

“Just War, Just Peace and Drones”
Rev. Dr. Susan Brooks Thistlethwaite

Executive Summary

The Obama administration has referenced Just War theory to make a case for engaging in targeted killing using drones. There has also been reference to “new threats” that indicate a need for new approaches. This chapter examines the administration’s drone policy, as discernable through statements and practice, and whether there is compliance with Just War theory. There is attention paid to where drone policy and practice has pushed beyond the Just War categories. In addition, the offensive use of drones is presented to the American public as a less costly alternative to traditional warfare, both in terms of American lives lost and in terms of dollar costs, and thus as an attractive option for “fighting terror.” Yet, drone use has costs that are often hidden, as the drone program costs lives on the ground where civilian casualties do occur, and drones cause enormous stress to populations under the threat of drones. The drone program creates enemies for the U.S., and drone operators in the U.S. are showing signs of stress. All of these factors are challenges to the argument that drones are “less costly.” There is a moral risk that accepting drone use without counting these costs in the use of force will tempt strategists to make killing with drones a permanent part of American foreign policy as a broad “counterterrorism” strategy. A more recent framework for thinking about peace and conflict, the Just Peace paradigm, can help provide a roadmap to strategies for counterterrorism that do not violate just war and moral principles.

The “Old Architecture” is “Buckling”

On December 11, 2009, President Barack Obama received the Nobel Peace Prize. Just War language was a significant part of the President’s acceptance speech, and it was used specifically to describe why force is needed in dealing with cases of structural violence in the world, especially “genocide in Darfur; systematic rape in Congo; or repression in Burma.” Said the President, “[W]e must begin by acknowledging the hard truth: We will not eradicate violent conflict in our lifetimes. There will be times when nations -- acting individually or in concert -- will find the use of force not only necessary but morally justified.”¹

Yet, the President, continued, the “old architecture” of thinking about war and peace is “buckling.” President Obama also referenced “the weight of new threats”² in

¹ “Remarks by the President at the Acceptance of the Nobel Peace Prize,” The White House (Oslo, Norway, December 10, 2009). <http://www.whitehouse.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>.

considerations on the use of force. What is required now, argued the President, is to "think in new ways about the notions of just war and the imperatives of just peace."

The Obama Administration's case for drones rests in part on classical Just War theory, and in part on the assertion that new thinking is required in the justification of the use of force based on "new threats." In addition, the new thinking about war, in the President's view, must be accompanied by "the imperatives of just peace," a line of reasoning he presented not only in 2009, but as recently as 2013.

Just War and Just Peace

Human beings have used force against each other long before the age of drones, and have developed forms of moral reasoning on the use of force as a result. As is well known, these have historically been Crusade, Pacifism, and Just War. Just Peace theory is a latecomer to this list, and is barely a quarter of a century old, while Crusade is rarely referenced in a secular age.³

Just War and Just Peace each provide different perspectives on the drone question, though as paradigms they have some commonalities, notably their intellectual origins and their practical approach to the question of the reality of violence in the world.

Christian theology contributed to the genesis of Just War and Just Peace. Two formidable Christian theologians, Augustine and Aquinas, are often cited as key architects in the development of Just War theory, though the classical tradition, through Cicero and Aristotle, played important roles. It can be argued that Just War theory was developed and then refined in the Christian tradition to create a space between the divinely authorized war, or Crusade, with its nearly unlimited sense of moral justification for the use of force, and Pacifism, the dominant tradition of the first three centuries of Christian history, and its moral repugnance for Christians participating in war as combatants.

Even as Just War theory created a moral space between Crusade and Pacifism, Just Peace theory was designed to create a moral space between Pacifism and Just War. Just Peace theory was also developed primarily within the Christian tradition.

² Susan Brooks Thistlethwaite, "Obama's New Just War [strike] Peace Policy," *WashingtonPost.com*, On Faith, December 11, 2009.
http://newsweek.washingtonpost.com/onfaith/panelists/susan_brooks_thistlethwaite/2009/12/just_war_and_just_peace_the_emerging_obama_doctrine.html.

³ The terror attacks in Norway by Anders Breivik, however, may signal a return of "Crusade." See: "Anders Breivik Trial: 21st Century Crusader Battling Against Islam in Europe," *The Huffington Post* (April 16, 2012).
http://www.huffingtonpost.co.uk/2012/04/16/anders-breivik-trial-crusader-battling-against-islam_n_1427591.html?just_reloaded=1

During the mid-1990's, an ad hoc group of twenty-three scholars – Christian ethicists, biblical and moral theologians, international relations scholars, peace activist, and conflict resolution specialists, began to meet to discuss the possibility of a joint Christian statement on peace. The majority of the final group had worked on their individual church peace statements in the 1980's. The result of our work (the author was one of the twenty-three) was first published in the book *Just Peacemaking: Transforming Initiatives for Justice and Peace*, edited by Glen Stassen.⁴ The work was substantially revised and updated to relate Just Peace to the challenges of terrorism in the new millennium.⁵

Just War theory, as it has developed, has a number of specific criteria divided into three main parts: 1) *jus ad bellum*, the criteria that concern the justice of restoring to war at all; 2) *jus in bello*, the criteria for just conduct during a war; and 3) *jus post bellum*, the criteria for ending a war including peace agreements and the rebuilding of societies post-conflict.

These criteria are not only necessary, they are indispensable, argues Michael Walzer. The nature of war is such that “[war] is distinguishable from murder and massacre only when restrictions are established on the reach of battle.”⁶

Just Peace theory also contains a list of criteria (10), but not ones that are framed as limits on the use of force. In Just Peace theory, the criteria are actions that historically have proven to reduce or eliminate the use of force. These are called “practice norms”. Practice norms are a method that describes normative nature of practices that have a proven track record in helping to reduce violence and increase the presence of peace.⁷

The “practice norms” approach of Just Peace has proven to be indispensable in interfaith work on peace and war. Over six years, Jews, Christians and Muslims have persevered and produced interfaith Just Peace documents, the first being *Abrahamic Alternatives to War: Jewish, Christian and Muslim Perspectives on Just Peacemaking*,

⁴ Glen H. Stassen, ed., *Just Peacemaking: Transforming Initiatives for Justice and Peace* (Louisville, KY: Westminster/John Knox Press, 1992).

⁵ Glen H. Stassen, ed., *Just Peacemaking: The New Paradigm for the Ethics of Peace and War* (Cleveland, OH: Pilgrim Press, 2008).

⁶ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 2000), p. 42. Originally published 1977.

⁷The ten practice norms are: *Support non-violent direction action. Take independent initiatives to reduce threat. Use cooperative conflict resolution. Acknowledge responsibility for conflict and injustice and seek repentance and forgiveness. Advance democracy, human rights, and religious liberty. Foster just and sustainable economic development. Work with emerging cooperative forces in the international system. Strengthen the United Nations and international efforts for cooperation and human rights. Reduce offensive weapons and weapons trade. Encourage grassroots peacemaking groups and voluntary associations.*

edited by Susan Thistlethwaite and Glen Stassen.⁸ Subsequently, all ten Just Peace practice norms are examined in Jewish, Christian and Islamic perspective in *Interfaith Just Peacemaking: Jewish, Christian, and Muslim Perspectives on the New Paradigm of Peace and War*, edited by Susan Thistlethwaite.⁹

An examination of Just War theory in regard to the drone program raises questions on how Just War theory is being applied, and where the drone program has moved out of Just War theory as a whole, or in part.

Just War and Drones

Just War theory is referenced in considerations of the legality and morality of the drone program in Obama administration documents and speeches. The leaked Justice Department memo on the U.S. drone strike policy¹⁰ that lays out the case for the constitutionality of targeting Americans abroad for execution by drones demonstrates this. The memo makes explicit reference to the “four fundamental laws of war principles...necessity, distinction, proportionality, and humanity (the avoidance of unnecessary suffering). These “four fundamental laws of war principles” or what is commonly called “The Law of Armed Conflict” or LOAC, depends on Just War theory for these principles, referencing customs of ancient cultures, the classical Greek and Roman period and the Christian Just War history.¹¹

In May of 2013, President Obama gave a much-anticipated speech on drone policy and counterterrorism at the National Defense University.¹² The speech was firstly a spirited defense of the moral basis of Just War, in a nearly Augustinian sense, as the President began by talking about human evil: “We will never erase the evil that lies in the hearts of some human beings.” The President then defended his drones policy

⁸ Susan Thistlethwaite and Glen Stassen, “Abrahamic Alternatives to War: Jewish, Christian, and Muslim Perspectives on Just Peacemaking,” *The United States Institute of Peace Special Report*, October 1, 2008.

<http://www.usip.org/pubs/specialreports/sr214.html>.

⁹ Susan Brooks Thistlethwaite, ed., *Interfaith Just Peacemaking: Jewish, Christian, and Muslim Approaches to the New Paradigm of Peace and War* (New York: Palgrave Macmillan, 2011).

¹⁰“Department of Justice White Paper.”

http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf.

¹¹ See “The Law of Armed Conflict Deskbook, 2012.”

http://www.loc.gov/rr/frd/Military_Law/pdf/LOAC-Deskbook-2012.pdf

¹² “Obama’s speech on Drone Policy,” *The New York Times*, May 23, 2013. Accessed June 19, 2013. http://www.nytimes.com/2013/05/24/us/politics/transcript-of-obamas-speech-on-drone-policy.html?pagewanted=all&_r=0.

as legal and conforming to the principles that are congruent with Just War theory, saying “this is a just war — a war waged proportionally, in last resort, and in self-defense.”¹³

This speech, however, did signal an important shift on policy in regard to the use of drones. The President called for a move away from a “boundless ‘global war on terror,’” to “a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America,” often in partnership with other countries, leading to the “arrest and prosecution of terrorists.” But, the President argued, this approach is not always possible or wise, and thus “remotely piloted aircraft commonly referred to as drones” will be used under a new policy codified in a document called “Presidential Policy Guidance” that the President announced he had signed the day before.

Despite the assurances about revised oversight in the President’s May 2013 speech, six days after the speech, a U.S. drone strike in the tribal region of Pakistan reportedly killed Wali ur-Rehman, the Pakistani Taliban’s second-in-command.¹⁴ Did this strike violate the new policy? Unfortunately, since this document is classified, there is actually no way to independently judge how closely the current use of drones is now following the new policy, nor how much the new policy conforms to the President’s address.¹⁵

There are areas for grave concern from the leaked memo, from the amount that is known about the conduct of the drone program itself, and even from the May, 2013 speech that challenge the claim that the U.S. drones policy is wholly based on Just War theory.

These concerns, for example, were brought to the attention of the White House before President Obama’s May, 2013 address. The chairman of the U.S. Conference of Catholic Bishops Committee on International Justice and Peace, Bishop Richard E. Pates of Des Moines, sent a letter¹⁶ to White House National Security Adviser Thomas Donilon as well as to the chairmen and ranking members of the congressional committees dealing with national security issues, arguing in his capacity as chairman of the USCCB Committee that the administration’s policies for using armed drones in its counter-terrorism efforts “seem to violate the law of war,

¹³ Ibid.

¹⁴ Elias Groll, “Has Obama already violated his new and improved drone policy?” *Foreign Policy* (May 29, 2013). http://blog.foreignpolicy.com/posts/2013/05/29/has_obama_already_violated_his_new_drone_policy_wali_ur_rehman_pakistan.

¹⁵ Peter Grier, “Has Obama tightened US drone strike policy, or not?” *Christian Science Monitor* (May 24, 2013). <http://www.csmonitor.com/USA/DC-Decoder/2013/0524/Has-Obama-tightened-US-drone-strike-policy-or-not>

¹⁶ <http://www.usccb.org/news/2013/13-099.cfm>

international human rights law, and moral norms."¹⁷

In the following sections, the questions raised have to do with how “imminent” is defined and whether “self-defense” is legitimately the moral basis for using lethal force to the threat posed by those targeted to be killed by drones, whether the authority to continue to pursue a broad killing program in an undefined war is adequate, and whether, in fact, the claims of the specific targeted killing of “terrorists” has, proportionately, not resulted in the killing or wounding of civilians, or whether this is disproportionate. In addition, there is the crucial question of whether there is an exit strategy from drone warfare.

Imminent Threat

At the heart of Just War theory is the right to self-defense a nation has in the face of “imminent threat” of attack. The Justice Department memo makes a case for the legality of drone strikes to kill Americans abroad that pose an “imminent threat of violent attack.” This is a reference to “self-defense” or “Just Cause” in the *Jus ad Bellum* criteria. John Brennan, White House Counterterrorism Chief, “was the first administration official to publicly acknowledge drones strikes in a speech last year, calling them “consistent with the inherent right of self-defense.”¹⁸

This theme of “self-defense” was reiterated in the President’s May, 2013 speech: “Moreover, America’s actions are legal. We were attacked on 9/11...We are at war with an organization that right now would kill as many Americans as they could if we did not stop them first. So this is a just war — a war waged proportionally, in last resort, and in self-defense.”¹⁹

Yet, “self-defense” as a moral context for killing certain individuals requires demonstrating they specifically pose an immediate threat, and thus more than assertions that there is an organization generally bent on killing Americans. The Justice Department memo demonstrates the attenuated nature of how self-defense is being used in arguing for the morality of the drone program. The memo’s text departs in a significant way from what would be commonly understood as “imminent threat.” The memo so expands “imminent” as to redefine it completely and undercut the notion that the targeted killing is in self-defense.

¹⁷ Terrance Jeffrey, “Catholic Bishops Committee Chair: Obama's Drone Policies 'Seem to Violate the Law of War'” CNSNews.com (May 26, 2013).

<http://cnsnews.com/news/article/catholic-bishops-committee-chair-obamas-drone-policies-seem-violate-law-war#sthash.m4uX7yRD.dpuf>

¹⁸ Michael Isikoff, “Justice Department memo reveals legal case for drone strikes on Americans,” Open Channel on NBC News.com.

http://openchannel.nbcnews.com/_news/2013/02/04/16843014-justice-department-memo-reveals-legal-case-for-drone-strikes-on-americans?lite

¹⁹ “Obama’s Speech on Drone Policy,” Ibid.

The memo states, “First, the definition that an operational leader present an ‘imminent’ threat against the United States does not require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future.” The “immediate future” is the very definition of “imminent” as about to happen, i.e. in the immediate future. This expanded notion of imminence undermines the assertion of “necessity” as grounding the Obama administration’s drone policy in Just War principles.

But this redefinition in the Justice Department memo is not new. The redefinition of “imminent” continues a rationale employed by the administration of President George W. Bush in the justification for the pre-emptive attack on Iraq.

In December of 2002, the United States Institute of Peace invited four experts on ethics and Just War theory to present papers on the topic, “Would an Invasion of Iraq Be a ‘Just War?’” and published a report.²⁰ I was one of the four invited to present these published papers, but it was Gerard Powers, Director of the Office of International Justice and Peace of the U.S. Conference of Catholic Bishops, who made the argument against the redefinition of “imminent.”

“What is disturbing is that the Bush administration has taken the concept of preemption as an option in exceptional cases and turned it into a new doctrine about the legitimacy of the unilateral use of preventive war to deal not just with imminent threats, but with merely potential or gathering dangers. Justifying preventive war in this way would represent a sharp departure from just war norms.”

This is the same issue, the re-definition of “imminent threats” to mean “potential or gathering dangers.” This is not its meaning as self-defense has been commonly understood.

Proper Authority and Public Disclosure

The Obama administration policy on drones also pushes at the limits of Just War theory, and possibly beyond, in the criterion of “legitimate authority” to war. In the history of the development of Just War theory, the only one who was deemed to have the authority to authorize the use of force by the nation was the “sovereign,” or ruler. As Just War theory and the LOAC has developed in relationship to democratic societies, this involves, for the U.S. in specific, democratic authority as represented in domestic not just international law.²¹ It is an important legal and also moral question as engaging in war puts not only the lives of combatants at risk, but potentially the lives of many of the citizens. This is not a decision to be undertaken

²⁰ “Would An Invasion of Iraq be a ‘Just War?’” United States Institute of Peace Special Report, January, 2003. Accessed June 19, 2013. <http://www.usip.org/files/resources/sr98.pdf>.

²¹ “The Law of Armed Conflict Deskbook 2012,” Ibid, p. 29.

lightly.

The Justice Department memo depends a 2001 Congressional authorization to argue for “all necessary and appropriate” use of force against al-Qa’ida” as the warrant for the conduct of drone warfare. That authorization was passed immediately after the attacks of 9/11, as President Obama also notes in his May, 2013 speech. It is now fully twelve years later. It is arguable that this vote taken in a time of extreme national crisis should receive a public, comprehensive review for such sustained and varied use of force.

The secretive nature of the drone program makes public review difficult, however, undermining the ability of a democratic society to assess whether Just War principles are being followed. Thus the “public declaration” of war per the U.S. Constitution should guide not only to access by the Senate Intelligence Committee to all Justice Department opinions related to the targeted killing of Americans to allow members to fulfill their oversight responsibilities,²² but also to the entire program.

There is an ongoing debate in the United States over the presidential versus legislative war powers, especially since World War II.²³ But the extreme secrecy of the drone program makes even a minimal amount of oversight nearly impossible, and it shuts out the American people completely from being able to know how force is being used in their name.

Proportionality

A substantial part of the argument for the morality of the drone program is that it enables the U.S. to kill terrorists without substantially endangering local populations. The President acknowledged civilian deaths in his May, 2013 speech, calling them “a tragedy.”²⁴ But there was no specificity on the number or context of civilian deaths.

Given the secretive nature of the drone program, accurate information on the number of civilians killed in drone strikes is very difficult to obtain. The Bureau of Investigative Journalism²⁵ in the United Kingdom has estimated that since the beginning of the Obama presidency, between 282 and 535 civilians were credibly killed by drones strikes, including 60 children, and includes the disturbing

²²“White House releases drone memos ahead of Brennan vote,” *USAToday*, March 5, 2013. <http://www.usatoday.com/story/news/politics/2013/03/05/white-house-target-killings-documents/1964929/>.

²³ “The Balance of War Power: The U.S. President and Congress,” The Council on Foreign Relations (June 20, 2011). <http://www.cfr.org/united-states/balance-war-powers-us-president-congress/p13092>

²⁴ “Obama’s Speech on Drone Policy,” *Ibid*.

²⁵ The Bureau of Investigative Journalism. <http://www.thebureauinvestigates.com/>.

information of targeting of rescue personnel and funerals.²⁶ If that were true, it constitutes a war crime.

The crucial question of civilian deaths from drones is examined in Chapter [] of this volume.

Beyond these issues of imminence, authority, and proportionality, there is a further difficulty with the drone program relative to the criteria of Just War. There is no clear exit strategy.

No Exit?

Ending war well, or Jus post Bello, is a part of Just War theory that is currently being further developed. Certainly, Jus ad Bello considerations include the likelihood of success, which implies that war, to be just, needs to have an exit strategy. Today, the idea that you should not even engage in war if you cannot see a way to end a conflict well has never been more important and more violated.

Jus post Bello is being developed from several different directions. The return of a society from war to peace is critical and it is a difficult concept when combat is so widespread among populations, there is little discrimination between combatants and civilians, and there are often massive human rights violations that must be addressed. The interest in Truth and Reconciliation Commissions, for example, is one way 'ending war well,' not only between states but also in the case of civil wars, is being explored.²⁷

The rehabilitation of a concept of exit strategy requires imagining a post-war environment for the "War on Terror" that reduces its status from war to pursuing criminal conduct by groups within various nations in concert with the relevant national authorities as was noted in the President's May, 2013 address. Sometimes this "exit strategy" will actually have to involve helping to create the institutions that are capable of being partners in the pursuit of criminal, i.e. terrorist actors. This is certainly the case in countries like Pakistan and Yemen.

The very ease of the use of drones and the difficulties of such country-by-country work to increase the capacity of civil societies to deal effectively with terror actors are in tension.

²⁶ Chris Woods and Christina Lamb, "CIA tactics in Pakistan include targeting rescuers and funerals," The Bureau of Investigative Journalism (February 4, 2012). <http://www.thebureauinvestigates.com/2012/02/04/obama-terror-drones-cia-tactics-in-pakistan-include-targeting-rescuers-and-funerals/>

²⁷ Rosalind Shaw, "Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone," United States Institute of Peace Special Report, February 13, 2005. <http://www.usip.org/publications/rethinking-truth-and-reconciliation-commissions-lessons-sierra-leone>.

The reason given for the use of drones along the border in Pakistan, for example, is that the area is controlled by the Taliban and local law enforcement is either corrupt or ineffective or unwilling to pursue the terrorists, or all three. Thus, an “exit strategy” for the “war on terror” has to include police and judicial re-training.

While it is argued that it is not possible to effect this shift from drones to local policing, there are reasons why those suffering the effects of drones in these areas would have an interest in an alternative. The stress on local populations from even when the drones are just flying over the region is enormous. Stanford University-NYU project called Living Under Drones documents what life is like in the drone zone:

Interviewees described the experience of living under constant surveillance as harrowing. In the words of one interviewee: “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.” Another interviewee who lost both his legs in a drone attack said that “[e]veryone is scared all the time. When we’re sitting together to have a meeting, we’re scared there might be a strike. When you can hear the drone circling in the sky, you think it might strike you. We’re always scared. We always have this fear in our head.”²⁸

Civilians are being killed, despite the much-vaunted idea that drones are so “targeted” in their killing of militants that civilian deaths are minimal. A March 2011 drone strike killed at least 38 civilians in Pakistan.²⁹ A Pakistani tribal elder, Malik Faridullah, described the result of the so-called “precision bombing.”³⁰ “There were no bodies, only body parts — hands, legs and eyes scattered around. I could not recognize anyone. People carried away the body parts in shopping bags and clothing or with bits of wood, whatever they could find.”

It is clear, then, that these local populations have a vested interest in getting the drone strikes to stop, and this may provide an opening for a “war on terror” exit strategy. The alternative is to continue with this concept of permanent war that is surely helping to create the next generation of terrorists.

A local tribal elder spoke about the civilian deaths from his village. “We are a people

²⁸ The International Human Rights and Conflict Resolution Clinic of Stanford Law School (Stanford Clinic) and the Global Justice Clinic at New York University School of Law (NYU Clinic), “Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan.” <http://www.livingunderdrones.org/report/>.

²⁹ Susan Brooks Thistlethwaite, “Drone wars: The temptation of automated conflict,” *Washington Post*, On Faith. (December 5, 2011).

<http://tribune.com.pk/story/133842/drone-strike-kills-8-in-datta-khel/>.

³⁰ Ibid.

who wait 100 years to exact revenge. We never forgive our enemy. How much is the accelerating failure of our foreign policy goals in Pakistan, a nuclear-armed state increasingly at odds with the US, the product of such drone attacks? And how little we may understand of the long-term sabotage of our capacity to re-build this relationship in the future.

Are these then the very conditions that give rise to more terror attacks?

The extensive use of drones by the Obama administration has pushed at the limits of Just War theory, as represented in the LOAC, and indeed pushed through them. The first drone strike under President Obama's administration took place in northwest Pakistan — just 72 hours after his inauguration. Since then there have been an estimated 300 drone strikes in Pakistan, according to The New America Foundation. 2009 was called "The Year of the Drone" according to the Foundation.³¹

At the beginning of 2013, by contrast, there was a "ceasefire" in the use of drones in Pakistan. The drone attacks resumed after the Pakistani elections, however, but characterized as a "leaner" approach.³² It is unclear how much of a shift this is in policy, or whether it is politically strategic given the need for the U.S. to build relationships with a new civilian government in Pakistan.

One thing is clear, however, and that is that drone warfare has not ceased.

The idea that "new threats" must dictate new approaches to the use of force tends to undermine the usefulness of Just War theory in setting limits on the use of force. Is it really "new threats" or new technology that is driving the idea that we need to "redefine" "older" ideas like authority, last resort or ending war? There is a live risk, as the use of drones for killing individuals continues, that such a practice becomes an acceptable way to achieve certain foreign policy goals. There is a risk that drone war will push us even further toward the idea that war can become a permanent fixture of American foreign policy. The idea that this "new" form of war in response to threat can be done in a less costly fashion in terms of loss of American lives and be less expensive constitutes a moral hazard.

³¹Peter Bergen and Katherine Tiedemann, "The Year of the Drone." New America Foundation, February 24, 2010.

http://www.newamerica.net/publications/policy/the_year_of_the_drone.

³² Paul D. Shinkman, "Strike Against Pakistani Taliban Ends Drone Cease-fire: Attack against Taliban No. 2 Waliur Rehman demonstrates Obama's new drones policy, experts say," *U.S. News and World Report* (May 30, 2013).

<http://www.usnews.com/news/articles/2013/05/30/strike-against-pakistani-taliban-ends-drone-cease-fire>

Drones and Moral Hazard

Just War has endured over centuries because humanity seems to recognize that it must have some limits on the use of lethal force between or among nations, or human history would indeed be a “war of all against all” per Thomas Hobbes. One reason we surely need Just War theory is as a brake against the idea that the use of lethal force by a state is easily justified or executed.

From “You shall not kill” (Exodus 20:13) to the statement from the Universal Declaration of Human Rights of the United Nations³³ that “[E]veryone has the right to life, liberty and security of person,” the bias in moral reasoning is that killing is wrong. Any effort to justify killing whether state-sponsored or by individuals is therefore by definition “on the defensive,” that is, the onus is on those who would override the bias in the history of both religion, law and philosophy against killing a human being. War is state-sponsored organization of the use of lethal force. The line between killing in war, which is authorized, and murder, which is unauthorized in a context of war, is not as fine as we would like to believe. Wars can exhibit incidents of “degenerate war,” that is, the deliberate killing of civilians.³⁴

The chief moral problem of the drone program is that drone warfare seems sanitized and with far fewer moral dilemmas about the conduct of war, and thus can seem tailor-made for to a scenario portrayed as one of “new threats.” Drones are also presented as “cheaper,” and with the Iraq war now estimated to cost three trillion dollars this can also seem attractive to the American people. Drones make killing seem “safe” and “easy.” It gives too much power to those engaging in killing. The ability to kill without risk of American lives promotes enormous moral risk. Augustine of Hippo, one of the historic Christian thinkers on Just War theory, argued the lustful love of power was the chief moral risk of using violence.³⁵

A 2012 Washington Post/ABC News poll ³⁶showed that eight in ten Americans (83 percent) approved of the Obama Administrations use of unmanned drones against suspected terrorists overseas. Fifty-nine percent strongly approve. The support is also bi-partisan. Two-thirds say they approve the targeting of American citizens who are suspected terrorists.

When Wall Street bankers tried to take “risk” out of mortgage lending, it created

³³ “The Universal Declaration of Human Rights,” United Nations.

<http://www.un.org/en/documents/udhr/index.shtml>.

³⁴ Martin Shaw, *War and Genocide: Organized Killing in Modern Society* (Cambridge, UK: Polity Press, 2003).

http://books.google.com/books/about/War_and_Genocide.html?id=nwcSTPnTbOYC.

³⁵ “Abrahamic Alternatives to War,” Ibid.

³⁶ “Washington Post-ABC News Poll,” *Washington Post*, February 4, 2012.

http://www.washingtonpost.com/wp-srv/politics/polls/postabcpoll_020412.html.

“moral hazard.” Moral hazard is a term from economics that applies to a situation where a party will have a tendency to take greater risks because the costs that could occur will not be felt by the party taking the risk. The most recent economic “great recession” was caused by moral hazard and it created a catastrophic impact on the economy. The natural brake on risky lending, that is, that individual banks would be risking their own financial capital if they made a lot of risky loans, was removed with the bundling and sale of sub-prime mortgages. The very balance self-interest can bring to capitalism, namely the risk/reward structure, was eliminated. The temptation of the huge amounts of money to be made from risky lending, in the absence of a brake induced by self-interest, was simply too great.

In the same way, drones tempt nations to use force as a “first resort” rather than as a “last resort,” a key Just War criterion used to evaluate whether force is justified, and one explicitly acknowledged by President Obama in his May, 2013 address, as quoted above. “Last Resort” is defined as follows: “The State may resort to war only if it has exhausted all plausible, peaceful alternatives to resolving the conflict in question.”³⁷ In traditional warfare between nations, both sides to a conflict are risking lives, property and even sovereignty in a war. “Last Resort” is a kind of practical morality, driven by prudent self-interest. States should not undertake conflicts unless they have exhausted all possible peaceful ways of preventing and resolving conflict because traditionally, the lives of all parties in a conflict are potentially at risk. But drones can appear to obviate that aspect of self-interested, practical morality.

This is the moral hazard in a nutshell: American lives cannot be the only lives that matter when war is considered.

The Hidden Costs of Drone Wars

Drone strikes are popular because they seem effective in reducing the threat of terrorism without loss of American lives, and without the cost of “boots on the ground.” Recent research shows that this is a dangerous distortion of what is really happening to people involved in conducting drone warfare. Drone operators are being physically, mentally, and it is arguable, the spiritual distress of “moral wounding” from conducting combat in this way.

As recent work on “moral wounding” among both soldiers and veterans who suffer post-traumatic stress disorder shows, engaging in war wounds not only physically, but morally, because on the ground, the definitions of what is moral and what is not blur and even merge. Moral woundedness is not the same as post-traumatic stress disorder, though they are often related. Moral woundedness comes from “having

³⁷ “The Law of Armed Conflict Deskbook 2012,” Ibid, p. 14.

transgressed one's basic moral identity and violated core moral beliefs."³⁸ Wars today such as the ones in Iraq or Afghanistan, where the lines between civilians and combatants are so blurred, and every situation can be potentially lethal, lead to moral confusions as actions that may be justified are also horrific.

In a recently issued report³⁹ from the Department of Veterans Affairs, a veteran commits suicide nearly once every hour. Suicides of those on active duty hit an all time high in 2012.⁴⁰ More American troops have died from suicide than from combat related injury in the wars in Afghanistan and Iraq. Drones are coming to be viewed as a remarkably attractive alternative to this kind of loss of American life, but ironically enough recent studies such as one by the Air Force show that close to half (46 percent) of drone operators have high levels of job-related stress.⁴¹ The survey was conducted with nearly 1,500 Air Force personnel, including those who operate Predator, Reaper and Global Hawk drones (840). They had "high operational stress" rated as 8 or above on a scale of 0 to 10, with 10 as the highest level of stress. There were significant (though smaller) levels of "clinical distress" like anxiety, depression or stress severe enough to disrupt work or family life, and fully a quarter of the Global Hawk sensor operators demonstrated this "clinical distress."⁴² Clinical distress is, of course, an indicator that an individual will develop post-traumatic stress disorder.

In addition, the "cost savings" in terms of real dollars from using drones may ultimately prove to have been exaggerated. Drones are a technology field that is rapidly expanding. Security analysts project that worldwide spending on drone aircraft to roughly double over the next decade to 11.4 billion.⁴³ This may not seem

³⁸ Rita Nakashima Brock and Gabriella Lattini, *Soul Repair: Recovering from Moral Injury After War*, Book Description. <http://www.amazon.com/Soul-Repair-Recovering-Moral-Injury/dp/0807029076>.

³⁹ "VA Issues New Report on Suicide Data," The Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, February 1, 2013. <http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2427>.

⁴⁰ Robert Burns, "2012 Military Suicides Hit Record High of 349," Associated Press, Military.com News. <http://www.military.com/daily-news/2013/01/14/2012-military-suicides-hit-record-high-of-349.html>.

⁴¹ Elisabeth Bumiller, "Drone Operators Show High Levels of Stress," *The New York Times*, December 18, 2011. http://www.nytimes.com/2011/12/19/world/asia/air-force-drone-operators-show-high-levels-of-stress.html?_r=0.

⁴² Ibid.

⁴³ "11.4B annual growth in UAV expenditures," UPI.com, April 12, 2012. Accessed June 19, 2013. http://www.upi.com/Business_News/Security-Industry/2012/04/12/114B-annual-growth-in-UAV-expenditures/UPI-12181334228007/. See also: Daniel Solon, "Drones Sales Flourish in a Time of Austerity," *The New York Times*, June 16, 2013. <http://www.nytimes.com/2013/06/17/business/global/drone-sales-flourish-in-a-time-of-austerity.html?src=recg>.

“economical” to many, but in an era of Defense Department cuts, and urgent needs for funding a range of urgent national needs like schools, infrastructure, Medicare and Medicaid, and Social Security, to name only a few, the escalating cost of drones will have an increasing impact on the national budget.

It may be, in fact, that drones constitute the ‘tip of the iceberg’ when it comes to automation of war. The future of warfare can be extrapolated from the acceleration of robot combat research to a scenario where nations outsource war to machines. “The future of drone warfare, in other words, is frighteningly futuristic. It’s not just happening in the sky either. Soon enough, we’ll have four-legged robots on the battlefield and surveillance submarines patrolling the oceans,” argues an article in *The Atlantic*.⁴⁴ This is unlikely to “less costly” in monetary terms, and it will not, in the end, result in war that is non-lethal. It is a only question of lethality for whom and how.

Perhaps a way forward is not to continue to automate war as a counterterrorism strategy. This may, in fact, be a good moment in American history for that view. The American people are cognizant of how much we have lost to war in the last decade, both in terms of lives and money. Polling on the wars in Iraq and Afghanistan for several years now suggests a majority of the American public thinks neither war was worth fighting, and that is certainly due to the loss of life, the huge number of catastrophic injuries, and the cost in real dollars that could have been spent on urgent national needs.

There is another way to address these concerns.

Just Peace and Counterterrorism

Just War requires an exit strategy from war. Just Peace can offer a roadmap to create real conditions for addressing the causes of terrorism that will obviate the perceived need for drones. Just Peace, in this sense, is a proposal for a counterterrorism strategy that does not involve the use of drones, or presume the necessity of force. Just Peace does not, in the opinions of the original architects, however, rule out the use of force under Just War guidelines, though there is not consensus on this issue.⁴⁵

The 2008 edition of the Just Peacemaking book was a new edition, re-written to address the challenge of counterterrorism in the new millennium. The new Introduction states, “effective action against terrorism requires much more than relying on military action alone...We need *initiatives* to correct he injustices that cause terrorism; *structures of justice* that dry up the sources of recruitment of

⁴⁴ Adam Clark Estes, “The Future of Drone Warfare is Scary,” *The Atlantic Wire*, February 6, 2013. <http://www.theatlanticwire.com/technology/2013/02/future-drone-warfare-is-frightening/61884/>.

⁴⁵ *Just Peacemaking* (2008), *Ibid*, p. 9.

terrorists; we need *international networks of cooperation* against terrorism.” These are, in short, the Just Peace paradigm.⁴⁶ The new edition, in each chapter, has incorporated revisions to make these clear connections.

This kind of proactive, interrelated “practice norms” approach is what distinguishes Just Peace from pacifism. “[P]acifism witnesses against violent action and for nonviolent action,” but in general it has lacked “clear guidance about which practices do work to prevent terrorism,” and to prevent war and conflict. This is the niche between Just War and Pacifism that Just Peace occupies. Just Peace does have such clear guidance.

The limited usefulness of force, and the need for alternative strategies was explicitly named by President Obama in his May, 2013 address:

“I believe, however, that the use of force must be seen as part of a larger discussion we need to have about a comprehensive counterterrorism strategy -- because for all the focus on the use of force, force alone cannot make us safe. We cannot use force everywhere that a radical ideology takes root; and in the absence of a strategy that reduces the wellspring of extremism, a perpetual war -- through drones or Special Forces or troop deployments -- will prove self-defeating, and alter our country in troubling ways.”⁴⁷

This section of the address followed the line of the President’s thinking from the Oslo address in mentioning several practices that overlap with the Just Peace paradigm. The President talked about “supporting transitions to democracy in places like Egypt and Tunisia and Libya” (Just Peace Practice 5) to promoting “peace between Israelis and Palestinians” (Just Peace Practice 3) to helping “countries modernize economies, upgrade education, and encourage entrepreneurship” (Just Peace Practice 6). Thus the speech contained hints about the long-term benefits of converting counterterrorism work to Just Peace practices.

Far more work can and should be done to elaborate the counterterrorism benefits of a Just Peace approach among policy analysts in Washington D.C. beyond that done by religious leaders, scholars and activists, but this has not been done despite the fact that the Just Peace paradigm has been in existence for a quarter century. The policy work that is published in Washington D.C. has been by the United States Institute of Peace and is authored by the original Just Peace architects, and interfaith religious leaders and scholars committed to the paradigm.⁴⁸ To date, the 2008 *Just Peacemaking* book, speeches, blog posts and journal articles⁴⁹ by Just Peace

⁴⁶ Ibid, p. 2.

⁴⁷ “Obama’s Speech on Drone Policy,” Ibid.

⁴⁸ Susan Thistlethwaite and Glen Stassen, “Abrahamic Alternatives to War,” United States Institute of Peace “Special Report” (2007).

<http://www.usip.org/pubs/specialreports/sr214.html>

⁴⁹ Pamela K. Brubaker, Glen H. Stassen, Janet L. Parker, “A Critique of Jean Bethke

proponents have constituted the majority of such analyses. This is clearly not adequate.

Nevertheless, these documents provide important policy clarifications and guidelines often missing when the use of force, including drones, and the alternatives, are being considered. But without far more work being done on the specific policy implications of the Just Peace practices, it remains marginal in foreign policy work. Moreover, the complex layering of Just Peace practices, alongside contextual analysis of specific conflicts and their causes, seems not to make it into the debate and policy implementation.

One example can be seen in the critique of the view, both widely held and used as a foil in arguing for the use of force, that “poverty breeds terrorism.” “Poverty breeds terrorism” is a view summarily dismissed by theorist of Just War counterterrorism efforts, Jean Bethke Elshtain, for example. Elshtain is correct in her dismissal of the view that “poverty breeds terrorism,” but wrong in terms of the political science analysis employed in Just Peace approaches to economic issues, and their practical application in relationship to what will be effective in counterterrorism.

The Just Peace analysts hold that it is not abject poverty, but the “deprivation relative to expectations” theory as put forward by Ted Gurr in his book, *Why Men Rebel*, that is an indicator for terror recruitment and action. Gurr’s book won the American Political Science Association’s award for best book in the year it was published. Through extensive cross-cultural and transhistorical data analysis, this study reveals that the most powerful explanation for violence is deprivation relative to expectations. It is not absolute poverty, but economic deprivation relative to expectations that is a key indicator. When economies do not deliver for people who are educated, who have training and skills, and who are instead subject to human rights and economic deprivations, violence is likely.

The “relative deprivation thesis” explains a great deal about the “Arab Spring” and the most recent tumult in Egypt in particular. The “Jan 25” revolution in Egypt, for example, was triggered by widespread unemployment, especially in the leadership, of an educated group of young Egyptians, as well as by political repression.⁵⁰ The recent “coup” or “non-coup” by the Egyptian military was triggered by massive street demonstrations, led again by a “grassroots” movement that has continuity of

Elshtain's Just War Against Terror and an Advocacy of a Constructive Alternative,” *Journal of Religion, Conflict and Peace*, (Volume 2, Issue 1, Fall 2008).
<http://religionconflictpeace.org/volume-2-issue-1-fall-2008/critique-jean-bethke-elshtains-just-war-against-terror-and-advocacy>

⁵⁰ “Timeline: Revolution in Egypt,” *LA Times*. <http://timelines.latimes.com/egypt/>

leadership from the anti-Mubarak revolution.⁵¹ Those who took to the streets in 2011 are largely those who took to the streets in 2013, especially in their leadership; the reason is their economic situation had worsened rather than improved under Morsi and the Muslim Brotherhood.

It is therefore superficial, and ultimately distorting, to list a series of practices such as democracy, economics, education and so forth without an accompanying commitment at the highest levels of policy makers to doing in-depth analysis of how relative economic deprivation will destroy nascent democracy. Education did not help young Egyptians relative to their economic aspirations, and this is literally killing the chances of Egypt becoming a functioning democracy.

This applies to the Palestinian/Israeli conflict in very specific ways. The Obama Administration, through the efforts of Secretary of State John Kerry, has made concerted efforts to restart the “peace talks” between Israel and the Palestinians. But it is crucial to realize, as economists Alan Krueger and Jitka Malecková have shown, how the “relative deprivation” thesis is central to that protracted conflict as well. For example, “when Palestinian college enrollment doubled in the early 1980’s, coinciding with a sharp increase in the unemployment rate for college graduates,” and “the real daily wage of college graduates fell by around 30%,” this created a cadre of “frustrated and angry Palestinians” who joined the intifada of 1988. Further deterioration in the labor markets helped trigger the violent intifada of 2000.⁵² Thus education without broad-based economic opportunity and political repression is an accelerant of violence, not by itself a preventive measure for conflict. Any peace “talks” that do not have this kind of comprehensive analysis may, in fact, run the risk of furthering the kind of despair that drives the deprivation thesis; if U.S. efforts raise hopes for peace among Palestinians, and this is yet again dashed and economic and human rights further deteriorate, this can become a very fertile soil for renewed terrorism.

The application of the “relative deprivation thesis” to Pakistan could also be fruitful, but as with all of the countries where systematic and sustained lack of economic opportunity, especially for the young, is a fruitful soil for terror recruitment, the time needed for effective change is long.

But specifically in the case of Pakistan, there is a Just Peace practice that could be immediately implemented and might have a good chance of producing immediate as well as long term results. This is Just Peace Practice #2: “Take Independent Initiatives to Reduce Threat.” This was first proposed as a peacemaking strategy by Charles Osgood in 1962. Osgood’s point was that in a relationship of deep distrust and heightened suspicion, military threats or even worse, military action, makes the situation far worse. Instead, Osgood proposed taking what he called “independent

⁵¹ “Profile: Egypt’s Tamarod protest movement,” *The BBC News Middle East* (July 1, 2013). <http://www.bbc.co.uk/news/world-middle-east-23131953>

⁵² *Just Peacemaking* (2008), p. 6.

initiatives.” The strategy is to take a concrete, verifiable action that decreases the real sense of threat perceived by the other side, but that does not leave the initiator vulnerable. The step is taken unilaterally, however. If the other side responds favorably, more steps can be taken.⁵³

A Just Peace approach to the use of drones in Pakistan would be to just stop. This would need to be done in an open, transparent fashion, and following the Just Peace paradigm, monitored independently (i.e. by civil society and human rights groups, and by credible journalists). No drones at all could be flown, as there is no way to verify from the ground which are surveillance and which are armed, and it is clear, as noted above, the stress levels of populations increase with drone surveillance.

This would certainly change the situation between the U.S. and Pakistan in an immediate way that does not credibly leave the United States vulnerable to immediate attack.

It is not even as dramatic an independent initiative as the one undertaken by President Dwight Eisenhower in 1958 when, at the height of the Cold War, he announced that the United States would *unilaterally* halt atmospheric testing of nuclear weapons. The Soviet Union also then halted such tests, and the halts lasted almost three years. After testing had resumed, another halt was initiated and this ultimately led to the 1963 Atmospheric Test Ban Treaty and the beginning of a thaw in the Cold War.⁵⁴

In his May, 2013 address, in specific reference to drone strikes against “terrorists,” President Obama categorically stated, “So doing nothing is not an option.” An “unexpected initiative” of halting drone strikes in Pakistan is not “doing nothing,” it is “doing something,” namely employing a proven, proactive peacemaking strategy. It should be accompanied by a great deal of publicity and real verification of the fact that the drones strikes have stopped completely should also be publicized.

This is the kind of conceptual and practical shift that a Just Peace approach to counterterrorism entails. A Just Peace approach to “independent initiatives” is not “doing nothing,” it is a peacemaking strategy. In addition, a Just Peace approach to counterterrorism is not a list of economic projects funded by USAID in a silo alongside “democracy promotion” alongside education alongside peace talks between Israelis and Palestinians and so on. It must be analytical, integrated, sustained, and constantly contextually evaluated. Just Peace cannot be an effective counterterrorism approach that would reduce or eliminate the need for the use of force, including drones, unless there are contextual analyses and long term commitment to creating the complex conditions on the ground that interrelate to reduce and eventually eliminate the conditions that give rise to terrorism.

⁵³ Just Peacemaking (2008), Ibid, pp. 57-59.

⁵⁴ Ibid, p. 59.

When practices that appear to be “Just Peace” are employed as counterterrorism measures without the full and sustained analysis and activity contained within the paradigm, there is a live risk of reduced effectiveness and perhaps even the unintended production of conditions that can lead to more terrorism. Just Peace practices such as “independent initiatives” are not even tried, as the full potential of their counterterrorism impact seems either not seen or understood.

Another roadblock to Just Peace becoming an effective counterterrorism strategy is that current drone policy and practice contradict significant parts of the Just Peace paradigm. The paradigm, from the community level to the national level to the international level, requires trust-building as a significant component. Lack of transparency, civilian deaths, international opposition instead of cooperation, and no discernable endpoint for drone warfare all erode trust and thus stifle Just Peacemaking efforts from the beginning.

This is, in fact, why taking an “independent initiative” to simply stop drone strikes in Pakistan has so much potential. As a verifiable, unilateral act, it would remove the roadblock of inadequate Just War justifications for the use of drones, though, of course, not remove the history of drone use. But over time, especially when combined with other Just Peace practices, that could improve.

Just War and Just Peace conceivably can work together in a comprehensive strategy to combat terrorism and bring about significant reductions in global violence. Poorly understood and inadequately implemented, these approaches can work against each other and be minimally effective or counterproductive.

But today, we have far more tools to use in counterterrorism that do not require the use of drones, or the use of force at all, and therefore the need to justify the use of force. Surely the world needs leadership in showing the power of justice and peace in foreign policy.