

The Legality behind Targeted Killings and the Use of Drones in the War on Terror

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Abstract

As the United States enters into the 21st century, facing strategic challenges that will define its place in the world, many new policy decisions will have to be made on how the United States attempts to conduct its foreign policy and national security objectives around the world. One of the most definitive characteristics of this new era is the growth of weapons technology with special regards to the use of Unmanned Ariel Vehicle (UAV) also known as a Drone. Over the past five years the term drone has become synonymous with the fight against terrorism. As drone technology becomes ubiquitous within the international system, legal frameworks are being developed to define their use in targeted killing operations. The debate surrounding the legality of drone strikes has taken many forms over the past year and half. The nuances adjoining the debate involving the use of UAVs to target and eliminate combatants in extra territorial killings can be defined by three unique characteristics: boundaries, combatant status and neutrality laws. Within the legal framework of these three characteristics, under international law the U.S. is legally able to target and kill enemy combatants who take on a transnational form. This paper addresses the legal framework behind targeted killings and how drone technology is incorporated into the U.S. counterterrorism strategy. It addresses how drone technology is being used to conduct targeted killing operations within a specific framework outlined by standard international law practices. Lastly this paper focuses on the impact of drone technology and the wider influence its proliferations has on the international system.

Key Words: Drone, Unmanned Ariel Vehicles (UAV), Terrorism, Pakistan, Human Rights Law, Humanitarian Law, al-Qaida, Boundaries, Neutrality, Combatant

Context

The ideas of law governing armed conflict has penetrated society for thousands of years and often made state leaders re-think how they will engage in armed conflict. The questions of universal standards within war and who upholds those standards all become seminal concerns when states attempt to enter into armed conflict. Influences such as culture can impact why a state wants to engage in armed conflict and whether that decision is justified or not. Take, for example, the U.S. and Soviet Union during the Cold War. Many of the assumptions made by the United States on nuclear deterrence were not shared by the Soviet Union. The Soviet Union was following

Targeted Killings and Use of Drones

their own psychological conception of beliefs, thoughts and world view of how to deal with the United States and their nuclear arsenal. Essentially, while the U.S. perceived both powers as canceling each other out, the Soviets approached the issue of nuclear armament very differently than the United States. The U.S. was operating on the belief that the Soviets were thinking in the same way they were about the Cold War attribution error but in actuality the Soviet's views on MAD were very different. "The notion of winning a nuclear war was both ideologically and psychologically rooted in the Soviet military. And deterrence theory was never really part of the Soviet strategic thinking (Payne 2001 p.26)." The Soviets strategic culture views of war fighting was different from that of the United States, but luckily nuclear war was avoided (Kleinberg Module 2 Slide 8).

War is an extension of state power. Force can be used by a state to, "repel and expel, penetrate and occupy, seize, punish, exterminate, disarm and disable, confine, deny access and directly frustrate incursion or attack (Caldwell, Williams 2006 p.21)." As the United States enters into the 21st century the proliferation of new technology continues to expand and compliment the U.S. projection of force worldwide. The increase in technology may be understood by considering the way technology has enabled fewer war fighters to levy more damage at a longer distance (Beason 2005 p.33). Warfare is constantly changing and one of the most significant effects of these changes is the dramatic reduction in casualties for military forces fighting at a distance (Caldwell, Williams 2006 p.24). The effectiveness of a new piece of technology is often measured by its ability to eliminate space and increase range (Beason 2005 p.33). One of the most effective new technologies of the 21st century is the Unmanned Ariel Vehicle (UAV). The UAV has been able to project U.S. force capacity around the world while effectively eliminate the danger to pilots, giving the U.S. unprecedented access to reach highly volatile arenas. To this date, the United States own a sizable monopoly on UAV more commonly referred to as drones technology. The term drone has almost become synonymous with the war on terrorism.

One truism in history that cannot be overlooked is that technological innovations have been decisive, but only for as long as it has taken other states to adopt the new technology (Caldwell, Williams 2006 p.22). For example, steam powered ships defeated sailing ships, armor defeated cavalry on land and states will continue to utilize new technology that gives them a competitive advantage over their adversaries (Caldwell, Williams 2006 p.22). Drones are no exception to this rule; as drone technology becomes ubiquitous across the battlefield it becomes part of a natural progression in technology. But often these assumptions are made when perceiving interstate conflict. Does this matter when it comes to defeating an asymmetric force such as al-Qaida? When one side has no hope of prevailing against another, they tend to accomplish their goals by inflicting enough pain on their adversary until they yield (Caldwell, Williams 2006 p.22). Non-state actors and asymmetric threats use coercive violence as a matter of inflicting pain rather than demonstrating superiority. The legal question for a state is how can you marginally defeat an enemy that does not use conventional tactics? Today, the U.S. military is so dominate that, with very few exceptions, any state (or non-state actor) that finds itself at war with the U.S. must utilize asymmetric tactics in order to achieve any success (Caldwell, Williams 2006 p.23). How can the U.S. cope in the new age of warfare, where interstate conflict has been replaced by either intrastate wars or asymmetric low level conflict that does not involve reciprocal capacity? One of the most interesting aspects of American military dominance is how it forces non-state actors to use more unconventional means in order to attack. This has helped bolster the necessity for technology that can help the U.S. prevail over its enemy with limited risk.

The advanced communications and information processing systems coupled with the state of the art weapons delivery system allow drones to be a useful tool in the war on terrorism. Drones used in combat can target combatants in remote locations while never endangering a human pilot.

Drones are able to minimize the number of human lives placed at risk to collect intelligence and deliver small amounts of ordnance with some degree of precision (Lewis 2011 p.296). They allow for sustained persistence over targets for an extended period of time without having to refuel (Zenko 2013 p.6). UAVs also have more than ten times the endurance of manned aircraft (Lewis 2011 p.297). For a manned aircraft to receive the same amount of loiter time they would have to be refueled over multiple periods during the course of their flight (Lewis 2011 p.297). Drones provide instantaneous responsiveness that operators can act upon with direct oversight (Zenko 2013 p.6). Contrary to popular belief drone flights often receive more scrutiny than a manned flight, because drones require a cadre of people to ensure the flight is successful and meets all legal requirements.

It is important to note that drones cost less than 1/20th as much as the most advanced manned combat aircraft (Lewis 2011 p.296). Even new drones that employ jet propulsion and stealth technology are 1/10th the cost of manned aircraft (Lewis 2011 p.296). They allow administrations to launch low level conflict throughout the year at a minimal cost (Sanger Audio p.1). While the advantage of drones is evident in combat operations, they do not touch on the legal questions behind their use; more specifically, the use of drones to engage in targeted killings.

The UN defines a targeted killing as "the intentional, premeditated and deliberate use of lethal force, by States or their agents acting under color of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator. In recent years, a few States have adopted policies, either openly or implicitly, of using targeted killings, including in the territories of other States (UN General Assembly 2012 p.3)."

Since 9/11 over 95% of all non-battlefield targeted killings have been conducted by drones. As stated previously drones are able to go into enemy territory with limited risk (Zenko 2013 p.8). They have become the main conduit through which the U.S. government engages in targeted killings and signature strikes abroad. The debate about the use of drones stems from their practicality and their use within a non-battlefield setting. From a strategic perspective drones have altogether dismantled al-Qaida's capacity in places like Pakistan's North West Frontier Province, Yemen, and Somalia.

The nature of transnational conflict within the context of the "war on terror" must be examined further in order to fully understand how targeted killings by drone strikes are interpreted through international law. In the early years of the 5th century, St. Augustine (C.E. 354-430) distinguished just from unjust wars by saying that, "Just wars are usually defined as those which avenge injuries (Janis 2008 p.176)." The laws of war are only permitted if the ends are just (Schlack, Slye 2009 p.8). In order to launch a just war it must be fought either in self-defense or in collective defense against an armed attack; any other type would be unjust (Jordan, Taylor, Meese, Nielson 2006 p.30). A country must have just cause, competent authority, right intention, last resort, and a reasonable chance of success (Jordan, Taylor, Meese, Nielson 2006 p.277). Many of the laws developed surrounding the ideas of war and the right to war were governed by religious theology, but the idea of states developing laws to limit their conflicts dates back to ancient civilizations of India, China, Israel, Greece and Rome (Janis 2008 p.176). During the Middle Ages, city-states employed the help of the church to develop just-war standards. The Catholic Church acted as a makeshift international dispute resolution body. While the international landscape has changed since the early advent of just war theory, the main tenets of the theory are still relevant today. Modern international criminal law also borrows heavily from International Humanitarian Law (IHL), which is the term used to describe the laws governing armed conflict. Although elements of jus ad bellum are employed differently by different states, the main concepts are often cited when states attempt to engage in an armed conflict.

Targeted Killings and Use of Drones

Eventually the laws of war gradually shifted attention away from identifying the acceptable reasons for going to war to regulating the effects of war, which is also known in Latin as *jus in bello* (Schlack, Slye 2009 p.9). Not only was a state going to have to justify its right to go to war but the means and methods of war were also going to be evaluated. Many of these decisions came through international conventions. In treaties such as the Declaration of Paris, the Geneva Red Cross Convention, and the Declaration of St. Petersburg which renounced the use of certain explosives; states agreed to norms of behavior (Janis 2008 p.178). These treaties were signed based on reciprocal action and interdependence. The idea behind signing these treaties was once they became a part of the international scene, the agreed normal behavior would become habitual over time and ultimately gain legitimacy (Pevehouse, Goldstein 2008 p.232). During the height of idealism in the turn of the 19th century many states felt war could be outlawed. Henry Durant articulated the need for regulations of armed conflict after witnessing the destruction caused by the Italian civil war (Schlack, Slye 2009 p.15). Durant's advocacy for the creation of a neutral organization to care for the wounded in war was met by the signing of the first Geneva Convention in 1864 and created the International Committee of the Red Cross (ICRC) (Schlack, Slye 2009 p.15).

It was in the interest of most states to agree upon the standards of conduct in war because the destructive nature of conflict penetrated all parts of civil society. Forms of international dispute resolution bodies have been present since civilizations began interacting with one another thousands of years ago. Different periods of time have also fostered periods of development amongst nations in how they interact. International law itself serves as a means of communication (Hoffman 2011 p.145). The first Geneva Convention, showed European and American states establishing standards of IHL (Scllyke, Shaack p.15).

The development of the laws of war was codified over a period of time through several international conventions (Janis 2008 p.178). The international community met four times— first in 1899— at The Hague to codify the laws of war. The set of treaties emerging from international conferences sought to limit tactics, prohibit the use of certain weapons that cause excessive suffering and provide protection to certain classes of individuals (Schlack, Slye 2009 p.15). The most important treaty to emerge from the conference was the respect for the Customs of War on Land (Schlack, Slye 2009 p.16). Article 22 described the fundamental principle of *jus in bello* by stating, “The right of belligerents to adopt means of injuring the enemy is not unlimited (Schlack, Slye 2009 p.16). The article set out to limit the means of warfare that cause unnecessary suffering (Schlack, Slye 2009 p.16).” The Hague conventions are grounded in natural law and customary law because they incorporate principles of humanity by the practice of civilized states. The Martens Clause was also introduced into the convention in order to address irregular combatants who were civilians and took up arms against an occupying force (Schlack, Slye 2009 p.16). The main purpose of The Hague was to discuss warfare in general and how it should be governed on the international level.

The Geneva Convention was established to expand upon The Hague convention and provide specific protections to four classes of individuals. It was not until the fourth Geneva Convention that many of the modern day applications of IHL in regards to combatants became norms of the international system.

The 1949 Geneva Conventions (the fourth Geneva Convention) provided specific protections to four classes of individuals not actively involved in combat: The wounded and the sick in the field (Geneva Convention I), wounded and sick at sea (Geneva Convention II), prisoners of war (Geneva Convention III), and civilian and other noncombatants (Geneva Convention III) (Schlack, Slye 2009 p.17).

The fourth convention took place just after World War II. Since then, the treaty has been ratified by over 194 countries including the United States of America. States pledge to operate by the explicit rules set out by the treaty. When it comes to identifying an armed conflict, the Geneva Convention more or less takes a binary approach (Lewis 2012 p.306). The articles either address conflicts of an international nature between two high contracting parties as addressed in Common Article 2, or they look at one high contracting party for the minimum standard of conduct a state may abide by if it has a conflict taking place on its territory which is addressed by Common Article 3 (Lewis 2012 p.306). Although not as well defined as international conflicts, conflicts not of an international character were also conceived during this time period as well.

Lastly, the conventions also addressed grave breaches of human rights covered under Geneva Convention III which includes willful killing, torture, inhumane treatment, POW deprivation, extensive destruction of property and biological experiments (Schlack, Slye 2009 p.18). The international community added additional protocols in order to address the dynamic changes within armed conflict. In 1977, the Geneva Conventions added Protocol I which provided rules concerning the obligations to discriminate between military and civilian targets (Schlack, Slye 2009 p.18). The protocol also addressed armed conflict within which people are fighting against colonial domination and alien occupation; or against racist regimes in the exercise of their right of self-determination, which expands the idea of privilege combatants to include some guerilla movements. It is an extension of the Martens Clause (first articulated non-international armed conflict) established during the early Hague conventions. The second Protocol II provides greater clarification to the minimum rules in common Article 3 governing non international armed conflict (Schlack, Slye 2009 p.18).

When the issue of terrorist organizations and transnational groups are brought up this subject becomes even more ambiguous due to the premature nature of the war on terrorism. The conflict is new and continues to stretch the legal bounds of international law. When it comes to any transnational conflict that does not involve a uniformed military backed by a state, international and non-international armed conflict are both non-applicable. The binary approach cannot apply to terrorist organizations because a terrorist group cannot be a high contracting party, nor are they a struggling independence guerilla group. Therefore, they are neither engaged in a civil conflict or international conflict. The transnational aspect of the conflict also complicates the classification as well. The term, internationalized non-international armed conflict has been used to describe this type of conflict, because it addresses that a state is engaged in armed conflict with a transnational asymmetric group (Jenkins 2011 p.657). The U.S. has invoked the characterization of this type of conflict in order to engage insurgents operating across borders in the Frontier Province of Pakistan, Yemen and Somalia.

Since the U.S. is engaged in a new type of conflict that is not fully defined by the parameters established under international law, they have been abiding by specific customary standards. There are three very distinct understandings that need to be made clear when discussing the issue. The first point that needs to be made clear involves the boundaries of the battlefield. Engaging in transnational armed conflict has become standard operating procedure for the war on terrorism. Asymmetric groups that do not abide by border boundaries move fluidly in and out of states, who themselves, do not have the governing capacity to secure their borders. Groups such as al-Qaida do not pledge allegiance to a nation state, rather they represent a state-less sponsored ideological conception of the world. This has caused a number of problems for the United States mainly due to the fact that the United States abides by international law and respects state sovereignty. When boundaries and sovereignty are not quantifiable for an enemy and all international politics and law is centered around the idea of state sovereignty, how can a

Targeted Killings and Use of Drones

sovereign state engage with this type of actor in an international system that is geared toward interstate conflict? This brings up the second distinct understanding one must make when addressing the use of drones, which is neutrality. Neutrality laws allow the United States to engage transnational actors by still respecting sovereignty. Lastly, one must fully understand the ideas behind combatant status as addressed by the Geneva Convention and the additional protocols. Once these three points—boundaries, neutrality laws and combatant status—have been established, the use of drones becomes congruent with international law standards.

In relation to drone strikes and targeted killings, one must first accept that the United States is launching a just war against al-Qaida. In 2001, the United States was attacked by an asymmetric terrorist organization with a vast network of affiliates all operating under the goal of killing American citizens. On September 18th 2001, Congress passed the Authorization to Use Military Force (AUMF) which gave the President full authority to use all necessary and appropriate force against al-Qaida and affiliated groups. Domestically the United States passed a bill that responded to the events as authorized by a legitimate sovereign (the U.S.) to act in self-defense (Slyke, Schaack 2009 p.9). This authorization satisfied domestic legislation for the right to use military force. It gave the president full discretion as the Commander in Chief of the U.S. armed forces to use the force necessary to eliminate al-Qaida.

On the international level the right to self-defense is inherent. The only way a state can abide by jus ad bellum principles is by acting in self-defense. The U.S. meets the requirements of necessity and proportionality when conducting operations against al-Qaida. Under the Caroline Test which is commonly accepted as the parameters for how one may view the right to self-defense, a country is legally allowed to engage a target that poses an imminent threat. According to Georgetown Professor David Luban, during a presentation to the American Society of International Law, the inherent right of self-defense is preemptive (Jenkins 2012 p.658). "Preemption is necessary when the necessity of that self-defense is instantly overwhelming, and leaving no choice of means, and no moment for deliberation (Jenkins 2012 p.658)." Professor Luban was referring to the Caroline Test which was a threshold established during the 19th century when the British claimed self-defense as the basis of their attack on a U.S. vessel—the Carolina—in response to supply insurrection forces in Canada (Jenkins 2012 p.658). The application of the Caroline test helps states infer what a legitimate use of force is.

Under Article 51 of the UN charter, "nothing in the Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations (Jenkins 2011 p.657)." The U.S. invoked its right—under an international insinuation—to act in self-defense against al-Qaida. Article 51 of the charter abrogates article 2 (4) which stresses that no state shall impede on any other's sovereignty. With the UN charter, Article 51 clearly states that all nations shall refrain in their international relations from the threat or use of force against the territorial integrity of another state (Jenkins 2011 p.657). The right to self-defense is inherent and all states are free to engage any nation or group that poses a direct threat to the state (Jenkins 2011 p.657). The capacity for self-defense is the most reliable way to ensure one's security which is why the United States has decided to engage al-Qaida and deploy drones to ward off future attacks (Jordan, Taylor, Meese, Nielsen, Schlesinger 2009 p.275).

Under the characterization of the AUMF and the rights invoked under article 51, the U.S. is officially operating in an international conflict arena where IHL applies. Once IHL is applied, the determination of who is a legitimate target under international law immediately changes. For example, all civilians are governed by international human rights law (IHRL), regardless of race, ethnicity, or political affiliation. A person cannot be stripped of their right to life by the state. Human rights law developed in the progeny of the crimes against humanity charge at Nuremberg (Slyke, Schaack 2009 p.40). The universal declaration of human rights is grounded in natural law,

but codified through the trials at Nuremberg that recognized the offenses against the peace and security of mankind. IHRL upholds the right to life, and follows behind Jus Cogens norms of the international system exist, a person's right to life should not be superseded (Kleinberg 2013 slide.47).

The salient difference between IHL and IHRL is the way in which they identify and engage targets. Under IHRL only lethal force may be employed if a person poses an imminent threat and arrest is not reasonably possible. Due to the fact that drones are not capable of offering surrender before utilizing lethal force, armed drones may not be legally employed in situations governed by IHRL (Lewis 2011 p.300). Unlike Special Forces and conventional military, armed drones cannot adapt to IHRL standards (Lewis 2011 p.300). IHL states that all lethal combatants can be targeted who are members of the enemy (Lewis 2011 p.300). The individuals do not have to be posing a current threat to friendly or civilian forces at the time of them being killed (Lewis 2011 p.300). For example, in 2009 a drone strike was used to kill the Pakistani Taliban leader Baitullah Mehsud in the North West Frontier Province of Pakistan. When Mehsud was killed, reports stated he was on the roof of his hideout receiving medical treatment (Jenkins 2011 p.660). While some argue that the United States did not try to capture Meshud, it is reasonable to assume that he was planning future attacks against coalition forces. He was considered an enemy according to the laws of war and he was targeted under IHL. Although he was not engaged in kinetic operations at the moment of his death, his prior history of participating in combat granted him eligibility to be a targeted.

Boundaries

The war against al-Qaida is taking place in multiple locations around the world. Yemen, Pakistan, Afghanistan, and Somalia are a few of the main areas in which the U.S. has utilized their drone program to target and kill select individuals. As stated previously, IHRL is applicable at all times, but during armed conflict it may be superseded by IHL. IHL is accepted when violence between two parties reaches a significant threshold. More often than not the battlefield is used to define the scope of IHL's application, but transnational conflict challenges this idea (Lewis 2011 p.299). Prior to the nineteenth century, battlefields were usually restricted to specific areas, influencing only those directly involved with combat (Jordan, Taylor, Meese, Nielsen, Schlesinger 2009 p.277). Due to the lack of technology and the immobility of large forces, warfare was easily defined by where kinetic combat operations took place. The virtually total wars of the nineteenth and twentieth centuries—the Napoleonic wars, the American Civil war, World War I and World War II—changed this situation, by bringing the carnage and suffering of war into the lives and homes of entire populations (Jordan, Taylor, Meese, Nielsen, Schlesinger 2009 p.277). Many conflicts of the twenty first century have been classified as complex emergencies reflecting the internal struggle that affect all members of society.

If strict geographic limitations define IHL scope then drone use would be considered illegal everywhere outside of Afghanistan (Lewis 2011 p.301). Advocates of strict geographic limitations of the scope of IHL incite the Tadic opinion to help define the logic behind defining the battlefield. The Tadic opinion states that a minimum threshold of violence must be met before applying IHL, and it may only be applied to a specific area within a country (Lewis 2011 p.301). When applying the Tadic opinion to determine whether an armed conflict is occurring within a particular part of a country it is only useful with non-international armed conflicts— intrastate wars. Any area where Tadic does not apply would preclude the use of armed drones because IHRL would apply and drone strikes would be illegal (Lewis 2011 p.301). For example, Yemen, Pakistan and Somalia

Targeted Killings and Use of Drones

currently do not have active conflicts taking place within their countries therefore the individuals in their countries are governed by IHRL.

As stated previously, the United States is involved in a conflict that has elements of both an international armed conflict, and non-international armed conflict. When determining the boundaries of the battlefield in an internationalized non-international armed conflict the nature of the conflict makes it difficult. If a group such as al-Qaida is transnational by nature and does not abide by state boundaries, how does a state engage with this kind of enemy? The Tadic opinion allows a state to apply the laws governing armed conflict to specific areas of a conflict not the entire nation because it set limits on state actions. The laws of armed conflict allow actions whose application should be limited, targeting based upon positive identification rather than dangerousness and indefinite detention without charge which is why there is a desire to limit the geography in which such rules apply (Lewis 2011 p.301). When the Tadic opinion was first conceived from the International Criminal Tribunal for Yugoslavia (ICTY) it was set to limit states from ruling their whole country through IHL, effectively making anyone who is believed to be an enemy a target. Within a transnational armed conflict, the enemy does not recognize or ascribe to any set boundaries. The fighting does not remain localized and often shifts from one area to another or from one state to another. Taliban forces often oscillate between the North West Frontier Province in Pakistan and Afghanistan. If the U.S. through Afghanistan's government were to apply the Tadic opinion, it would allow combatants to only be targetable in one specific area of the conflict. All other forces that operate outside where Tadic has been applied the hot battlefield are allowed to be governed under IHRL therefore they are not targetable under IHL. This is why combatant status is so important when it comes to transnational conflicts, because it can help determine who is a legitimate target to be killed.

Applying geographic limitation on states that are engaged in armed conflict, often finds no support in practice. States have often operated under the old adage the fight goes where the enemy goes. History is replete with examples of states engaging enemies all over the world when they are involved in an armed conflict. Most states often engage enemies far from the front lines. By applying strict geographical limitations on the military, a state is allowing the enemy to dictate the fight. Success in warfare at any level, from single combat to global military strategy, is based upon the ability to strike your opponent in places where he is vulnerable and in ways he does not expect (Lewis 2011 p303).

Status

Geographic boundaries and combatant status are intertwined due to the nature of armed conflict. One of the main reasons the Geneva Convention was established in 1949, was to protect civilians during armed conflict. The convention was set out to protect individuals who were not a party to the conflict but were unwillingly caught up in the conflict. As stated previously, when boundaries are established during an internal armed conflict under the Tadic threshold, combatants status can differentiate depending on where an individual is located on the battlefield. For example, if the Tadic threshold is established and an individual is located within the boundaries of where that threshold was established he is a legitimate IHL target, but if he decided to run out of those boundaries his status is now governed by IHRL and is no longer targetable. The claim is based upon where someone is located not who the target is.

The Geneva accords were established to protect civilians and reward contracting parties who abided by the rules the accords established. The status or term combatant is legally advantageous for someone fighting a war because combatants are entitled to the combatant

privileges (Lewis 2011 p.309). For example, if you are legally referred to as a combatant, you are not liable to be charged with prosecuting domestic laws such as murder, assault and property damage. Those rights are overseen by the laws of war which do not allow legitimate members of a fighting force to be charged with conduct that violates the domestic law of a sovereign nation. A civilian is always immune from attack unless he or she takes action to change their status and forfeit that immunity.

The status of al-Qaida members is somewhat different from most conflicts dealt with in the past because members of al-Qaida or any other terrorist organization can never receive combatant status. Combatant status is based upon membership in a group. The Geneva Convention allows groups that are fighting a guerilla war against an occupying force to be afforded combatant status as the additional protocols state, but this does not apply to al-Qaida. In order to receive combatant status a group must enforce compliance with the rules of international law (Lewis 2012 p.310). But groups like al-Qaida intentionally target civilians (Lewis 2012 p.310). Therefore members of al-Qaida are non-enemy combatants, and they do not receive the rights afforded to proper soldiers who abide by the Geneva Convention. Even if an individual member of al-Qaida were to abide by the Geneva Convention, they are still criminally liable for any of their actions because combatant status is based on the groups compliance, not just one individual.

IHL treats al-Qaida as non-enemy combatants, which is a term that falls somewhere in the middle of civilian and combatant. How does one deal with an al-Qaida member who picks up a gun to fight against the United States or plots against the U.S. but lays it down and returns to being a civilian the same day? Civilians who directly participate in hostilities are often classified as direct participants in hostilities (DPH) which allows IHL to actively govern the conduct of targeting these individuals without disobeying IHRL. If someone picks up a gun once or plants a bomb, they temporarily give up their civilian status and become part of the fight which makes them a target. By this same measure, once the person puts the gun down they are able to regain their immunity as a civilian. While this issue is fairly straightforward, problems arise when a person who actively participates in hostilities continues to pick up a weapon and fight the enemy. Under IHL a permanent forfeiture of civilian immunity can occur when a civilian takes on continued combat function (CCF) (Lewis 2012 p.311).

Al-Qaida and its affiliates are considered DPHs who take on a CCF and therefore their status on the battlefield can be targeted under IHL. The International Red Cross states, "An individual whose continuous function involves the preparation, execution, or command of acts or operations amounting to direct participation in hostilities assume a continuous combat function (Lewis 2012 p.311)." The notion of CCF attempts to protect civilians by not granting individuals who utilize the civilian population to their strategic advantage rights under IHRL. The civilian populations can often unwilling shield and support insurgent groups, but identifying someone as a DPH who takes on a constant combat function gives states the ability to use military force against asymmetric actors. The Israeli Supreme Court ruled on this issue in 2006 when it stated that it could target individuals who have taken up arms against the state and the only way an individual can regain its civilian immunity is if it disavows all operations with the group and renounces its membership (Lewis 2012 p.311).

Neutrality

Within the international system states have legal authority. The state has a privilege position with respect to the use of force but non-state actors such al-Qaida do not have this right

Targeted Killings and Use of Drones

(Caldwell, 2006 p.120). The state may kill but other non-state actors may not. For example, the state is a legal institution and those acting under its authority (soldiers, policemen) may legitimately use violence. Anyone operating under the al-Qaida flag can never have a legitimate right to combat because the organization itself is illegitimate and therefore can never receive the rights afforded to Geneva participants.

It has been established that the United States is able to target individuals in states outside of the hot battlefield Afghanistan. With respect to state sovereignty, how can the United States conduct operations in states where al-Qaida affiliates seek refuge? The U.S. has been able to address the issue of sovereignty and state responsibility by working through neutrality laws. For example, al-Qaida affiliates and Taliban forces often seek refuge in the NWFP of Pakistan. As we know Pakistan has often worked with the United States in conducting counter-terrorism operations. In 2001, the United States signed an agreement with then Pakistani President Pervez Musharraf allowing the United States to conduct counter terrorism operations within its borders utilizing Pakistani airspace and launching autonomous operations (Sanger Audio). The U.S., operating through neutrality laws, has been granted permission by the Pakistani government to conduct operations within its borders utilizing both land and air forces. The laws of neutrality prohibit the use of armed forces in the territory of a neutral state (Lewis 2012 p.304). If a neutral state has an enemy potentially living or operating within its borders, it has a few options on how to deal with it. First, the neutral state at the request of an inquiring state can tell that party that it has to leave their borders. Second, the neutral state can harbor the enemy, and not allow an inquiring state to have access to the enemy: effectively making them an active participant in the conflict. Third, the neutral state can allow the inquiring state to have access to the enemies within its borders: effectively making them an ally to the inquiring state and a participant in hostilities because they are aiding another state. Pakistan and Yemen have both chosen option three. They are allowing the United States to have access to their airspace and target combatants within their borders. The U.S. is respecting state sovereignty and abiding the laws of armed conflict.

One famous case that defines neutrality law during times of armed conflict is known as the Graf Spree incident (Lewis 2012 p.302-303). The case is of a German Panzerchiff armed ship that engaged in raids throughout the South Atlantic during World War II. On the morning of December 1939 the German ship fired upon a British vessel. After a small fight, the German vessel headed toward a neutral port in Uruguay. Once the ship reached the port of Montevideo, the British and French forces immediately contacted the Urugayen government in hopes they would allow the British to enter the port and destroy the ship. The German government also contacted Urugayen officials and asked them to let the German vessel stay for up to fourteen days to do all the necessary repairs it needed to be seaworthy. After a series of diplomatic negotiations took place the Urugayen Minister of Foreign Affairs, said that Uruguay would uphold its responsibilities as a neutral state. Uruguay had its own engineers inspect the German ship and they determined that Germany had 72 hours to make their vessel seaworthy to depart from the port (Lewis 2012 p.302-303). They made the choice to maintain its neutral status while enforcing the neutrality laws. The British could not fire on the ship and Germany was not allowed to use the port as a sanctuary (Lewis 2012 p.302-303).

After targeting individuals who take on a transnational nature, the U.S. often must work through states in order to address their concerns. Targeted killing conducted by one state in the territory of a second state does not violate the second State's sovereignty if the first, targeting, State has a right under international law to use force in self-defense under Article 51 of the UN Charter, because the second state is willing or unable to stop armed attacks against the first State launched from its territory (NYU/Stanford p. 107). Publicly the U.S. is often criticized for impeding on the sovereignty of both Yemen and Pakistan, but through a series of deals established

by U.S. officials, the governments of Yemen and Pakistan allow the United States to conduct operations. Within Yemen, the U.S. often conducts multiple counter terrorism operations that target specific individuals, which the government of Yemen will take credit for. Yemen allows the U.S. to target individuals within its borders because the government does not have the law enforcement capabilities to capture certain individuals. The instability within the country makes it difficult for the government to have any control over the periphery where many al-Qaida affiliates often seek refuge. The recent resurgence of al-Qaida in the Arabian Peninsula (AQAP) has also been a concern for the United States because many top al-Qaida officials have flooded Yemen with hopes of building a more unified al-Qaida for the future. In a public letter President Barack Obama wrote to John Boehner, Speaker of the House, he stated, "The US military has also been working closely with the Yemeni government to operationally dismantle and ultimately eliminate the terrorist threat posed by AQAP, the most active and dangerous affiliate of al-Qaida today. Our joint efforts have resulted in direct action against a limited number of AQAP operatives and senior leaders in that country who posed a terrorist threat to the United States and our interests (NYU, Stanford 2012 p.13)." Former president Abdullah Saleh acknowledged the growing threat of al-Qaida which is why he wanted a sustained counter terrorism operation to start taking shape within his country. After Saleh relinquished control of the country to vice president Abd Rabbuh Mansur Hadi, the operations steadily increased. Although the drone program has expanded exponentially since 2008, Yemen has experienced drone strikes within its borders since 2002. One of America's first targeted killings was November 3, 2002, when the U.S. targeted six men traveling in a car. One of the men was Qaed Sinan Harithi who was responsible for the USS Cole bombing, his initial targeted killings became the first extra-territorial targeted killing by a drone since 9/11 (NYU, Stanford 2012 p. 11).

The U.S. essentially has the same deal drawn out with Pakistan. After 9/11 the joint counter terrorism operations between both countries increased as the CIA worked alongside the ISI's Pakistani Intelligence Service to target militants within the country. In 2008 according to the leaked cables by Wikileaks, Pakistan's Prime Minister told U.S. officials, "I don't care if they conduct targeted killings as long as they get the right people. We'll protest in the National Assembly and then ignore it (NYU/Stanford 2012 p.15)." As of 2010 and 2011, the relationship between the U.S. and Pakistan has become strained due to U.S. operations within its borders. These operations were either never fully articulated to the Pakistani government or they made the government look weak in the media. This includes, the 24 Pakistani soldiers kill by NATO early last year, CIA agent Raymond Davis shooting two Pakistani civilians, and the Bin Laden raid in 2011 (NYU/Stanford 2012 p.15). These incidents have compounded over a few years and caused the U.S. to scale back its program in Pakistan while the Pakistani government attempts to regain the confidence of its constituents. As of late, these incidents have been negotiated through backdoor channels as the U.S. has looks to maintain its counter terrorism relationship with Pakistan.

By operating through neutrality laws, the United States is able to target and kill wanted terrorists in other states. This effectively eliminates any strategic or legal advantage a wanted terrorist may have when they are being targeted by the United States. Borders cannot determine where IHL applies in a transnational armed conflict because the idea is not practical. It allows terrorist or militia fighters to regain their civilian immunity under IHL after being participants in hostilities. If it were applied, it would also give a strategic advantage to the terrorist group. Any state that is not currently involved in the conflict could become a sanctuary for terrorist to organize because they legally cannot be targeted (Lewis 2011 p.312). The fact that there is no local violence in Yemen or Somalia should not be a determining factor of whether or not IHL should apply

Targeted Killings and Use of Drones

(Lewis 2011 p.312). If states have targets within their country, it is their responsibility to abide by neutrality laws, just as the United States has done.

Types of Targeting/Who Targets.

The use of targeted killings by the United States is often controversial for a number of reasons. The U.S. utilizes two different systems to determine targets on the ground. Targeted killings are often done through the collection of intelligence, and suspected high ranking militants are placed on kill lists. Members of al-Qaida and other affiliates are legitimate targets but due to opaque data and the lack of transparent information it is hard to get a legitimate reading of why someone was targeted and what threat they posed against the U.S. This really comes into play when drones are used for signature strikes. Although this paper focuses on targeted killings (also known as personality strikes), signature strikes are another aspect of targeted killings that involve targeting based on patterns of behavior. For example, if a group of people in a specific region known to be a hot bed for militants and training camps are observed doing jumping jacks or physical activities, a signature strike can be used to justify attacking those individuals based on their patterns of behavior. If their behavior is associated with terrorist activity, they can be targeted without their identity ever being known (NYU/Stanford p.13). The New York Times stated that President Barack Obama makes the final decision when it comes to targeted killing and signature strikes. As targeted killings are often justified under international law (as described throughout this paper), the use of drones in strikes that involve large groups of un-identified individuals is often controversial. It is also important to note that the criteria for signature strikes are not fully known to the public.

There are also complications when it comes to the ideas of distinction and proportionality. For example, in areas of the Frontier province in Pakistan it becomes very difficult to distinguish targets that intermingle with civilian populations. While it is understood that many militant groups utilize the population as a tactic, it becomes difficult to distinguish between legitimate and illegitimate targets. This often takes weeks of observation and ground intelligence (HUMANIT) to certify that the target being observed is correctly identified. For example, the CIA recruits assets in Afghanistan and sends them over to Pakistan to identify targets (Walsh 2012 p.1). The assets place tracking devices on vehicles and tail certain suspects (Walsh 2012 p.1). This has become the subject of controversy because informants are often killed and the whole program has sparked reprisal killings in the region. As of 2012, American intelligence officials estimate around 250 assassinations and executions have occurred at the hands of militant groups (Walsh 2012 p.1). Al-Qaida affiliates put together death squads to roam the streets of the Frontier Province in order to find and execute informants who are assisting the U.S. in their drone targeting operations. This has become their only countermeasure against the drone program, but it is penetrating deep into civil society; by accusing random tribesmen of working with the U.S., abducting them from their home and executing them on T.V. (Walsh 2012 p.1).

Also when it comes to any target, at a minimum, the attack must serve a legitimate military objective, and the expected harm or risk to civilians must not outweigh the expected military objective (NYU/Stanford 2012 p. 113). From this understanding, civilians can be killed during a legitimate strike against the enemy, but the attacking force must do everything in its power to limit civilian casualties. Drones are capable of achieving distinction to the extent that their targeting decisions rely on intelligence sources. Lawyers and legal personnel can monitor a target along with a drone operator, allowing more opportunities for disproportionate attacks to be halted prior to weapons deployment (Lewis 2011 p.297).

In terms of proportionality when applying just war principles, a state should take into consideration factors such as the military importance and exigency of the target (Orr 2012 p747). The individual operations of targets are limited by both the Geneva and Hague conventions. According to most legal scholars the proportionality of military operations involves a holistic, context-specific analysis (Orr 2012 p747). Distinction for targeted strikes rely on intelligence sources that are accurate and distinguishable (Orr 2012 p. 748). As stated previously, specific data on the drone program is hard to obtain because a majority of the information is classified. According to Andrew Orr of Cornell University, the entire program has a non-militant casualty rate of 21% (2012 p.747). Although others studies such as one done by the Bureau of Investigative Journalism as cited by the New York Times states that around 473 noncombatants have been killed by CIA directed strikes since 2004 (Walsh 2012 p.1). The Bureau also reports that from June 2004 through mid-September 2012, available data indicates that drone strikes killed around 2,562-3,325 people in Pakistan, of whom 176 were children (NYU/Stanford 2012 vi). With special regards to civilians, the U.S. always attempts to limit their targets to the military objective. Often there are not many options when attacking al-Qaida fighters who reside in ungoverned territories and pose an immediate threat to U.S. national security.

The Central Intelligence Agency (CIA) and the Department of Defense (DOD) are the two main actors currently engaged in the use of drones abroad. While all Department of Defense personnel military are able to lawfully adhere to the laws governing armed conflict, the controversial aspects of targeted killings and the drone program itself come from the CIA. The CIA is governed by U.S. Code Title 50, which is different from the military, governed under U.S. Code Title 10 (NYU/Stanford 2012 p. 113). Both the CIA and the US Special Operations Command through Joint Special Operations Command (JSOC) have their own target lists. Those lists are drawn up through independent processes, but significant overlap often exists (NYU/Stanford 2012 p.14). JSOC is often restricted in its drone usage to the theater of Afghanistan while the CIA's program operates in the territory of multiple states around the world. By the analysis of the laws of war, CIA operatives or contractors working with the CIA who are controlling drones are targetable under the laws of war (Jenkins 2011 p.670). They lack immunity if they are participants in hostilities. Anyone operating drones under the JSOC does not have to worry about this type of legal question because they are considered uniformed military personnel.

The CIA is also held to the constitutional requirements that govern any state agency. The CIA may not authorize any action that would violate the Constitution or any statute of the United States (NYU/Stanford 2012 p.121). Many of the CIA's operations come through executive orders including covert action. The drone program falls beyond the CIA's usual use of force but not quite in the clandestine service department (Lowenthal 2012 p.196). The reason it is not as covert as many people tend to think is often times when the CIA conducts a drone strike, the world media knows it is an American strike. This often eliminates the covert nature of the strike even though the details are kept secret. Since the Church Committee was formed in 1975, the U.S. has placed a ban on CIA assassinations. Some legal scholars often group the use of paramilitary forces as falling under the assassination clause because the CIA operates as an agent of the state but they are not legitimate members of a uniformed military force. According to Attorney General Eric Holder, there is a clear distinction between assassination which is a political murder, and killing enemy combatants (Lowenthal 2012 p.354).

The CIA tends to have problems that the DOD does not when it comes to international law and the legality of targeting combatants. First, all members of the armed forces enjoy Geneva protection which cannot be afforded to CIA operatives. Although al-Qaida members cannot be afforded Geneva accords, U.S. military personnel, if captured, should be afforded proper courting.

Targeted Killings and Use of Drones

The location of drone operators is also becoming a concern for U.S. officials who are overseeing the program. Many officials are stating that the lack of proximity to the battlefield for many drone operators is causing a looser interpretation of risk and reward. For example, the lack of risk for operators makes the decision to deploy munitions much easier than for someone who is actually either on the battlefield or in close proximity.

For example, Army Chaplain D Keith Shurtless has stated, "As wars become safer and easier, as soldiers are removed from the horrors of war and see the enemy not as humans but as blips on a screen, there is a very real danger of losing the deterrent that such horrors provide (Lewis 2011 p.1)."

The dehumanization of targets has become a genuine concern for many U.S. officials who oversee the program. Although drone operations are governed under the Manual that governs Air and Missile Warfare (AMW Manual), the concern that targets on the battlefield may be easy to strike because of the lack of danger adds a new element into the decision making process of targeted killings. This could potentially impact how targets are viewed and treated. It could also impact the decision making process when deciding upon whether to strike a target or not. According to the University of Illinois Law review, drones will develop sharper senses and become more precise and lethal (Lewis 2011 p.1). The power to use drones to find and kill specific human-targets and states' temptation to use (and abuse) that power will grow over time (Lewis 2011 p.1). International law will need to find a way to account for this new technology.

CIA officials are not trained as members of the armed forces; therefore they are not subject to the same disciplinary action as military personnel. This is why many U.S. officials have called for the drone program to be moved under the Department of Defense. Senators including John McCain have asked for all combat operations to be undertaken by the military rather than the CIA for the purpose of eliminating potential discrepancies within the law. Many have also called for the Department of Defense to take over the program because it would provide greater oversight. Dan Metcalfe, the former director of the Justice Department's Office of Information and Privacy, stated that a Defense Department takeover would inevitably mean greater oversight and transparency for the public to know who is being targeted (Hudson 2013 p.1). He stated, "This shift bodes well for both congressional oversight and greater public disclosure through targeted FOIA requests." He also stated, "It's clear that the CIA's unprecedented regime of drone secrecy has hit an indefensible peak (Hudson 2013 p.1)." Currently the CIA's activities are overseen by the House Permanent Select Committee on Intelligence and the U.S. Senate Select Committee on Intelligence. Congress has control over the budget which gives them the power to leverage the CIA to provide insight into the drone program (Lowenthal 2011 p.226-227). Although the dynamic between the legislative and executive branch is often played out in the public arena, the many details about the CIA drone program are kept secret to limit intelligence leaks.

Domestically, Intelligence officials have been under scrutiny from recent documents released by the Department of Justice entitled "the White Papers" which outlines the legal justification for the U.S. drone program. Both the CIA and Military have outlined some requirements that must be met in order for someone to be targeted utilizing a drone strike. It is important to note that the United States always attempts to follow international law and never enters a country without that country's permission. Targets must also meet specific requirements, which govern whether or not a targeted strike can take place. According to the White Papers, the Department of Justice states that the U.S. will only look to target militants who pose an imminent threat, which is defined by the parameters established earlier in this paper and in defense against evolving threats where there is evidence of a future attack (DOJ White Papers 2013 p.7-9). Second, the United States will only target individuals who cannot feasibly be captured, and if the country in question declines to consent to a capture operation (DOJ White Papers 2013 p.8). Third, the United

States will comply with all laws governing armed conflict which includes necessity, distinction, proportionality, and humanity (DOJ White Papers 2013 p.8).

Realistically, targeted killings can take place in any state throughout the world. Often the United States will not look to target individuals unless their capture is completely unfeasible. Strikes that take on an extraterritorial nature will always be assessed utilizing intelligence and respect for sovereignty. There has been concern about the targeting of American citizens as well. For example, Shyakh Anwar al-Aulaqi, an American born Cleric who became a deputy and head propaganda czar of AQAP, was killed in 2011 by a drone strike in Yemen. Controversy surrounding his death involved many of the aspects discussed in this paper, such as did he possess an imminent threat, and why was he not given the chance to surrender and be put on trial? Beyond the laws of war the constitutional questions also come into play, specifically the right to a due process. Advocates of al-Aulaqi state he was not afforded a trial before being killed. After examining the legal framework of neutrality, boundaries of the battlefield the laws governing armed conflict and combatant status, it is clear al-Aulaqi was a legitimate target.

Under the framework established in this paper and the legal argument outlined by the United States in the DOJ's White Paper,

The circumstances where a person is an operational leader of an enemy force and an informed, high-level government official has determined that he poses an imminent threat of violent attack against the United States, and those conducting the operation would carry out the operation only if capture were infeasible, the use of lethal force would not violate the Fourth Amendment. Which would mean the intrusion on any Fourth Amendment interest would be outweighed by the importance of government interest (White Paper 2013 p.9).

Under international law it is legal for the United States to engage in targeted killings against al-Qaida and its affiliated forces. This is the first time in history where a state is engaged in a large scale transnational armed conflict against a non-state actor that does not control any large portion of territory. While the current war against al-Qaida does not fall under the national or international armed conflict spectrum, the U.S. is developing laws that encompass both elements. The newly coined term "internationalized non-international armed conflict" has been used to identify the war against al-Qaida and helped legal scholars interpret the conflict using the current legal framework the international community has utilized for the laws governing armed conflict. While this paper provides an understanding behind the legal framework involved in extraterritorial targeted strikes, the United States faces many domestic concerns that cause it to become more controversial. The debate about whether or not someone can be targeted is often a parochial debate. Through the laws governing armed conflict the United States has conducted targeted killings in accordance with customary law. By operating through neutrality, identifying combatant status and respecting boundaries, the United States is operating in accordance with self-defense and international law. By employing just war standards of Jus ad bellum (Just cause, competent authority, right intention, last resort, reasonable chance of success) and Jus in bello (discrimination between combatants and noncombatants proportionality of each military action) the U.S. has successfully launched a just war. The concern today is more about the impact targeted killings have within the international arena, which international law cannot account for. The use of drones to conduct counter terrorism operations may satisfy the requirements of IHL, but the current law does not account for the proliferated use of drone technology throughout the international system by other states. Currently very limited legal framework exists for the use of drone technology and it is clear that the United

Targeted Killings and Use of Drones

States will continue to use this technology as a seminal tool for counter terrorism operations.

The idea of targeted killings also goes back to the dilemma of the United States. Anything the U.S. does in the international system sets a precedent. Targeted killings allow states to operate and target citizens legally in other countries who are deemed an immediate threat. The question going forward is how does drone technology look in twenty years from now? The U.S. government accountability office (GAO) states that at least 76 states have acquired drones, including China, Pakistan, Russia, India, and Hezbollah (NYU/Stanford 2012 p. 141). While the United States will continue to engage in policies that enhance its national and international security, the use of drone technology will have to evolve to meet the ever changing international system. The war on terrorism and extremism is never ending, and will continue to dominate foreign policy for the next hundred years. The U.S. has proven it can marginally disrupt al-Qaida and its affiliates, but it has not dealt with or accounted for the long term consequences of its policies. Some argue that the United States, along with setting the precedent for how drones may be used in other countries, is also creating more condemnation for their policies in the Middle East. Despite the vast foreign aid the US has invested in Pakistan, a 2012 poll by the Pew Research Center's Global Attitude project found that 74% of Pakistanis consider the U.S. an enemy (NYU/Stanford 2012 p.138). This is significant because it marks a change in attitudes, in a region where the goal is to create a base of support. The number is up from 64% three years ago. The same poll also stated that only 45% of Pakistanis felt it important to improve relations with the U.S., down from 60% the previous year, and fewer support cooperation or even receiving aid from the U.S. (NYU/Stanford 2012 p.138). The same sentiment is echoed through Waziristan where one boy was quoted as saying, "Before the drone attacks, we didn't know anything about America. Now everybody has come to understand and know about America, almost all people hate America (NYU/Stanford 2012 p.133)." Some propose the increase in anti-American sentiment is directly correlated to the rise in drone strikes. The civilian response to drone strikes is often negative and overwhelmingly condemned by tribes living in the Frontier Province.

Regardless of the legality of targeted killings, their impact has a much larger weight than the legality. If the broader strategy is to curtail racialization within the Middle East, it is hard to comprehend how drone strikes are achieving the strategic objective. While the legality of these strikes continues to be debated, the larger question about the use of targeted killings in the overall strategy for the United States must be explored further. IHL governs all aspects of armed conflict and while the U.S. looks to limit civilian casualties, the fact is they continue to make headlines causing public outrage. UAV strikes are often stifled because militants use civilians as human shields and cause many targeted killings to be aborted which is often not reported. The fact is the media can also have an influence on the population as well when it comes to reporting deaths by drone operations. Whenever civilians are killed, it becomes a dominant headline within the country in play and causes outrage among the local populations.

On the policy side, there is currently very limited knowledge available about what the specific criteria is for targeted killings and signature strikes. The legal opinions written on the subject and the Department of Justice "White Papers" are currently the only sources available that outline this issue fully. It is important to note that this type of transnational conflict is new for most states—excluding Israel—and the international system. Some international scholars argue against targeted strikes and maintain that they violate international human rights law. Others argue that IHL governs the current conflict the U.S. is engaged in with al-Qaida and therefore individuals who take on a transnational nature should be legally targeted. The U.S. has also conducted themselves in accordance with international law standards. Hugo Gratiotous the international scholar who helped articulate and secularize the laws governing armed conflict stated, "The State which transgresses the laws of nature and of other nations cuts away the bulwarks which safeguard

its own future peace. *Pacta Sunt Servanda* (Janis 2012 p. 174).ö If the United States continues to satisfy *jus in Bello* and follow the laws governing armed conflict, the use of drones should be viewed as a means to an end. Armed conflict has limits, and while the United States continues to engage al-Qaida, new strategies will make this effort easier and more effective. The U.S. must always look toward implementing policy with respect to self-interest and moral character. Drones provide another tool in the war on terrorism, and targeted killings provide the means to utilize the tool in combat.

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