

# The “Ring of Gyges” Effect: An Ethical Critique of Lethal Remotely Piloted Aircraft

by Matthew D. Pride

The U.S. Army pledges to defend the country against all enemies, foreign and domestic, in a manner that upholds national values. One such way recent presidential administrations make good on their pledge to protect the American people is by authorizing military strikes using the remotely piloted aircrafts (RPA). If RPA do act as a political deposit on the sacred oath sworn by our leaders to protect and defend the constitution, does the policy likewise uphold the traditional norms associated with justice in war (*jus in bello*)? In other words, does the U.S. Government violate *jus in bello* in its use of RPA to conduct military strikes? This article aims for two broad areas. The first, and most substantial, is the legal and moral basis for any justifiable military action. The second deals in understanding the intention behind such policy that uses RPA to achieve a desired end state. This article critiques the morality, legality, and military ethics of the United States’ RPA Policy.

## Introduction and Background

If it remains true that “the strongest is never strong enough to be always the master, unless he transforms his strength” into virtue, we may ask ourselves the following question: what kind of right or virtue is needed by these modern Gyges?

— Grégoire Chamayou, 2015

U.S. elected officials and military professionals pledge to defend the country against all enemies, foreign and domestic, in a manner that upholds national values and principles. One such way in which the executive branch of government makes good on their pledge to protect the American people is by authorizing military strikes using remotely piloted aircrafts (RPA). If tactical strikes using RPA do act as a political deposit on the sacred oath sworn by our leaders to protect and defend the constitution, does the policy likewise uphold the traditions of U.S. military service and justice in war (*jus in bello*) writ large? In other words, does the United States government violate the ethical principles that comprise *jus in bello* in its use of RPA to conduct military strikes? To examine this question further, it is necessary to explore three broad areas. This article aims for two broad areas. The first, and most substantial, is the legal and moral basis for any justifiable military action. The second deals in understanding the intention behind such policy that uses RPA to achieve a desired end state.

Doctrine comports that for the U.S. Military “to maintain legitimacy as a profession while protecting the interests of the American people, it cannot violate the rights of others when using lethal force to protect our own rights.”<sup>1</sup> This need ties explicitly to the self-evident, unalienable rights denoted in the U.S. Declaration of Independence. On its surface, however, the legitimate use of force to end life appears contradictory with the moral obligation to protect life. As such, legitimate military action presupposes a rigorous internal examination, particularly since the gravity of such a decision subjects it to a moral inquiry. As it were, the legal and moral grounds in Western society for killing in war stems from Just War traditions.

At its core, Just War theory (*jus bellum iustum*) deals with the “right” or “law”—*jus* being the Latin root for justice—of human activity in a state of conflict. *Jus bellum iustum* requires certain conditions to exist

in order for a legitimate authority to choose the option of military force to impose one's will on another sovereign entity. The conditions are: the damage inflicted by the aggressor must be lasting, grave, and certain; all other means of putting an end to the threat must be impractical or ineffective; there must be serious prospects of success; and the use of force must not produce an evil or disorder graver than the evil to be eliminated.<sup>2</sup>

Generally, *jus bellum iustum* is comprised of two main parts, justice for war (*jus ad bellum*) and justice in war (*jus in bello*). Under *jus ad bellum*, nation-states establish a just cause for conflict as the burden for war, publically proclaimed as a formal declaration by a legitimate authority. Under *jus in bello*, military commanders discriminate between civilians and combatants, use proportionality against adversaries, minimize unnecessary suffering, prohibit illegal weapons, and oblige to accept terms of surrender without slaughter. The separate treatments of *jus ad bellum* and *jus in bello* begs the question whether the categories necessarily function in separate domains, thereby are bifurcated. This is not a correct assumption. “[T]he so-called ‘separation’ between *jus ad bellum* and *jus in bello* is mainly for focusing attention on different issues. It does not denote a complete split between the two, as if they had nothing to do with each other.”<sup>3</sup>

To examine the relationship between RPA and *jus in bello*, one must start at first the internal structure of *jus in bello*, which deals with the moral dilemma of whether it is ever acceptable to kill. “The decriminalization of warrior homicide presupposes the structure of reciprocity. The killing is allowed only because it is a matter of killing each other.”<sup>4</sup> The U.S. RPA policy, on its surface, invalidates this premise. Political scientist Sarah Kreps and contemporary philosopher John Kaag observed that “remote-controlled machines cannot suffer the consequences [of their actions] and the humans who operate them do so at a great distance; the myth of Gyges is more a parable of modern counterterrorism than it is about terrorism.”<sup>5</sup> In other words, one may kill without the risk of being killed himself. Put another way, one may kill his victim without the victim having the chance to self-defend.

The “Gyges” effect—when individuals accept as legal and moral the targeted killing of enemy combatants unseen, with impunity, and with zero risk to their person—harkens back to the tale of the “Ring of Gyges,” from book II of Plato’s *The Republic*, written circa 360 B.C. In life, Gyges was a real person—he was the king of Lydia, an ancient kingdom that once existed in the western region of modern day Turkey. Plato used Gyges’ unusual ascension to power as a way to explore the nature and origin of justice. According to Plato, Gyges started life as a poor shepherd. One day, after an earthquake, he stumbled across a cave and found a magical ring on the finger of a dead giant. He soon discovered the ring could cloak his appearance so others could not see him when he wore it. With the power to do whatever he pleased without fear of capture, Gyges seduced the queen, slew the king, and seized power.

In light of this ancient tale, contemporary French philosopher Grégoire Chamayou asked, “If it remains true that ‘the strongest is never strong enough to be always the master, unless he transforms his strength’ into virtue, we may ask ourselves the following question: what kind of right or virtue is needed by these modern Gyges?”<sup>6</sup> U.S. military doctrine’s answer to the Gyges effect is strict moral and legal observance of the military ethic. According to the Army’s doctrinal publication on the Army Profession, “The Army professional’s moral awareness and sensitivity is required for *legally* and *morally justifiable action* [emphasis added].”<sup>7</sup> Upon this essential burden, all military professionals must understand and frame their actions in both moral and legal terms to uphold national values. This thesis examines the nature of the Army professional’s obligation to take legally and morally justifiable action based upon a moral structure founded by the same religious tradition that conceived *jus bellum iustum*—namely, Judeo-Christian theology. Moreover, this thesis examines the morality, legality, and military ethics of the United States’ RPA policy. Its aim is to serve as a primer for a more substantial conversation military professionals and political leaders must have concerning the constraints we ought to place on the prosecution of modern and future warfare.

## Moral Framework

U.S. freedom to employ military capability largely unimpeded by foreign governments is explicity linked to its legitimacy, restraint in its use of military force, and trust in American decision-making. The restraint of military force is a form of limited warfare. The U.S. Government protects the rights and interests of the American people by conducting limited warfare as directed by civilian leaders in a manner that also respects the basic rights of others.<sup>8</sup> RPA represent the continuance of limited warfare within the global security environment.

The U.S. government explicitly intertwines moral obligations with national interests as an act of policy. For instance, the 2015 *National Security Strategy* outlines that U.S. strength to “defend democracy and human rights is related to every enduring national interest.”<sup>9</sup> Army doctrine explicitly states that the Army professional must adhere to the Army ethics, duty that is a moral obligatory. According to the regulation, “The Army professional’s moral awareness and sensitivity is required for legally and morally justifiable action.”<sup>10</sup> In order to understand the nature of the Army professional’s obligation to take legally and morally justifiable action whenever necessary, one must define a moral act.

Morality, simply put, is judgment between what constitutes an inherently good act from wrong or evil acts. For Western society, the earliest forms of moral study pertaining to human behavior stems from the Greek philosophical writings of Socrates and Aristotle. The early Christian church fathers used divine teaching (*sacra doctrina*) to preserve written and oral traditions, and infused Judeo-Christian theology with Greek philosophy to generate a mature moral theology centered upon the intrinsic moral quality of human action. Ethicist Romanus Cessario wrote in *The Theological Virtues and Theological Ethics* that “classical virtue theories depend to a considerable degree upon the work of ancient and, therefore, non-Christian philosophy.”<sup>11</sup> However, this does not necessarily equate to theologians having co-opted an otherwise secular invention of ethics and morality. On the contrary, both Greek philosophy and Christian moral theology point to the same intrinsic moral quality of non-materially derived transcendent virtues and morality. Furthermore, Cessario pointed out the following:

As long as Aristotle contends that ‘human good turns out to be the soul’s activity that expresses virtue,’ the exercise of the moral virtues inescapably brings the person into relationship with others. This happens either directly, as in the obvious case of justice, or indirectly, as when others benefit from one who possesses the virtues of personal discipline, temperance, and fortitude.<sup>12</sup>

The church “insists upon a morality that takes seriously the intrinsic quality and nature of each human action.”<sup>13</sup> Humans are free to act. While natural law implicitly—through conscience—informs right conduct, practical reason and normative experience dictates that we should seek the good and avoid evil. However, before intrinsic moral critique is possible, the individual whose action is in question must be free to act on his or her own cognizance. Natural law provides the framework inside which humans discern right acts from wrong acts in accordance with functional mental faculties empowered through logic and reason.

As previously stated, the early church fathers taught, “A virtue is a habitual and firm disposition to do the good.”<sup>14</sup> In a similar fashion, the Army profession provides a moral, ethical, and just framework to do “good” and avoid wrongdoing. Just as the Christian Church teaches that the human agency is complicit in moral and immoral acts, the Army officer freely accepts his or her obligation to uphold the values and traditions of the profession of arms. This is further clearer in the third part of the officer’s oath of service: I take this obligation freely without any mental reservation or purpose of evasion.

Christian theologians understand the moral good to possess a concrete form, namely three principal elements that shape and explain human activity. The moral act comprises the object, the intentionality

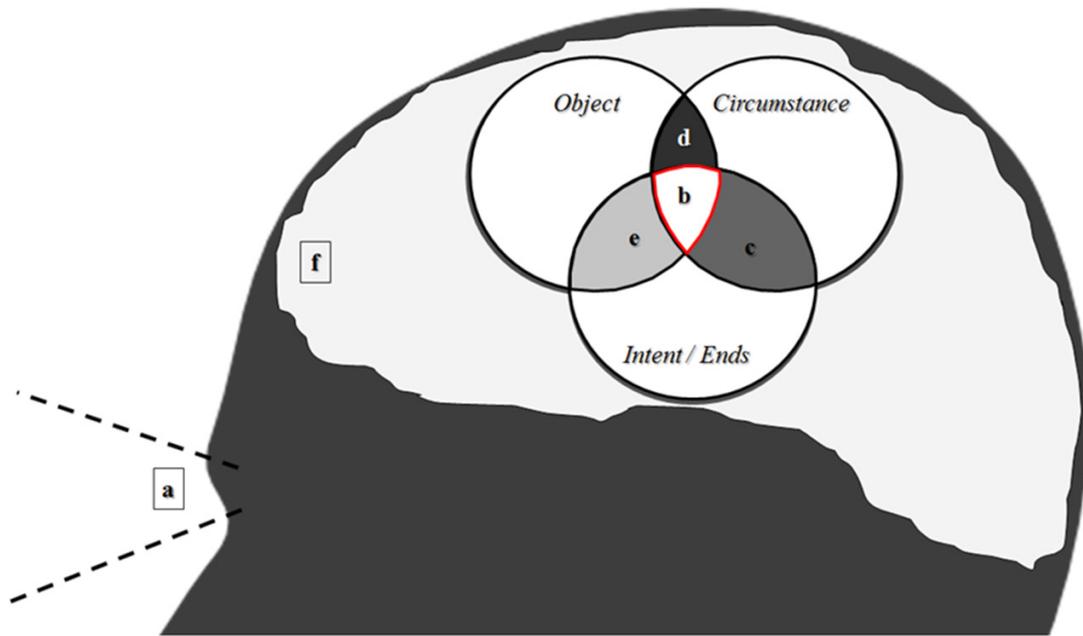


Figure 1. The Three-Part Model of Moral Acts

(also known as the moral ends meant by the act), and the circumstance. “A morally good act requires the goodness of the object, of the end, and of the circumstances together. An evil end corrupts the action, even if the object is good in itself (such as praying and fasting ‘in order to be seen by men’).”<sup>15</sup> For a visual of the three constituent elements to a moral act, refer to Figure 1.

For an action to possess full intrinsic moral quality as being an objectively good act, each of the three elements must be present and upheld, as depicted by the area labeled *b* in Figure 1. “In any human action, the complete form of moral goodness derives from the interplay of these three constitutive elements which determine the action’s moral character.”<sup>16</sup> An act’s intrinsic moral quality diminishes if one of the three elements is short of being good. For instance, acts that fall within areas *c*, *d*, and *e* as depicted in Figure 1 would all have a diminished intrinsic moral quality. It is, therefore, erroneous to judge the morality of human acts in light of only the intention that inspires them or the circumstances that supply their context.<sup>17</sup>

Before providing examples, it is noteworthy that not every aspect of human acts can be perfectly knowable. Therefore, understanding the individual’s perspective who reports the details of an act will lend itself more fully to the discerning the intrinsic moral quality of the act. The area labeled by the letter *a* indicates the important role perspective plays in moral judgment. Everyone views events differently. It bears weight to consider the perspective of the individual who reports the details of any act before passing moral judgment. The area labeled by the letter *f* indicates that humans can discern moral and immoral acts to the extent that they exercise sound reason and judgment, informed by a mature conscience, and deliberated upon through the lens of human tradition. Long-standing traditions associated with war converge with the framework and structure of the profession of arms. The Army professional obliges to take legally and morally justifiable action in times of peace and at war.

The moral object refers to the human action that actually takes place, in this case, the use of RPA to conduct military strikes. With the RPA, the object is the actual employment of the RPA to destroy designated targets that threaten national interests. In accordance with the principle of military distinction, the target of an RPA strike must be a legitimate target, either a combatant or an object tied explicitly to an adversarial military function or capability. The U.S. may employ an RPA to destroy a bomb-making facility, weapons cache, or a

terrorist agent. An individual acting independent of legal mandate or apart from legitimate authority may not take the liberty of employing an RPA under any circumstance. Using an RPA to conduct legal warfare is properly a sovereign state right, not an individual right. The U.S. Government's moral standing to employ the RPA is legitimate, so long as the principles of military necessity, discrimination, and proportionality uphold.

When considering the moral ends of the employment of RPA, one must weigh the intent behind the policy itself, as well as the individual intent of the pilots who decide to destroy the target. If a properly deputized military official remotely pilots an aircraft and employs high explosive munitions to destroy an enemy target, inadvertently killing innocent bystanders in the process, the end is justified so long as the military professional intended to minimize collateral damage to the greatest extent possible. Of course, this condition requires a great deal of scrutiny. Nonetheless, if the pilot's intent was to destroy the target, though inadvertently killing civilians, the principle of unnecessary suffering may uphold. In the aforementioned case, so long as the military professional did not intend to target the innocent non-combatants, the act itself may be legally and morally justifiable, difficult though it may seem. Although acts of war often times result in the loss of human life, the aim of all moral acts in war must not be primarily to lay waste to one's enemies. The total annihilation of one's enemy might be the only way to achieve a lasting peace, but for war acts to be moral, the total destruction of an enemy when necessary must be a secondary or tertiary end, not the primary end.

The final element of a legally and morally justifiable action is the circumstance. The U.S. may employ an RPA to destroy a bomb-making facility, weapons cache, or a terrorist agent, and by doing so, may kill non-combatants as legally and morally justifiable collateral damage. However, the removal of that one bomb-making facility, weapons cache, or terrorist agent, while legitimate, legal, and moral itself, may not achieve enough of a measured impact on the overall war effort as compared to the consequences of the many non-combatants who would lose their lives in the attack. As such, the non-combatants' death might be used as an enemy recruiting tool or as anti-war propaganda, thereby threatening the overall just cause of the war.

The literature on RPA struggles with direct answers to whether the U.S. Government's policy is an evolution in modern warfare that is in keeping with moral and legal norms of *jus in bello*, or if the policy is a wholly different approach to warfare that violates *jus in bello*. Moreover, the literature is absent a coherent moral standard by which one judges the morality of military acts. Most scholars attempt one of two moves on the topic of setting objective moral standards. Some assume away the moral standard, arguing that "the moral world of war is shared not because we arrive at the same conclusions as to whose fight is just and whose unjust, but because we acknowledge the same difficulties on the way to our conclusions, face the same problems, talk the same languages."<sup>18</sup>

Michael Walzer, whose study of *jus bellum iustum* has widely influenced contemporary interpretations of the theory, admitted that a "common morality is the critical assumption" of his work. He further admitted, "were I to begin with the foundation [of morality], I would probably never get beyond them; in any case, I am by no means sure what the foundations are."<sup>19</sup> He did, however, contend, "the study of judgments and justifications in the real world moves us closer, perhaps, to the most profound questions of moral philosophy, but it does not require direct engagement with those questions."<sup>20</sup>

A second and more substantial group of scholars and contemporary philosophers equate morality to legality, forcing morality to conform to legal standards. This position quite understandably derives from the legal mind of Hugo Grotius, whose hallmark work is titled, *Concerning the Law of War and Peace*.<sup>21</sup> For instance, modern writers argue that *jus in bello* governs the way force is applied, and finds its legal expression through international humanitarian law, particularly in the Geneva Conventions, as well as associated laws, conventions, and treaties.<sup>22</sup>

Proponents of this latter position goes further to argue *jus bellum iustum* “is not grounded in firm moral positions, but in conventions that are open to widely divergent interpretations that change over time and circumstance.”<sup>23</sup> It bears mentioning that this article contends quite differently. It rather argues that *jus bellum iustum* grounds firmly upon a fixed moral position, that morality has objective standards that are knowable to the intellect and available for critique and study. Objective moral standard is accessible using the Three-Part Model of Moral Action, which supplies the necessary (historical, traditional, and theological) framework for judging human acts.

The U.S. government contends that the RPA policy conforms to both legal and moral standards and reflects the historical norms of warfare, a position for which this article tacitly agrees. For instance, in defense of RPA, Bradley J. Strawser, an assistant professor at the U.S. Naval Postgraduate School argued in his book, *Killing By Remote Control: The Ethics of an Unmanned Military*, that RPA provide maximum protection to just agents who pursue a just cause, and therefore, the state’s use of RPA is morally obligatory. “His thesis is based on what he calls the ‘principle of unnecessary risk,’ according to which it is ‘wrong to command someone to take on unnecessary potentially lethal risk’.”<sup>24</sup> Strawser sides with the reasonable notion that the field commanders and policy makers are morally obligated to wage a “clean” war when possible. Strawser’s wrote, “[I]t is wrong to command someone to take on unnecessary potentially lethal risks in an effort to carry out a just action for some good; any potentially lethal risk incurred must be justified by some strong countervailing reason. In the absence of such a reason, ordering someone to incur potentially lethal risk is morally impermissible.”<sup>25</sup> Strawser justified his claim in the following way:

I argue that there is an ethical obligation to use UAVs. I argue that remotely controlled weapons systems are merely an extension of a long historical trajectory of removing a warrior ever farther from his foe for the warrior’s better protection. UAVs are only a difference in degree down this path; there is nothing about their remote use that puts them in a different ethical category. My argument rests on the premise that if an agent is pursuing a morally justified yet inherently risky action, then there is a moral imperative to protect this agent if it [is] possible to do so, unless there exists a countervailing good that outweighs the protection of the agent. Thus, I will contend that, as a technology that better protects (presumably) justified warriors, UAV use is ethically obligatory, not suspicious.<sup>26</sup>

However, a critical problem with Strawser’s argument deals in the moral quality of the intent and circumstance behind the principle of unnecessary risk. For instance, Strawser argued that protecting national combatants is a moral imperative for the state when confronting the army of an unjust nation, while dismissing the moral equality of combatants under *jus in bello*. Combatants are not morally culpable for their participation in an unjust war if they possess “invincible ignorance”—a complete ignorance of whether their state satisfactorily met all criteria for *jus ad bellum*. Combatants are not morally culpable for the reasons their nations go to war, particularly if they are not privy to the intelligence and information available to the political leaders, but they are accountable for how they fight a war.

Integral to Strawser’s argument is the dismissal of the notion that there is a moral equality between combatants. The principle of unnecessary risk necessitates states to mitigate risk for “just” combatants to practically nothing, while capitalizing on the death of “unjust” combatants who have no moral equality, thereby making it a principle of riskless slaughter. Strawser wrote, “[T]he warrior fighting for a just cause is morally justified to take the life of the enemy combatant, whereas the unjust fighter is not justified, even if they follow the traditional principles of *jus in bello*.”<sup>27</sup> This article contends differently, arguing rather that the principle of unnecessary risk, as it stands, is morally unacceptable and if adopted will cause otherwise moral agents to pursue immoral ends and diminished moral circumstance.

Israelis Asa Kasher and Major General Amos Yadlin aim similarly to analyze the established principles of *jus bellum iustum* to create space for RPA in modern military ethics by incorporating observations and lessons from the IDF. The two authors argue for “combatant immunity.”<sup>28</sup> Their argument runs along the lines of the state’s moral obligation to preserve the life of its citizens—combatant and noncombatant alike—over and above a moral obligation to protect the lives of noncombatants of other states. In this case, the lives of national Soldiers have greater regard to the state than those of noncombatants who are citizens of other states. Their argument, set forth in *Military Ethics of Fighting Terror*, follows:

A new model of warfare—the counter-terrorism war—requires a new set of rules on how to fight it. The other side is fighting outside the rules and we have to create new ethical rules for the international law of armed conflict, in keeping with the traditional IDF concept of ‘the purity of arms’. . . The duty of the state is to defend its citizens. Any time a terrorist gets away because of concerns about collateral damage, we may be violating our main duty to protect our citizens. We look for alternatives so as not to cause collateral damage, or to cause the minimum amount of collateral damage, but the main obligation is to defend our citizens.<sup>29</sup>

Military professionals who hold to the principle of “combatant immunity” would utilize RPA to eliminate threats without regard to civilian casualties, or, at the very least, noncombatant consideration would be an afterthought. It should be understood that this article upholds that “non-combatant immunity” is an essential criterion of *jus in bello*, represented in U.S. Army doctrine as “the principle of military distinction.” The principle of combatant immunity is objectively immoral. If adopted, it will cause unnecessary suffering and lead to graver evils than whatever good its authors intend to achieve through its practice.

A third theory concerning the morality of “drone warfare” centers on the eventual move to autonomous unmanned systems. Ronald C. Arkin argued in a 2010 article published in the *Journal of Military Ethics* that in light of the continuing investment, research, and development companies and countries, military professionals should embrace autonomous unmanned systems as a morally superior option to human activity in warfare. Arkin posited, “As robots are already faster, stronger, and in certain cases smarter than humans, is it that difficult to believe they will be able to treat us more humanely on the battlefield than we do each other? Fortunately, for a variety of reasons, it may be anticipated that in the future autonomous robots may be able to perform better than humans.”<sup>30</sup> Arkin provided a compelling argument that autonomous unmanned systems present a better moral alternative to human activity and builds upon the notion that autonomous unmanned systems are more conservative, dispassionate, focused, and clear when confronted with the fog of war.

However, Arkin fell short in that autonomous “drones” cannot act morally. Drones are extensions of human activity. Drones cannot act, save for how humans program them to act, and their performance on the battlefield is an extension of the moral values of those who created and employed their use. Humans behave morally or immorally. As such, autonomous unmanned systems will never perform “better” than humans with respect to moral action. Autonomous “drones” are only the object of the moral form of human acts, and in and of themselves cannot have intent or ends in mind as they execute their program. No matter how humans might incorporate autonomous artificial intelligence and RPA into warfare, war will not cease to be a human endeavor, an endeavor wrought with weighty moral, ethical, and legal considerations that is not transferable to autonomous systems.

One can clearly see how RPA adds complexity to moral discernment within in the context of *jus bellum iustum*. Strawser, Kasher, Yadlin, and Arkin all stretch the tradition norms of *jus bellum iustum* to accommodate modern war tools and strategies around the notion that unmanned systems are moral weapons.

## Legal Framework

As previously mentioned, the law of armed conflict has its roots firmly set in Just war theory. (See Figure 2 on page 127.)

Traditionally, wars necessitate a just cause, particularly in Western culture. Rulers and politicians argue for why a war is justified in order to kindle their people's passion for war. Using Figure 2, theologians and philosophers have set certain criteria to justify war: (1) a just cause (2) legitimate authority; (3) public declaration; (4) just intent; (5) proportionality; (6) last resort; and (7) reasonable hope of success.<sup>31</sup>

Scholars may label the criteria differently, but the necessary conditions prior to war have largely unchanged since their earliest conceptions.

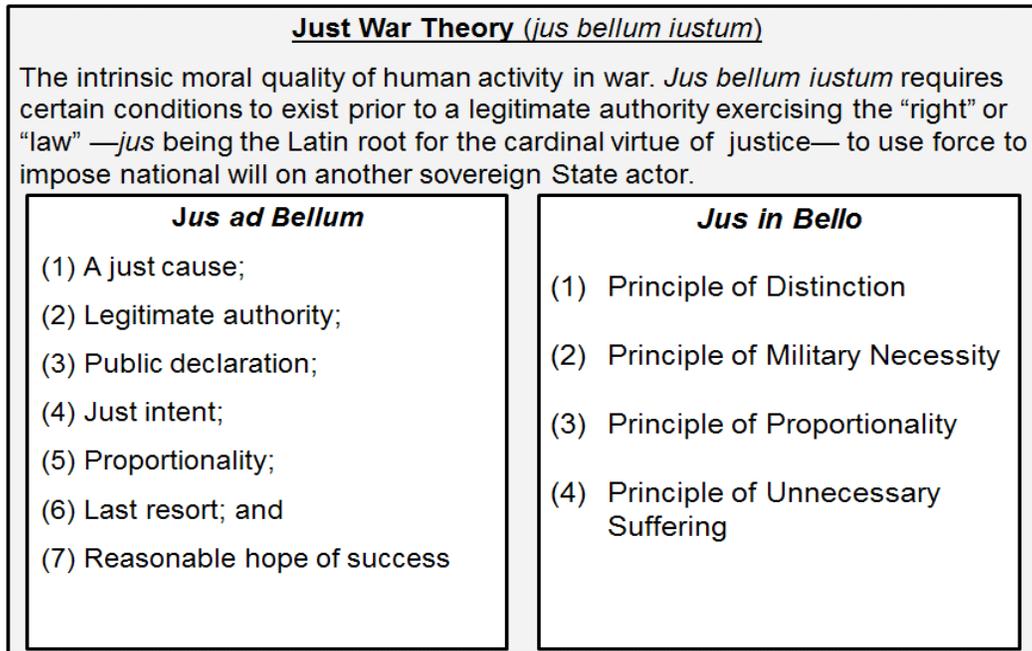
In contrast to *jus ad bellum*, where nation-states are responsible for determining the just cause for war, *jus in bello* holds the individual responsible for just conduct in war. More specifically, military leaders and Soldiers are responsible for their individual behavior and group conduct during conflict. Examples of these responsibilities follow: discipline and training; types of munitions and methods of delivery; discrimination between combatants and non-combatants; treatment of POWs; and medical aid to friendly and enemy wounded Soldiers.<sup>32</sup> Martin Cook narrows *jus in bello*'s scope to two fundamental areas: discrimination and proportionality. "Together," Cook asserts, "they set limits in the conduct of war—limits on who can be deliberately attacked and on how war can legitimately be conducted."<sup>33</sup>

One of the most firmly established provisions of international law of armed conflict is the right of self-defense. *Jus ad bellum*, for both tradition and modern international law, allows nations to defend themselves with the use military force in the wake of imminent danger. After the tragic events of September 11, 2001, President Bush and his national security council formulated four tenets to a doctrine that would later bear his name. Bush wrote in his memoir:

After 9/11, I developed a strategy to protect the country that came to be known as the Bush Doctrine. First, make no distinction between the terrorists and the nations that harbor them – and hold both to account. Second, take the fight to the enemy overseas before they can attack us again here at home. Third, confront threats before they fully materialize. And fourth, advance liberty and hope as an alternative to the enemy's ideology of repression and fear.<sup>34</sup>

The first three tenets of his doctrine set forth a new course for the U.S. and the international community in terms of justice for the use of military force. The president claimed exclusive right to strike preemptively not only those who might be responsible for international terrorism, but also sovereign nations who are unwilling or unable to deal with the threats that exists within their borders. Both the 2002 NSS and the 2006 NSS took unprecedented steps toward a significant expansion of the use of force doctrine. The Bush Doctrine of preemption re-casted the right of anticipatory self-defense based on a different understanding of "imminence." The Bush Doctrine, simply put, is to strike one's enemy first, in full view of an "imminent" national security threat, before the enemy's first strike.

For the first time in NATO's fifty-two year history, the members of the alliance voted to invoke the NATO Charter's Article 5, commonly stated as, "An attack on one is an attack on all." Additionally, on September 12, the UN Security Council passed UNSCR 1368, which explicitly recognized the United States' inherent right of individual or collective self-defense pursuant to Article 51 of the UN Charter against the terrorists (non-state actors).<sup>35</sup> The Obama administration adopted the policies that stem from the Bush Doctrine. Although expressed in less assertive terms, the 2010 NSS, stated, "The United States must reserve the right to act unilaterally if necessary to defend our nation and our interests, yet we will also seek to adhere to standards that govern the use of force."<sup>36</sup>



**Figure 2. Criteria for *Jus ad Bellum* and *Jus in Bello***

On September 14, 2001, Congress passed Public Law 107-40, which authorized President George W. Bush:

...to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.<sup>37</sup>

The congressional Authorization to Use Military Force (AUMF), while short of a declaration of war, granted President Bush wide latitude to prosecute a war against those who perpetrated the acts on 9/11, as well as states who harbored terrorists within their borders. “A notable feature of P.L. 107-40 is that, unlike all other major legislation authorizing the use of military force by the president, this joint resolution authorizes military force against not only nations but also organizations and persons linked to the September 11, 2001, attack on the United States.”<sup>38</sup> This authorization is unprecedented in U.S. governmental and military history—a first of its kind. Today, the administration uses PL 107-40 to justify its use of RPA military strikes as an act of policy. In a letter to the speaker of the house in June 2016, President Obama stated the following:

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional and statutory authority as Commander in Chief and as Chief Executive (including the authority to carry out Public Law 107-40 and other statutes), as well as my constitutional and statutory authority to conduct the foreign relations of the United States.<sup>39</sup>

Ultimately, what lies at the heart of the discussion concerning the RPA policy is whether the U.S. is a legitimate victim with just cause to prosecute the war against international terrorist organizations. Furthermore, one may question whether the proper authorizations to use military force to target “enemy overseas before they can attack us again here at home,” as Bush argued, is legal and is in keeping with *jus ad bellum*.

## Conclusion

At the outset of research for this article, it seemed intuitive that human experience and normative moral reasoning would certainly uphold the ethics of a weapon that could eliminate, or at the very least mitigate, the ugly and destructive reality of war. Likewise, it appeared obvious that if a military leader could avoid having to subject his or her Soldiers to the peril of potential loss of life or serious bodily harm while performing a voluntary patriotic duty or service obligation, they would. In other words, if the U.S. could invent a way to fight wars cleanly—a “clean” war—it would hasten to that end. Suppose America invented a weapon that could deliver all the effects of war without actually endangering the lives of its Soldiers or citizens. It is conceivable that the remotely piloted aircraft (RPA) is the precursor to just such a weapon, one that would place combatants far back from the combat zone that future Soldiers may not need to fight in an actual war.

Far from the forefront of the public mind is the debate on the science and efficacy of the RPA. The area where most attention focuses is on the debate of whether America could, or should, remove “trigger pullers” from combat while preserving the “moral obligation” for someone to “pull a trigger” that kills. In other words, war will forever remain a human endeavor, but it may no longer be a mutually shared human experience between warring parties. While pilots who operate RPA indeed report combat fatigue after spending long hours in windowless rooms, undoubtedly, those windowless rooms are comfortable, air-conditioned quarters. The “combatant” likely sits in ergonomically designed chairs. Indeed, waging war may someday become a clean sport, rather than the messy business it is, more like a remote controlled international manhunt rather than mutually shared bloodshed.

In many ways, *jus bellum iustum* is an impossible standard. “Too often,” critics argue, “the ‘just war theory’ has been used to endorse rather than prevent or limit war. Suggesting that a ‘just war’ is possible also undermines the moral imperative to develop tools and capacities for nonviolent transformation of conflict.”<sup>40</sup> At this point, one must bear in mind the tradition from which *jus bellum iustum* and the three essential elements of moral action derive. Christianity itself, with its idyllic moral precepts and its call of perfect conformity to natural and eternal law, is an impossible standard to meet on our own. Yet, it is precisely in view of such an impossible standard that clergymen and theologians, particularly those who formulated *jus bellum iustum* in the first place, compelled men to pause and reflect, to examine the source of human value and the value of a just society, and to ponder man’s ultimate fulfillment. Upon such deep reflection, it becomes clear that human life is sacred, a just society is beyond value, and the defense of both against a darkness that seeks to destroy it is just.

As our leaders review national policies coming off the heels of the recent elections, we ought to always aim for true legal and moral actions that ultimately and quite purposefully lead to order, peace, and tranquility. While the RPA policy as it stands appears weakly legal and moral, one is compelled to question whether it can lead to the sort of habits needed to live just lives, to make just decisions, to pursue true happiness. This author fears the policy leaves military professionals and public officials easily susceptible to falling victim to the Gyges effect, even as it upholds *jus in bello*. As such, it is the fixed opinion of this author that strict observance of *jus bellum iustum* is precisely the impossible task to undertake to force our eyes to heaven in search of the spirit of prudence, justice, temperance, and fortitude, to fill us with the strength to do the impossible.

The RPA pilot might stretch the traditional notion of lawful combatants, but asymmetry is contingent on other nations gaining technological parity with the U.S., a reality rapidly approaching. A legitimate enemy combatant might be engaged in acts other than activity hostile to the U.S. as he faced demise from an RPA strike, but his death is within a context of war, and the intent for his death is to bring about peace. The RPA might appear to deliver excessive force against defenseless targets, but the cost of capture using

large military forces would gravely deteriorate regional tranquility and stability. The AUMF might appear outdated, but the provisions contained within are unprecedented, recognizing for the president a wide swath of authorities to prosecute the war on international terrorism against state and non-state actors.

Individual RPA military strikes might appear unreasonable to some, but according to Al Qaeda's own leadership, they are highly effective. Finally, it might seem an inordinate amount of civilian casualties suffer from RPA strikes, but the Judeo-Christian *prima facie*, "Thou shalt not kill," is overcome by other weightier moral imperatives inherent to *jus bellum iustum*. The policy, as it appears is moral, but to wield its power may prove to be unwise. It may convince our just military professionals that they could commit an injustice free of accountability, yet uphold a false just image and reputation. The Gyges effect is a slippery slope, and human nature appears all too willing to embrace easier wrongs over the harder and more difficult moral-ethical and legal rights.

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