Justice in Warfare: do drones pose unique ethical issues in conflict?

Abstract

This essay aims to examine whether the use of Unmanned Aerial Vehicles (drones) in warfare poses unique ethical issues. Proponents of drone warfare argue that the technological capabilities of drones allow for particular adherence to the Just War theory principles of jus in bello (the principles guiding just conduct in warfare), therefore placing drones in a unique ethical category. I will discuss the views of proponents, and will argue that there is nothing inherent to drones that raises unique ethical issues compared to other methods of warfare. This essay will also discuss the issues raised by methods of warfare enabled by drones, and argue that within the Just War paradigm, drones do not pose issues that cannot be applied to other weapons. However, I will also argue that moving beyond the Just War paradigm can raise unique issues related to the history of airpower from a postcolonial perspective, and the biopolitical implications of drone use as a form of governance. From an ethical perspective, these issues must be acknowledged in discussions on the permissibility of drones in warfare.

Drones have become an integral part of warfare. Since 9/11, the United States has increasingly used Unmanned Aerial Vehicles (commonly known as drones) as part of its Global War on Terror. Controversially, the Central Intelligence Agency (CIA) has carried out its own drone programme in Pakistan, Yemen and Somalia. The use of drones in warfare involves employing them as instruments of surveillance, for the delivery of lethal missiles, and often both at the same time. I will refer to drones deployed with the purpose of using

lethal weaponry as lethal drones. Other nations certainly use drones in current conflicts, but the United States will be the focus of this essay. Drawing primarily from Just War theory, proponents argue that drones' technological features are better able to adhere to the *jus in bello* (principles guiding conduct of combatants in warfare) principles of proportionality and discrimination, therefore minimising harm to non-combatants. Critics mainly object to how drones are currently used rather than posing ethical objections inherent to drones (Galliott, 2012, 58). This essay will explore whether there are any unique ethical issues raised by drones within the Just War paradigm. I will critique the view that drone technology allows a greater adherence to the *jus in bello* principle of discrimination due to their precision relative to other weapons. I will also discuss the disputed 'separation factor' between operator and battlefield. I will argue that within the Just War theory paradigm, drones cannot be said to pose *unique* ethical issues. However, It is necessary to go beyond the Just War paradigm to consider the specific operational purposes of drones and the impact of their use beyond when *jus in bello* considerations apply, and integrating a postcolonial perspective. The postcolonial perspective considers the long history of airpower in colonial geographies, and will allow for an understanding of the unique impact that drones have in specific spaces. Because Just War principles aim to be generalisable, they cannot integrate the specificity of the impact of particular modes of warfare in postcolonial regions today, which this postcolonial framing can. I will also argue that viewing drones through a biopolitical paradigm allows for a more contextualised understanding of whether drones pose unique ethical issues. While drones cannot be said to raise unique ethical issues under the framing of Just War principles, the postcolonial and biopolitical perspectives can show the unique impact drones have in specific spaces, in light of the long history of airpower as a method of colonial control and policing.

Many nations including China, Turkey and Iran have drone technology. As of 2017, ten have used armed drones in combat, with the US leading the way in both frequency and geographical breadth of use (Bergen et al., 2017). The US drone programme has also generated the most theoretical and empirical research due to intense public scrutiny, so will be the focus of this essay. The prominence of drones in US military strategy is demonstrated by the 30% increase in funding allocated to drones in the context of overall defence budget cuts in 2013 (Chamayou, 2015, 13-14). Both the US Air Force (USAF) and the CIA operate drones. While USAF operates drones as part of active conflicts in Iraq and Afghanistan, the CIA operates in Pakistan, Yemen and Somalia. While in theory this would make military force illegal under Human Rights Law, the CIA has conducted 'targeted killings' involving surveillance and bombing of suspected targets in these latter three nations (Chamayou, 2015, 11-12; O'Connell, 2005, 536). Drones are used primarily in counter-terrorism and counter-insurgency operations (Kennedy and Rogers, 2015, 212). The US continually asserts its legal right to use drones under the Authorisation for Use of Military Force (AUMF) passed by Congress immediately post-9/11. This assertion has drawn legal criticism for its seemingly boundless use against nations and groups unrelated to the 9/11 attacks (Boyle, 2015, 108). Former CIA Director Michael Hayden said in 2012 "right now, there isn't a government on the planet that agrees with our legal rationale for these operations, except for Afghanistan and maybe Israel" (Boyle, 2015, 112). However, the use of drones in an unjustified context (and any linked *jus ad bellum*, meaning "right to war" concerns, which propose ethical principles regulating the entry into warfare) alone does not raise any ethical issues inherent to drones, or place them in a unique ethical category. Unless the view was taken that all actions in an unjustified war are unjust, the fact that drones are sometimes used in

unjustified contexts does not tell us anything about the ethical implications inherent to drones.

First I will give a brief outline of the Just War principles I will be discussing, before moving on to address the claims of proponents of the ability of drones to implement these principles more effectively than other weapons. This will involve an examination of the technological capabilities of drones, including their purported precision and the effect that removing drone operators from the battlefield has. I will show that drones cannot be placed in a unique ethical category from the perspective of Just War theory in a positive or negative sense. However, I will argue that when discussing the permissibility of using drones in conflict, the history of airpower in colonial geographies must be considered, and a postcolonial framework can achieve this. The integration of a Foucauldian understanding of biopolitics can also shed light on the rationale behind the unique ability of drones to act as a mechanism of biopolitics, further complicating how we think about the permissibility of drones in warfare.

Just War theory

Just War theory is a major philosophical tradition in which war is theorised, and many of its elements have been codified into International Humanitarian Law. It can be effectively summed up in the question theorist James Turner Johnson asked: "how can the use of force serve just ends?" (Lee, 2012, 29). As the primary tradition in which drone use is theorised, Just War theory is worth briefly describing. It is a broad tradition that incorporates many approaches, with some advocating greater or lesser restrictions in how war can be justified, conducted, and concluded. There are three primary components to the tradition. *Jus ad bellum* is the area which provides principles for which wars are just, and

which are not, and under what circumstances war is justified. *Jus post bellum* provides principles for justice after war, including under what circumstances war should be concluded. The primary focus of this essay will be *jus in bello*, as this subsection of Just War theory explores just conduct in war. As a weapon of warfare, ethical principles governing lethal drone use fall under this category.

The primary *Jus in bello* principles that apply to lethal drones in conflict are discrimination and proportionality (Lee, 2012, 156). Discrimination is the principle that belligerents should distinguish between combatants and non-combatants when using military force. An important element of discrimination is that lack of intention to harm non-combatants does not absolve the attacker if non-combatants have not been protected to the best of their ability. Proportionality weighs up the advantage gained by a military action against the harm caused to non-combatants. As with all elements of Just War theory, the principles of *jus in bello* are subject to debate and contestation as to how strictly and under what circumstances they should be applied. For example, Regan (2013, 93) describes the debate over how *jus in bello* principles are to be applied, arguing that there are two primary approaches. The "deonotological approach" attempts to evaluate "intrinsic nature of actions", whereas the "teleological approach" attempts to evaluate actions based on their predicted consequences. The literature on drones encompasses these two approaches, but arguments for the use of drones based on their technological attributes implicitly take the teleological standpoint, based on the ability of drones to better mitigate the potential for unintended damage to people and property. In any case, as Regan (2013, 93) explains "deontologists and many teleologists reach the same conclusion but by a different line of

argument", and it will be the conclusions that scholars reach rather than how they arrived at them that will be the focus of my critique

Drone capabilities and the precision myth

Use of drone technology in warfare is based on a combination of loitering ability, intelligence gathering, and delivery of small warheads, with the aim of facilitating precise targeting (Chamayou, 2015, 47). Strawser (2010, 356) argues that their precision allows better adherence to *jus in bello* principles by better protecting non-combatants which would therefore make them inherently more ethical and strategically viable. Kennedy and Rogers (2015, 211) also cite the precise targeting abilities of drones as justification for their use, and their potential to be "virtuous". However, the claims of precision are dubious in reality and, as Zehfuss (2011, 547) argues, offers "a technical fix for an ethicopolitical predicament." By this, Zehfuss is pointing out that some proponents of drone use are sidestepping directly addressing the ethical and implications of drone warfare by instead referring to the increased precision in the delivery of weapons by drones, which is not in and of itself more ethical. The precision of drones may allow for greater discrimination than other weapons, but this does not mean that any drone strike is inherently more ethical because action is undertaken by a more precise instrument.

Precision is a relative concept. The precision of drones in comparison to traditional airpower (such as that used by NATO in Yugoslavia) is demonstrable, but this comparison (as suggested by Byman, 2013, 34) is misleading because drones are not used to carry out large-scale bombing. Drones are more comparable to special forces operations, as they are used to carry out targeted killings such as the Osama Bin Laden raid (Chamayou, 2015, 141). This must be considered when it is the precision of drones that leads military personnel to

claim that drones "apply principles [laws of armed conflict] (with almost mathematical precision) that were originally just concepts" (Gregory, 2011, 199). This hyperbolic praise of drones implicitly argues that the level of precision that drones supposedly provide allows Just War principles to be realised, rather than just an ideal. This argument would separate drones from other weapons through their ability to facilitate applying Just War principles in practice, and would therefore make them uniquely ethical.

The conception of drones as having "mathematical precision" is flawed. This places them in the same category as any other weapon that has a human operator and a margin of error. Drone targeting precision "under test conditions, [is] normally achieved only every other time" (Zehfuss, 2011, 548). In other words, drone strikes have a 50% chance of meeting the required precision that proponents argue makes them more ethical. Drones are also subject to the same mechanical failures, issues with adverse weather, intelligence failures and human error that all other weapons are subject to. Furthermore, the loitering and intelligence gathering capabilities that supposedly set drones apart from other weapons are technologically flawed. In 2011, drone operators were unable to distinguish two US marines from the enemy based on faulty intelligence on the ground (MacAskill, 2011), as drones are only able to "distinguish shapes more or less imprecisely" (Chamayou, 2015, 49).

But even if drones enabled such a clear view of the battlefield that operators had as good or better awareness of the situation on the ground, that would still not place them in a unique ethical category due to the continued reliance on human operators. 185 people are required to undertake one drone mission (Gregory, 2011, 194-5). This reliance on human operators, judgment, and intelligence undermines the idea of precision as ethical, as drones are only as precise (with all the accompanying flaws in precision) as those controlling them.

This is shown in incidents such as a mistaken US drone strike on a Yemeni wedding in 2013, killing 17 civilians (Ali and King, 2013). The fact the wedding was targeted precisely does not alter the ethical failure of this incident. The over-estimation of the intelligence gathering and precision capabilities of drones has clear potential to lead to inappropriate use that has been deemed ethically permissible, but without considerations of justice and morality.

If the idea of "surgical precision" (Caldwell and Hagerott, 2010; cited in Gregory, 2015, 204) is perpetuated, civilian deaths and wrongful targeting become viewed as accidental rather than incidental to drone use. As Zehfuss (2011, 557) points out, presenting non-combatant deaths as "accidental" legitimates their deaths as unique events, when in reality, they are an ever present feature of drone use. This can be seen in the case of American hostage Warren Weinstein who was "accidentally" killed by a US signature strike on another individual (Taylor, 2015). The fact that the US designated anyone killed in a drone strike as "EKIA" (Enemy Killed in Action) until posthumously proven to be a non-combatant should make us critical about the difference between how drones are promoted to the public and the reality of their use (Scahill, 2015). The EKIA designation suggests that drone use is justified through a false precision that is marketed as ethical, giving drones the benefit of the doubt. It could be argued however that this is a policy issue rather than an inherent ethical issue.

It is difficult to know the extent to which drone strikes harm non-combatants, as casualties are difficult to confirm. Numbers range from 6.2% to 88% of total casualties being non-combatants (Enemark, 2011, 229; Carpenter and Shaikouni, 2011). However, both proponents and critics of drones can agree that more transparency is needed to assess the true consequences of drone strikes for non-combatants (Heyns, 2014; Buchanan and

Keohane, 2015). In theory It would be possible to create the image of precision for another weapon or piece of technology, because a drone is just that; a piece of technology in the hands of human operators subject to human error and inappropriate use. As the military aphorism more honestly describes drones, they are designed to "put warheads on foreheads" (Chamayou, 2015, 142) and there is nothing about their supposed precision that would place them in a separate ethical category to any other weapon.

The separation factor

Another factor that intuitively places drones in a unique ethical category is the separation of the operator from the area of operations. UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston (2010, 25), argues that separation of the pilot from the battlefield creates a "PlayStation mentality" that dehumanises victims, making killing easy. Equally, some argue that the separation factor actually makes it harder to kill than in the heat of battle. USAF Major Matthew Morrison argued "you are every bit as engaged as if you were actually there" (Brunstetter and Braun, 20011, 349). Strawser (2010, 353) goes further, arguing that since the operator is not at risk, it becomes easier for them to evaluate the situation dispassionately and therefore make the most ethical decision. There are many possible intuitive responses to the separation and potential cognitive dissonance of drone operators, but little empirical evidence to support a particular argument.

There are high-profile examples that seem to confirm Alston's fears, such as recordings of drone operators who allowed a helicopter attack in Uruzgan Province, Afghanistan that killed 23 civilians. The language by operators used showed that they had pre-emptively decided that the civilian convoy was dangerous, and manipulated what they

saw to fit these preconceptions, saying for example "those vehicles are bad we're gonna have to get [to] work on trying to get enough to engage" (Turse, 2013). However, situations when drone operators have acted ethically (or at least within the bounds of normalcy for drone strikes) are by in large not reported on, making it easier for critics to point to high-profile failings. Again, this highlights the need for greater transparency, but is not grounds to place drones in a unique ethical category without more empirical evidence.

Drones being piloted from thousands of miles away is certainly the largest step in physical remoteness of a weapon from its operator, but it is difficult to ethically distinguish drones from the NATO pilots over Yugoslavia. These pilots flew out of range of Serbian anti-air defences, leading to zero casualties on the NATO side in the conflict, but reduced their ability to discriminate between combatants and non-combatants resulting higher non-combatant casualties (McMahan, 2010, 342). Here it was not the aircraft that was unethical, but how it was used. It is difficult to pinpoint if there is a distance or level of separation that a weapon becomes inherently uniquely ethical or unethical. Would a cruise missile fired from a warship be more ethical than a drone if it was geographically closer? We return here to the fact that while physical separation may seem to put drones in a unique ethical category they are a weapon reliant on human beings like any other. The technological features that proponents argue make drones uniquely ethical through the ability to better adhere to *jus in bello* principles have been shown to be unsustainable. While humans remain the final decision makers behind weapons, *jus in bello* considerations must be applied to the operators, rather than the technology they use. Current policies are clearly not transparent enough to fully judge how effective drones really are at better adhering to *jus in bello* principles, and high-profile failures should make us sceptical of those who claim drones are uniquely ethical from a purely technological standpoint. This is

especially important considering how much easier drones make it for states to deploy lethal force across borders, with no risk to operators. While these factors are not enough to place drones in a unique ethical category, in the interests of justice, it should make them subject to much higher levels of scrutiny than they currently are.

The separation factor also raises the ethical concern of the overwhelming asymmetry that drone warfare creates. Williams (2015, 2) argues "within dronespace, two central elements of just war theory's understanding of ethical subjectivity—autonomy and reciprocity—are radically reworked such that the ethical relationship of operator and target becomes exclusively one-directional." By autonomy, Williams (2015, 11) refers to the choice an individual has to engage or not engage (in wartime this could mean withdrawing or surrendering) in war activities. Drones remove this autonomy because, as Williams (2015, 11) puts it, "you cannot surrender to a Reaper." In terms of this placing drones in a unique ethical category, Williams (2015, 11) concedes that the issue of autonomy is raised by numerous other weapons systems, such as precision guided missiles or strategic bombers such as the B-52.

The difference between drones and other weapon systems, Williams (2015, 11) argues, is the uniquely individualised and intimate relationship that drones have with the target. It is true that drones loiter and surveill targets more than other weapon systems, and this likely does impact on the relationship between operator and target, although as discussed, the effects of this separation on the operator requires more empirical research. Intuitively, the relationship drone operators have with their targets, as well as the removal of "reciprocity" (meaning the inability of enemy combatants to have "any significant means of self defence") does, and should, give analysts pause (Williams, 2015, 12). But it is difficult

within Just War theory to formulate why these two factors should place drones in a unique ethical category. In terms of reciprocity, what means of self-defence does any potential victim of asymmetrical warfare have against any other weapons system that protects its operators via distance? Williams (2015, 12) anticipates this point, referring to the firebombing of Dresden and Cologne in World War Two, rightly pointing out that the victims of these bombing raids had no means of self-defence, but argues that the individualisation of drone warfare is what separates the two.

It is unclear why this relationship would place drones in a unique ethical category, and Williams (2015, 15) does grapple with this, arguing that Just War theory must "engage with asymmetry in novel ways" and begin to think about how drones have transformed "space" beyond "conventional spatial debates, for instance over legal jurisdiction." Williams is correct in this assessment, as the troubling relationship that drones evoke to observers is an instinct that can be proved to be justified, but to do so we must move beyond Just War theory, and consider a broad picture view of the role of drones in specific geographies. Henrikson and Ringsmose (2015, 286) argue "drone warfare is controversial in some quarters not so much because of how, where and against who the drones are being used, but rather because of what drone warfare represents." This argument accurately describes the general direction of Williams' critique, as well as the intuitive discomfort many have with drone warfare.. While the challenge of the political nature of space is one Just War theory should be confronted with, a contextualised understanding of the role of airpower in colonial geographies can provide a better understanding of the political nature of spatial dynamics in asymmetrical warfare.

Beyond Just War?

From a critics perspective, it is an unsatisfying conclusion that through applying Just War principles, it is difficult to place drones in a separate ethical category. Even if drones do not live up to the claims of proponents it could be argued that, even with all their flaws, drones are the weapon that most empowers soldiers to adhere to *jus in bello* principles and their use is therefore justified over other weapons due to their technological attributes. This view however only considers the perspective of the states operating drones, and not those under their watch. To consider this perspective, we need to stop viewing drones in the abstract, and take into account political and historical considerations, as well as the context in which drones are used.

Walzer (2015, 41) argues that war is predicated on an "equal right to kill", without which "war as a rule-governed activity would disappear and be replaced by crime and punishment." Arguably, drones subvert this equal right to kill through their covert use in counter-insurgency and counter-terrorism operations. Under these operational contexts, drones are primarily used for targeted killings. These targeted killings come under "personality strikes" where the target is known by name, and "signature strikes", where unknown targets are determined through an algorithmic understanding of their "pattern of life" (Schwarz, 2016, 64). These types of strikes are undertaken primarily by the CIA, while USAF drone use is generally in support of troops on the ground through Close Air Support (CAP) and Intelligence, Surveillance and Reconnaissance (ISR). This means that in states where the CIA operates drones there are generally no US troops on the ground on which to exercise the equal right to kill. One might argue that international terrorism represents the exercising of targets right to kill, but the numbers of victims from the war on terror compared to the victims of terrorism in the US suggests otherwise. 95 people have been killed in the US by the war on terror's linked attacks since 9/11, while a conservative

estimate of War on Terror victims numbers between 480,000 to 507,000 (Jacobs, 2017; Crawford, 2018). It is difficult therefore to place the CIA drone programme within the bounds of war by nature of its asymmetry. As an Afghan villager said of drones: "We pray to Allah that we have American soldiers to kill. These bombs from the sky we cannot fight" (Chamayou, 2015, 62).

One could argue that if drone use was confined to contexts that adhered to Just War principles, there would be no issues. However this denies the reality that drones are specialised to perform targeted killings, which is why they are used so prolifically, especially since the war on terror began. Byman (2013, 34) argues that the fact that drones can reach where soldiers cannot, and do so far more cheaply and efficiently is a major factor in their use. Signature strikes make up the majority of kills, and this type of attack is specifically enabled by drones' precision, as well as the ability to subvert more open violations of sovereignty that come with troops on the ground (Chamayou, 2015, 47). If one were to argue that it is simply the policy of signature strikes that is unethical, and not lethal drones themselves, then they would be denying the use for which lethal drones are best suited, even considering the doubts around the actual precision of drones. Even if drones were used in adherence to Just War principles, there are still unique issues that cannot be conceptualised under the Just War paradigm, but should be considered when discussing the permissibility of drone us in warfare. Pakistani Taliban leader Baitullah Mehsud said after capture "I spent three months trying to recruit and only got 10– 15 persons. One US [drone] attack and I got 150 volunteers" (Chamayou, 2015, 70). This shows that from the perspective of drone targets, there is something unique about drone strikes. This situation could have been caused by any other weapon, but as I have argued, drones are currently the

only weapon that allows the US to systematically exercise lethal force outside of a legally defined conflict.

Lethal drones from the victims perspective: the limits of Just War theory

Even if one agrees that drones allow the exercise of covert lethal force too easily, it could be argued that unarmed drones' ISR capability without the potential for lethality is unproblematic. This does not consider the impact of drone presence on local populations even in a surveillance capacity, especially before or after a lethal strike. A Stanford Law School interviewee described living where drones operate. He said: "God knows whether they'll strike us again or not. But they're always surveying us, they're always over us, and you never know when they're going to strike and attack" (Cavallaro, Sonnenberg and Knuckey, 2012, 81). Another interviewee described the situation as "before the drone attacks, it was as if everyone was young. After the drone attacks, it is as if everyone is ill. Every person is afraid of the drones" (Cavallaro, Sonnenburg and Knuckey, 2012, 82). Cavallaro, Sonnenberg and Knuckey (2012, 83-4) also report a range of psychological and physical symptoms indirectly caused by drone use such as anticipatory anxiety, post-traumatic stress, and trauma related aches and pains. Drones create populations traumatised by war without the accompanying warzone. Even in a purely ISR capacity, drones are linked in the minds of victims to lethality.

Cultural and social life is disrupted specifically by methods of signature strike targeting. Pattern of life analysis has led foreign policy officials to reportedly joke "when the CIA sees three guys doing jumping jacks, the agency thinks it's a terrorist training camp" (Chamayou, 2015, 49). Cavallaro, Sonnenberg and Knuckey (2012, 82; 92; 98) identify that important community practices like the *jirga* system of conflict resolution (involving an

assembly of community leaders), and burials, are disrupted as gathering in groups is identified as part of the life patterns of potential terrorists or insurgents, and therefore subject to lethal action in the name of "self-defence." This psychological trauma is only indirectly related to the actual act of firing a missile from a drone, and facilitated by the seemingly unproblematic ISR capabilities of drones. This shows that from the victims perspective, there cannot be a separation of the lethal capabilities of drones from their targeting capabilities. There is clearly harm being caused in areas under the watch of drones that is not adequately integrated into the Just War paradigm. This is why when discussing the permissibility of drones in warfare, the conceptual frameworks in which the issues drones pose are discussed needs to be expanded to include other perspectives.

Drones in geographical and historical context

The history of airpower must be brought into a contextualised discussion of drone use in postcolonial geographies. Drone use as counter-terrorism has direct parallels to counter-insurgency "air-policing" by the British in colonial Mesopotamia and Afghanistan in the 1920's (Gregory, 2011, 189). Airpower in the colonies was specifically seen as a "swift agent of government" (Neocleus, 2013, 581) rather than warfare. The parallels between air-policing and drone operations are clear, allowing us to understand drone operations as a specifically colonial mode of conflict, with strong links to historical colonial practices. A British Air Commodore argued in 1937 that air-policing aimed "to bring about a change in the temper or intention of the person or body of persons who are disturbing the peace,'' while the British Air Secretary in 1924 spoke of "all seeing power" of bombers (Neocleus, 2013, 584) which echo the arguments of drone proponents. While air-policing was a crude form of economic control through targeting livestock, crops and villages rather than specific

individuals, there are clear parallels to modern use of drones. As shown by the aforementioned cultural and social disruption of drones, modern airpower operations today can be conceptualised as a development towards neo-colonial population control.

To update this postcolonial paradigm, drones are best understood as supporting a biopolitical regime of governance. The biopolitical nature of the drone regime, as Shaw (2013, 9) explains, is based on the concept of the state's role in producing "regulatory mechanisms" in which life processes become sites of intervention. In terms of security and drones, the response has been to preempt and assume unknown threats, which has led to the use of signature strikes based on patterns of life (Shaw, 2013, 9). Schwarz (2016) also argues that the rationale and justification for drone use can be interpreted as an instrument of Foucauldian biopolitics, rationalising lethal action as curing a sick body-politic. This concept is alluded to by Lieutenant General William Caldwell, who titled a 2010 article "Curing Afghanistan" (Gregory, 2011, 204). Through the prism of biopolitics, drones can be seen as enabling "the (de)politicization of targets by abstracting human life into a techno-political entity that can be captured in clinical terms as data, typically through new visualization techniques" (Schwarz, 2016, 61), echoing the "all seeing" bomber. The medicalised metaphors for drones are seen in references to drones as having "mathematical" or "surgical" precision. Viewing drones through a different paradigm shows the limitations of traditional Just War theory when considering the ethical implications of drones, and those implications make them unique. While it would be hypothetically possible to use drones in such a way that adheres to Just War principles, through the Just War paradigm it is difficult to conceptualise the impact of the ever present, panoptic gaze of drones on societies under their watch. As Foucault (1995, 202-3) argues:

"He who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection"

Foucault's concept demonstrates how drones are a modern development of the crude enforcement of population control, directly echoing the British colonial management of those perceived to be "disturbing the peace." These concepts cannot be dismissed by simply arguing for policy change, as they are inherent to the form of governmentality enabled and enforced by drones.

In conclusion, the use of drones in warfare does not present any unique ethical issues through the Just War paradigm. Drones are certainly the largest step in protecting combatants, but as long as they are operated by humans, the principles of *jus in bello* that apply to other weapons also apply to drones. Proponents have attempted to argue for the use of drones on the basis of unique precision and ability to adhere to Just War considerations. The empirical reality of drone precision falls short of elevating drones to a unique ethical category, and even if precision was perfect, technological attributes alone do not lead to considerations outside the realm of traditional Just War theory. But even if drones did empower operators to adhere to Just War principles better than other weapons, this should not be the only consideration when discussing their unique ethical issues. Analysing drones in the abstract paradigm of Just War theory does not take into account the unique history and political implications of drone use in postcolonial geographies.

With these factors in mind, we can better understand the demonstrable psychological, social and cultural impact of drones outside the temporal limits of a single

action. If drone proponents only consider ethics in abstraction to justify their use, the counter-productive nature of drone warfare in constantly creating more enemies will be underestimated (Cronin, 2013, 45-47). The Governor-General of the Sudan in 1926 argued "If we use our Air Force wisely and humanely, such outcry as there is will cease and air action will be regarded as a normal and suitable weapon for enforcing the just demands of government" (Neocleus, 2013, 581). Clearly "air-action" was not viewed as just or humane in the past, and is not now by the populations subjected to it. Airpower has transformed into biopolitical governance from coercion of colonial subjects. When considering the ethical issues raised by drones in warfare, we should be cautious about viewing them in abstraction from social and political context. While former imperial states may forget past actions, it is doubtful whether victims do. In a 2009 *New York Times* opinion-editorial, an advisor to David Petraeus argued "the historical resonance of the British [air-policing] effort encourages people in the tribal areas to see the drone attacks as a continuation of colonial era policies." (Chamayou, 2015, 65). While the Just War paradigm alone may not raise any unique ethical issues, with historical and political context, drones can be seen as a unique tool of governance, and this must be considered when theorising about justice in warfare.

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Bibliography

Ali, Z. and King, L. (2013). U.S. drone strike on Yemen wedding party kills 17. *LA Times.*

[Online]. 13 December 2013. Available at:

https://www.latimes.com/world/worldnow/la-fg-wn-yemen-drone-strike-wedding-2013121

3-story.html. [Accessed 1 April 2019].

Alston, P. (2010). Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary

Executions (A/HRC/14/24/Add.6; United Nations General Assembly, May 28, 2010).

Bellamy, A.J. (2005). Is the war on terror just?. *International Relations*, 19(3), 275-296.

Bergan, P. et al (2018). World of Drones. *New America.* [Online]. March 15 2017. Available

at: https://www.newamerica.org/in-depth/world-of-drones/. [Accessed 10 June 2019]

Brunstetter, D. and Braun, M.,(2011). The implications of drones on the just war

tradition. *Ethics & International Affairs*, 25(3), pp. 337-358.

Buchanan, A. and Keohane, R. (2015). Toward a Drone Accountability Regime. *Ethics and

International Affairs,* 29(1), 15-37.

Byman, D. (2013). Why drones work: the case for Washington's weapon of choice. *Foreign

Affairs,* 92(1), 32-43.

Carpenter, C. and Shaikhouni, L. (2011). Don't Fear the Reaper: Four misconceptions about

how we think about drones. *Foreign Policy.* [Online]. 7 June 2011. Available at:

https://foreignpolicy.com/2011/06/07/dont-fear-the-reaper/. [Accessed: 11 March 2019].

Cavallaro, J., Sonnenberg, S. and Knuckey, S. (2012). Living Under Drones: Death, Injury and

Trauma to Civilians from US Drone Practices in Pakistan. *Stanford: International Human

Rights and Conflict Resolution Clinic. Stanford Law School; New York: NYU School of Law,

Global Justice Clinic.

Chamayou, G. (2015). *A Theory of the Drone*. New York: The New Press.

Crawford, N. (2018). Human Cost of the Post-9/11 Wars: Lethality and the Need for

Transparency. *Watson Institute for International and Public Affairs*. [Online]. November

2018. Available at: https://watson.brown.edu/costsofwar/costs/human/civilians. [Accessed

1 April 2018].

Cronin, A.K. (2013). Why Drones Fail: When Tactics Drive Strategy. *Foreign Affairs*, 92(1),

44-54.

Dillon, M. and Reid, J. (2009). *The liberal way of war: Killing to make life live*. London:

Routledge.

Enemark, C. (2011). Drones over Pakistan: secrecy, ethics, and counterinsurgency. *Asian*

Security, 7(3), 218-37.

Foucault, M. (1995) *Discipline and Punish: The birth of the prison.* 2nd edn. New York: Vintage

Books.

Galliott, J.C. (2012). Uninhabited Aerial Vehicles and the Asymmetry Objection: A response

to Strawser, *Journal of Military Ethics*, 11(1), 58-66.

Galliott, J.C. (2012). Viewpoint Article Closing With Completeness: The Asymmetric Drone

Warfare Debate. *Journal of Military Ethics*, 11(4), 353-356.

Gettinger, D. (2017). Drones in the Defense Budget: Navigating the Fiscal Year 2018 Budget

Request. *Center for the Study of the Drone at Bard College*. [Online]. 24 October 2017.

Available at: https://dronecenter.bard.edu/drones-2018-defense-budget/. [Accessed 1 April 2019].

Grayson, K. (2012). Six Theses on Targeted Killing. *Politics,* 32(2), 120-128.

Gregory, D. (2011). From a View to a Kill. *Theory, Culture & Society,* 28(7-8), 188-215.

Henriksen, A. and Ringsmose, J. (2015). Drone warfare and morality in riskless war. *Global Affairs*, 1(3), 285-291.

Heyns, C. (2014) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36; United Nations General Assembly, April 1 2014).

Jacobs, B. (2017). America since 9/11: timeline of attacks linked to the 'war on terror.' *The Guardian.* [Online]. 11 December 2017. Available at:

https://www.theguardian.com/us-news/2017/nov/01/america-since-911-terrorist-attacks-linked-to-the-war-on-terror. [Accessed 1 April 2019].

Kennedy, C. and Rogers, J.I. (2015). Virtuous drones?. *The International Journal of Human Rights*, 19(2), 211-227.

Lee, S. (2012). *Ethics and War: an Introduction.* Cambridge: Cambridge University Press

MacAskill, E. (2011). Two US soldiers killed in friendly-fire drone attack in Afghanistan. *The Guardian*. [Online]. 11 April 2011. Available at:

https://www.theguardian.com/world/2011/apr/11/us-soldiers-killed-in-drone-attack. [Accessed 1 April 2019].

McMahon, J. (2010). The Just Distribution of Harm Between Combatants and Non Combatants. *Philosophy and Public Affairs,* 38(4), 342-379.

Neocleous, M. (2013). Air power as police power. *Environment and Planning D: Society and Space*, 31(4), 578-593.

O'Connell, M.E. (2005). When is a War Not a War - the Myth of the Global War on Terror. *ILSA Journal of International & Comparative Law,* 12(1), 535-539.

Regan, R. (2013). *Just War: Principles and Cases*. 2nd ed. Washington, D.C.: Catholic University of America Press

Shaw, I.G. (2013). Predator empire: The geopolitics of US drone warfare. *Geopolitics*, 18(3), 536-559.

Strawser, B.J., 2010. Moral predators: The duty to employ uninhabited aerial vehicles. *Journal of Military Ethics*, 9(4), 342-368.

Schwarz, E. (2016). Prescription drones: On the techno-biopolitical regimes of contemporary 'ethical-killing'. *Security Dialogue,* 47(1), 59-75.

Scahill, J. (2015). The Drone Papers. *The Intercept.* [Online]. 15 October 2015. Available at: https://theintercept.com/drone-papers/the-assassination-complex/. [Accessed 14 March 2019].

Taylor, A. (2015). The U.S. keeps killing Americans in drone strikes, mostly by accident. *Washington Post*. [Online]. 23 April 2015. Available at: https://www.washingtonpost.com/news/worldviews/wp/2015/04/23/the-u-s-keeps-killing-americans-in-drone-strikes-mostly-by-accident/?noredirect=on&utm_term=.a04fd0ab040d. [Accessed 1 April 2019].

The Bureau of Investigative Journalism. (2019). Drone Warfare: Current Statistics. *The Bureau of Investigative Journalism*. [Online]. 14 March 2019. Available at: https://www.thebureauinvestigates.com/projects/drone-war [Accessed 14 March 2019].

Turse, N. (2013). America's Lethal Profiling of Afghan Men. *The Nation.* [Online]. 18 September 2013. Available at: https://www.thenation.com/article/americas-lethal-profiling-afghan-men/. [Accessed 1 April 2019].

Wilcox, L. (2017). 'Embodying algorithmic war: Gender, race, and the posthuman in drone warfare', *Security Dialogue*, 48(1), 11–28.

Williams, J. (2015). Distant intimacy: Space, drones, and just war. *Ethics & International Affairs*, 29(1), 93-110.

Woods, C. (2012). Get the Data: Obama's Terror Drones, The Bureau of Investigative Journalism. [Online]. 4 February 2012. Available at: http://www.thebureauinvestigates.com/2012/02/04/get-the-data-obamas-terror-drones/. [Accessed 14 March 2019].

Zehfuss, M. (2011). Targeting: Precision and the production of ethics. *European Journal of International Relations*, 17(3), 543–566.