): 93-110.

[219] Lee, Peter. *Reaper Force-Inside Britain's drone wars*. John Blake Publishing Ltd, 2018, page 224

II. PTSD

Military medical records and data concerning the prevalence of PTSD among drone operators reveal less than one percent of drone pilots are treated/diagnosed with PTSD. However, self-reported psychological symptoms reveal that the prevalence of PTSD is likely significantly higher than military records delineate. While considering self-reported symptoms, there is importance in acknowledging that an assessment of PTSD among drone operators is problematic because of the continuous exposure to traumatic conflict and engagement in war operations.[220] However, some studies conducted on trauma reported by drone pilots are rather inconsistent. Lt. Col. Wayne Phelps interviewed 254 drone operation crew members regarding psychological trauma and experiences. In these interviews, all respondents were differentiated by their designated operational task: intelligence analysts, sensor operators, and pilots. These categories are further divided into levels of participation during operations resulting in deaths, with distinctions between killing directly, killing indirectly, and no direct or indirect involvement in killings. The findings conclude that approximately 13 percent of those from all participating factors have self-diagnosed trauma, with approximately 24 percent stating they "maybe" have trauma.[221] Therefore, roughly 37 percent of participants experienced some degree of trauma. However, other interviews conducted show a far less likelihood of pilots developing PTDS. In surveys conducted on 296 pilots, results indicated that only 5 percent of the pilots exhibited high risk for PTSD.[222]

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[220] Chappelle, Wayne; Goodman, Tanya; Reardon, Laura; and Thompson, William, "An analysis of post-traumatic stress symptoms in United States Air Force drone operators" (2014). U.S. Air Force Research. 46. http://digitalcommons.unl.edu/usafresearch/46 , page 481.
[221] Phelps, 113-115.
[222] Chappelle, 481.

The trauma of taking a life can be a haunting experience for drone pilots. Barely 21 years old, Airman First Class Brandon Bryant's held the responsibility of guiding Hellfire missiles to their designated target after they are fired by another pilot; this role is referred to as a "sensor." He describes his first experience of killing as a memory burned into his mind:[223]

> The smoke clears, and there's pieces of the two guys around the crater. And there's this guy over here, and he's missing his right leg above his knee. He's holding it, and he's rolling around, and the blood is squirting out of his leg, and it's hitting the ground, and it's hot. His blood is hot. But when it hits the ground, it starts to cool off; the pool cools fast. It took him a long time to die. I just watched him become the same colour as the ground he was lying on[224]

There is often a belief that drone pilots are equally psychologically distressed as other troops on the battlefield.[225] This belief does not fully encompass or explain the psychological damage from watching people slowly die; a desk job designed to kill but simultaneously designed to watch people suffer before their last breath. Drone pilots frequently report self-diagnosed trauma, as stated above, but their experiences are often reduced to merely symptoms of an unhappy lifestyle. Hugo Ortega, a military psychologist, conducted psychological examinations to determine if PTSD is present in drone operators. His findings dismissed the potential for PTSD among pilots and instead identified their psychological distress to be equivalent to that of an average civilian, by stating, "It's all other quality-of-life things that everybody else would complain about too. . . anybody who does shift work, they complain of the same things."[226] Ortega expands on his findings to claim that the psychological experiences of drone pilots cannot necessarily be conflated with PTSD; instead, these symptoms are more likely to be a result of

[223] Power, Matthew, Confessions of a Drone Warrior, 2013 https://www.gq.com/story/drone-uav-pilot-assassination
[224] Clark, Gender and Drone Warfare, 118.
[225] Chamayou, 106.
[226] Chamayou, 109.

guilt. His assumption heavily relies on the argument that PTSD is typically associated with trauma induced through physical threat.[227] However, reducing PTSD to only experiences of physical threat completely negate potential cases of PTSD connected to witnessing traumatic events.[228]

The *Diagnostic and Statistical Manual of Mental Disorders* also presents a definition of PTSD that completely rules out drone pilots due to the lack of physical engagement.[229] If drone pilots cannot fit into the definition of PTSD by means of technicality, are their experienced by default less traumatic than diagnosed cases? Looking beyond technical definitions, Ortega is not alone in his fight against diagnosing drone pilots with PTSD. A great deal of Reaper crew members reported a lack of success in receiving a proper diagnosis, with one Reaper pilot claiming, "I don't have enough ticks in the box for it to be full PTSD." [230] There was effort, however, by Rachel McNair to alter the definition of PTSD to add inclusivity for drone pilots.[231] Nevertheless, diagnosing PTSD remains to be a challenge for pilots seeking help, as the physical requirement has remained the same.[232] Furthermore, diagnosing PTSD in drone pilots is heavily contested within the military apparatus by other soldiers. In some situations, soldiers reportedly look down on drone pilots experiencing trauma under the claim that this perceived trauma takes away from psychological impacts of war on the battlefield.[233] The lack of support for drone pilot's mental health, as well as the condemnation from members of the military community, reveals that riskless nature of drone warfare extends only to physical risk- pilots are on their own

[227] Chamayou, 110.
[228] For more information on what qualifies as PTSD, see https://www.nimh.nih.gov/health/publications/post-traumatic-stress-disorder-ptsd
[229] Chamayou, 110-111.
[230] Clark, Gender and Drone Warfare, 119.
[231] Chamayou, 112.
[232] *Ibid.*
[233] Phelps, 296.

when their mental health is in danger. If drones are meant to be morally greater than other technological means of waging war, should the pilots walk away from operations suffering with PTSD? Of course, there is to a degree an expected level of trauma that can hardly be avoided in war; but drones often operate outside of war and initiate strikes that do not further national security goals. Essentially, the end frequently does not justify the means.

The psychological burden on pilots only furthers the necessity for a recalibration for the use of limited force. Unnecessary killings are, indeed, unethical primarily due to their lack of imminence; yet pilots must intimately surveille these low-level targets (frequently, actually civilians) and often watch them bleed out right before the camera, as noted above. If the threshold for force is increased, perhaps unnecessary killings would be reduced- hopefully in significant numbers. The current status of radical asymmetry is highly permissible, and as noted above, resulting in high levels of trauma for pilots. Therefore, reducing the instances in which pilots might be involved in a radically asymmetric use of force might prove helpful in reducing these psychological consequences of radical asymmetry. Risks of asymmetry, however, extend beyond experiences in which pilots might be traumatized; in some instances, the opposite effect happens in which pilots become desensitized to humanity.

Psychological Disconnect

As expected with extensive military operations, there are instances in which drone pilots do not experience high levels of trauma; some instances in which drone pilots claim to enjoy their role of killing. In other instances, pilots exhibit feelings of joy or fulfillment while claiming otherwise. In these circumstances, conclusions of positive emotional reactions to killings are drawn from notable indicators of positive responses, such as laughter, smiling, joking, etc. These

noted indicators of both joy and fulfillment in the aftermath of killing is part of the human condition that cannot be ignored when assessing the moral implications of drone operations.

Pilots might not feel comfortable admitting to enjoyment from killing; in some instances, as pilots discuss moments of killings, they might instead exhibit verbal, physical, and facial responses that suggest enjoyment/fulfillment. When interviewed about his first experience killing a target, John, an MQ-9 Reaper pilot, expressed no remorse for killing; if anything, he exhibited several verbal and physical indicators suggesting he experienced positive emotional reactions. John describes the circumstances leading up to his first kill, stating, "I made a joke to my sensor operator. I was like, 'alright man, we're RTB. . . We gotta get these currencies, you know, hacked. Find me something to shoot.' . . . I said it as a joke."[234] His joke quickly turned into a reality, as his colleague notices a potential threat on the ground:

> We see these four dudes in the middle east trying to pull a tarp over something in the back of their truck. . . in the bed of the truck was this piece of equipment with a very long barrel sticking out over the cab. . . he gave me the 9-line. . . then all of a sudden, they got called off and we're like "oh, that's a bummer". . . . and then they were like "nope", [they] changed their minds.[235]

The combination of joking about killing a target coupled with a clear disappointment in the retracted 9-line both reveal a psychological disconnect. It is also important to note that there were multiple instances in which John and the interviewer would both smile and share laughs while discussing the operation. These three psychological responses of joking about locating a target to kill, disappointment in the lost opportunity to kill, and laughter in the remembrance of

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[234] "Two Nomadic Hearts". "Air Force Special Operations - YouTube." Youtube.com. Youtube, January 12, 2021. https://www.youtube.com/watch?v=26CgiDqWzd0. (time 3:30-3:46)

[235] *Ibid*, 4:45-6:23.

killing all ostensibly reveal a sense of enjoyment to kill targets. None of his visible psychological responses to the operation reveal remorse or concern for the targets.

John's interview notably contradicts itself with claims or morality. He upholds that these killings are moral, by maintaining "it's not murder." However, he also states that "blowing shit up is cool. It's exciting." Beyond these assertions, his argument of morality is centered around the idea that there is never an intention for suffering:

> It's very humane. . . we are never out to maim someone, our intention is not to blow your legs off, but you live. . . the practices in which we do like you're going to die but it's not going to hurt, you're not even going to know. It's just going to be over. . . we actually get in trouble when we mess up a shot and someone's leg gets blown off and they survive. . . because that's cruel. . . It's sobering. . . Maybe they're not bad people, but they've made bad choices. . . choices have consequences.[236]

His statements are not only highly contradictory, but they fail to acknowledge already existing and consistent instances of a target suffering. His argument upholds that drone operations are moral due to quick painless deaths. As discussed above, interviews from numerous pilots demonstrate that there are often slow deaths coupled with families mourning lost lives. Several instances link PTSD to witnessing horrific events unfold such as targets are slowly bleeding out.[237] Through these recorded instances in conjunction with positive psychological indicators, it is apparent that John's assertion of humane practices is merely in accordance with what he is expected to say about the operations rather than the harsh reality of targeted killings. For the viewer, John's interview is exceedingly troubling; the viewable joy he experienced while killing is disturbing, especially in tandem with the assumptions of drones as morally superior technology. Furthermore, drone operations cannot be ethical if the pilots conducting the

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[236] *Ibid*, 6:55-12:21.
[237] Phelps

operations do not hold themselves to a higher ethical standard than John. If pilots enjoy killing, there is a dangerous precedent for moral conduct in drone operations.

Further examples of a psychological disconnect between the pilot and the designated targets provide insight on ethical concerns in drone operations. A former drone pilot reportedly described his experience in surveillance of targets, and the narratives he would craft in his mind:

> I used to make up conversations for the people I was watching like it was a sitcom.
> Husband: "Honey, I'm home!"
> Wife: "How was your day? How many IED's did you plant? Did you kill any infidels today?"
> Husband: "Always with the work questions as soon as I come in the door."[238]

This sitcom narrative reveals at least two possible psychological concerns: either this pilot is so far removed from war that this individual target life is of no importance to the pilot, or this pilot is experiencing incredible difficulties with distant intimacy that perhaps this is a coping mechanism when killing. Indeed, there are possible alternative explanations. Nonetheless, the sitcom narrative presents dark humor in times of war, a well-known phenomenon of coping mechanisms.[239] By psychologically transforming war into a sitcom and removing the target's humanity is entirely removed- thus, potentially easier on the pilot to kill.

Dehumanization may also be noted through instances in which pilots conflate drone operations to that of a video game. Drone warfare is notoriously conflated with video games, leading to a rise in concern surrounding ethical war conduct. Scholars have continuously documented responses from select drone pilots regarding their mentality towards distant killing, with select responses leaving a dangerous precedent for drone operations. Of these responses,

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[238] Phelps, 274.
[239] Phelps, 269-271.

some pilots have claimed the distance in killing is similar to that of a video game. This sentiment goes even so far as to proclaim operating drones is "a little bloodthirsty. . . But it's fucking cool."[240] Of course, generalizing the entirety of drone pilots into one psychological response category cannot completely paint an accurate depiction of psychological components driving decisions to kill, especially during times of distress. However, comparing drone operations to video games can be grossly offensive to pilots and cannot begin to fully encompass the wide range of psychological responses to drone warfare. These callous comparisons to video games are not restricted to statements only by pilots, but also made by individuals from outside drone operations.[241] Regardless, morality of drone operations is greatly threatened by instances in which drone pilots do indeed express joy when killing because it reminds them of a game. Of course, as stated previously, many drone pilots do not share this psychological association. However, for those who do have a video game mindset, this level of dehumanization is potentially dangerous for civilians, can undermine IHL and order within the military, and can cause further moral injury or PTSD for citizen soldiers. Furthermore, the dangers of disconnecting from the humanity of the enemy falls into the main concerns for drone warfare: Ethics of war is essentially the exercise of judgment. Once the judgment of a pilot reconstructs the other as less than human, then ethical concerns for war might be exacerbated tremendously. This dilemma in tandem with a technology capable of reaching previously unreachable locations, with physically risk-free capabilities in war, sets a dangerous precedent for drone warfare. If, however, drones are to be held to a greater ethical threshold, the question remains as to whether the psychological disconnect in pilots might offer insights into the cases of unethical strikes. Indeed, perhaps the removal of instances in which radically asymmetrical warfare might be

[240] Chamayou, 107.
[241] Phelps, 277.

engaged in could lead to less instances of PTSD for pilots. Yet, at the same time, pilots who conduct drone operations that are not necessarily unethical, operations that might be deemed morally acceptable, are still likely to experience traumatic experiences.

Traumas of War: Distant Intimacy and Psychological Haunting

Many pilots report experiences of trauma even when conducting operations that are likely to be morally justifiable. There are notable indications of trauma that are not rooted in distant intimacy, moral injury, or sheer guilt of killing civilians. For example, pilots who conduct operations, as discussed above, in efforts to protect troops will often find themselves watching horrors unfold on the battlefield; as a result, these pilots must watch their fellow soldiers, or perhaps civilians, perish without any ability to give aid:

> After watching five Western hostages for over a month in a country we supposedly weren't in, I was told the rescue mission had been canceled because of political issues. We lost our legal authority to strike, so instead I had to watch them get beheaded one by one in front of a camera and couldn't do anything about it.[242]

Trauma in drone pilots is not strictly a consequence of guilt; trauma in many pilots is rooted in a sense of hopelessness. Furthermore, drone pilots often report instances of watching civilians die while being unable to help them; in many circumstances, this occurs with watching other soldiers, but there are also notably instances in which pilots were forced to watch civilians dragged to their execution, or children executed by enemy forces.[243] In other instances, watching the death of individuals is not necessarily the source of psychological distress, but watching the reactions of individuals around the strike is more haunting. Notably, a USAF E-6, MQ-9 Sensor

[242] Phelps, 264.
[243] *Ibid*, 265.

Operator commented on the daunting moment in which a young boy picked up pieces of his father, by stating, "It wasn't the act of killing that I focused on, it was watching the boy's face and interactions with the rest of his family that continue to haunt me."[244] There is importance in noting that psychological distress is not simply associated with guilt through moral injury. Instances of watching innocent civilians die, and even watching people in the aftermath of an attack, can leave haunting impressions on pilots.

Indeed, there are instances in which pilots experience more relief than guilt after a strike when there is a clear indication that the strike might have saved fellow troops' lives. For example, an unnamed intelligence analyst has reported conversations with a United States Marine sergeant who initially experienced a strong negative psychological reaction to watching a hellfire missile strike; however, once he discovered the individuals killed were planting IEDs, he reportedly felt a sense of relief and "satisfaction in knowing this one guy was never going to blow another limb off an American again."[245] Additionally, the case of the Battle of Roberts Ridge during Operation Anaconda, March 4, 2002, presents a success story in which U.S. troops would have perished without the help of drone pilots.[246] Drone operations in which lives are undeniably saved might yield contrasting results as opposed to operations with less success. However, these instances are strictly limited to circumstances in which there is no undeniable doubt of preventing a terrorist threat; with the example previously stated, this also occurs during moments in which there is no event in the aftermath that could be potentially haunting–such as watching a son pick up pieces of his father. Ultimately, this section portrays how pilots are

[244] *Ibid*, 266.
[245] *Ibid*, 258.
[246] *Ibid*, 26-28.

traumatized regardless of whether they are participating in otherwise morally unjustifiable uses of force. In some instances, merely the surveillance of traumatic events is enough to haunt pilots.

Conclusion

There tends to be an assumption that drone operations are morally superior to other forms of war conduct. Arguments in support of drone warfare assume there is no risk to the pilots and operation crew, while maintaining the ability to fight the war on terror. However, psychological wounds cut deep into the well-being of many pilots. PTSD rates among pilots are often unnoticed and untreated, leaving the pilots to suffer with their own thoughts.[247] Yet, drone warfare is perceived as an ethically superior means of war. Of course, other methods of war notably yield significantly high rates of PTSD, as well. However, in terms of precision bombing, drone pilots face an unsettlingly intimate relationship with those they target and kill. As Lt. Col Dave Grossman states in his book *On Killing*, "Emotionally, the distance involved permitted them to deny it. . . from a distance you don't look anything like a friend. . . From a distance, I can deny your humanity; and from a distance, I cannot hear your screams."[248]

The nature of war often results in preconceived notions of what constitutes the enemy that lends preconceived assumptions of guilt. Drones, however, present a unique divergence to this phenomenon by the lack of physical risk. Where distance is capable of producing an intimate connection with perceived targets, distance is also capable of producing a complete detachment from humanity. The lack of overlap in ethical concern for pilots in drone operations is quite alarming; equally so, civilians should not be forgotten in this narrative of psychological damage. In the coming decades, there must be research into the impacts of war on mental health within

[247] All information on PTSD among pilots can be found in the subsection "PTSD".
[248] Lt. Col. Dave Grossman, On Killing: The Psychological Cost of Learning to Kill in War and Society, 103.

regions of high activity for drone strikes. As for now, it must be noted that psychological implications of drone warfare are breaking the illusion that this type of warfare is risk-free for our soldiers. This, of course, does not negate the severity of drones' asymmetric nature; if anything, the threat to pilots versus civilians and combatants remains radically asymmetric, regardless of the psychological toll that is weighed on both individuals. Indeed, the psychological impacts are undeniable and haunting, but it is important to note that this does not take away from the physically asymmetric threat. Nonetheless, while not put in physical harm, the psychological trauma of distant intimacy of killing by remote control, the blurring of the home front and the battlefront, as well as the moral injury that occurs for drone pilots suggests that a more complicated relationship exists between drones and risk. In terms of psychological implications on just war tradition, this chapter highlights how poor frameworks- in which the use of force is overly permissible- might result in the byproducts of psychological trauma. A risk-free drone program is seemingly impossible when the pilots cannot escape the risks of moral injury. Indeed, a method of warfare that escapes the risks of both moral and physical injury would present a dangerous set of conditions for conducting war. However, unless there is a consideration for the psychological ramifications of war, drone pilots and civilians remain to be at risk. All of these psychological impacts demonstrate that "risk free war" is an illusion; while there is no physical risk, there is increased psychological and moral risk.

Conclusion

> Any defense where the permanent physical limitations of the human body or machines physically connected with the human body are pitted against machines limited only by purely mechanical constraints, and yet controlled by a remote director, are doomed. Remote War is a war of human machines against the human body. . . One side loses people; the other side loses toys. All that is left is the shooting and dying. . . and toys don't die.[249]

By examining the U.S. drone program as it currently and previously operated, I have sought to illuminate the conditions in which drone warfare, both within and outside of conventional war zones, might be rendered morally unjustifiable due to the radically asymmetric nature of drone operations. The issue of human error cannot go without acknowledgment, as many drone strike failures are a direct result of poor identification processes, intelligence failures, or poor decision-making on the psychological spectrum in war. Through the discussion of signature and personality strikes, drones often operate in conditions that are overly permissible for the use of force. Setting the dangerous precedent for too much permissibility has already reaped significant consequences, high civilian casualty rates, of course, as the most consistent consequence of overly permissible force. Furthermore, the concerns for human failure become problematic when there is consistent opportunity for human error to take place. For drone warfare, the consistent presence and surveillance allows for human errors to occur more frequently than within other means of the use of force outside of war; this problematic feature is illuminated by the consistent failures of signature strike operations, as discussed in Chapter 2, and by the psychological impacts that occur from consistent surveillance, as discussed in Chapter 3.

[249] Chamayou, 223-224.

Furthermore, arguments in favor drone warfare often rely on misleading information, such as the reduction of civilian casualties and increase in precision. Even if there is a lower death toll on civilians compared to other methods of war, is it ethical to engage in asymmetric conflict while knowingly placing civilians in danger. It would be difficult to argue that there is not a heightened risk of civilian casualties strictly from the ability of drones to engage in areas in which conventional operations would perhaps not occur in the first place. Of course, if the threat is great enough and the only choice is between drone strikes or bombing campaigns, then drone strikes remain the ethical option and frankly would adhere to, at the least, last resort. However, it is unlikely that many of those killed by strikes, notably civilians, posed a great enough threat that the only choice could be to eliminate targets by drone. In this regard, further research into the alternatives to drone strikes might better inform if there is an alternative method of seeking to secure security interests without a risk-asymmetric means of seeking national security interests.

However, if a threat is not considered serious enough for a full-scale war, then is it truly worth using drones as a consistent means of addressing the purported threat. When there is risk to troops, militaries and governments must consider what is necessary to achieve a mission; if there is no risk, there is a greater chance for unnecessary actions that may or may not achieve a mission. In the case of drones, this is repeatedly a problem of concern, as many civilians perished by operations that ultimately did not further the eradication of terrorism. The removal of risk not only heightens the chance of abusing the use of force, but also feeds into the misguided belief that removal of physical risk is a removal of risk as a whole; as noted in chapter 3, the risk to the psyche during war can be daunting for both pilots and civilians. Yet, the belief among many Americans remains to be that drones only kill terrorist and pose no risk to pilots; thus, the perceptions of drones become disconnected from the empirical realities. Although their bodies

are not at risk, the moral injury that comes from this method of warfare has lasting effects. This, indeed, is likely intensified as a biproduct of the overly permissive methods of war in tandem with a radically asymmetric means of conducting operations. Furthermore, the consequences of radically asymmetrical warfare demonstrate that "risk free war" is merely an illusion; soldiers might not have a risk to their physical body, but they do indeed have an enhanced risk to the psyche.

As seen throughout this paper, drone warfare consistently challenges the perceptions of a moral use of force through both the targeting methodology/practices, as well as the concerns of psychological outcomes of risk-asymmetric warfare. With increased risk to civilians and the removal of physical risk to drone pilots, the radically asymmetric landscape of drone warfare sets a dangerous tone for a purportedly risk-free method of conducting war. Of course, as stated throughout Chapter 3, this illusion of risk-free warfare is strictly concerned with whether a soldier will die, as many drone pilots are subject to the risks of psychological trauma. In any effort to avoid this disproportionate risk in radically asymmetric warfare, the conditions in which asymmetric war might be waged might be heavily reduced. Alternatively, in efforts to lessen the psychological consequences of risk-asymmetry, the U.S. might invest in programs for drone pilots requiring mental health services. The psychological impacts on drone pilots is not risk-free. As noted, even in situations in which there is no morally unjustifiable use of force, pilots must watch and surveille horrific experiences that are damaging to the psyche. There is no escaping the horrors of war, yet drone pilots must consistently watch these horrors even without actively participating in the conflict.

The solution to the dilemmas of a risk-free, asymmetric technological war is yet to be agreed upon. Therefore, the future implications of drone warfare remain to be unknown.

However, continuous discussions concerning the future of just war tradition might help guide the conditions of force permissible for drones, with the hope for alleviating the unethical products of drone warfare noted throughout this paper. If held to a greater standard of morals, perhaps drones could, in the future, help obtain security goals without a significant risk to both civilians and pilots. Ethics of war is essentially the exercise of judgment. Drones, in theory, could present a greater threshold for ethics in war; but if the war is fought only by one side and suffered by the other, then the future relationship between the application technology and ethics remains unknown.

This paper demonstrates that the risk-free nature of drone warfare is entirely an illusion. When considering physical risk, risk is merely transferred from drone pilots to civilians and often low-level combatants in regions of drone operations. In potentially morally justifiable uses of force, drone warfare renders the moral justification to be perhaps incomplete, as the lack of reciprocity on its own complicates the moral understandings of distinguishing between war and murder. Furthermore, in many situations in which drone operations are not morally justifiable, risk-asymmetry exacerbates these moral dilemmas by allowing for over permissibility; that of which would not exist without the removal of risk with drones. There is an insignificant likelihood that the United States would deploy ground troops or initiate cruise missile strikes against such low-level targets, especially civilians. Therefore, the radically asymmetric concerns for drone operations are leading to high rates of civilian casualties, all whilst traumatizing pilots and civilians in the process. For the pilots, there remains to be an enhanced risk to the mind, in which the psyche is often traumatized, desensitized, or perhaps both. For civilians, the consistent looming threat of drone strikes, while sometimes watching family or friends perish, has left a dark mark on many individuals' mental health.

Based on this research, policy implications might include restraining drone pilot operations permissibility by only allowing for pilots to target high-level terrorist threats. Alternatively, the United States might consider changing the munitions used by drones by substituting munitions with lower lethal payloads. While this does not remove the concerns for the mental impacts of radically asymmetric war, this does at least address the concerns for the application of this risk-asymmetric use of force. In terms of policy implications concerning pilots' mental health, the United States might seek to allocate resources for drone pilots to receive care for PTSD. Indeed, as discussed in Chapter 3, many drone pilots do not qualify for PTSD diagnosis and treatment given the lack of physical threat. Therefore, efforts should be made to alter these definitions and qualifying criteria for PTSD to perhaps allow drone pilots to receive proper care. The impacts of the United States implementation of radically asymmetric warfare are undeniably harmful to both civilian populations and soldiers. While there may not be a chance to remove this method of warfare, there is hope to at least mitigate the damage from the myth of “risk-free" war.

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