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## Homo Machina: Italian Perspectives on Drone Warfare within International Humanitarian and Human Rights Law

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Article	Abstract
<p><b>Keywords:</b> Drones; International Humanitarian Law; International Human Rights Law; Warfare.</p> <p><b>Article History</b> Received: Oct 4, 2023; Reviewed: Dec 27, 2024; Accepted: Jan 27, 2025; Published: Jan 31, 2025.</p> <p><b>DOI:</b> 10.28946/slrev.Vol9.Iss1.3199.pp22-48</p>	<p>The rise of unmanned aerial vehicles (UAVs) poses substantial challenges to international legal frameworks governing armed conflicts, particularly in balancing sovereignty and human rights. This paper examines the influence of military technology on <i>jus ad bellum</i>, focusing on territorial sovereignty under Article 2(4) of the UN Charter and self-defence under Article 51. It also evaluates compliance with <i>jus in bello</i>, or international humanitarian law (IHL), including the principles of distinction, proportionality, and necessity. Moreover, it documents the views of thirty Italians on UAVs through online qualitative interviews. The arguments are based on posthumanism, which helps define a new anthropological view that is decentralised and deconstructed. Precisely, the philosophy recognises the increasingly narrow differences between humans and non-humans, men and machines. Thematic Analysis drives the investigation of patterns within the data set, offering a flexible yet rigorous approach to personal insights. Outcomes reveal that UAVs enable many military achievements but endanger society. Participants viewed their use outside war zones as both illegal and morally indefensible, expressing concerns over the dehumanisation inherent in remote targeting. They argued that engaging with suspected terrorists without judicial oversight might violate due process. Hence, they stressed the importance of more nuanced national and international regulatory mechanisms.</p>

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## INTRODUCTION

Since 2014, Russia has repeatedly sent unmanned aerial vehicles (UAVs), or drones, to Ukraine to hit critical military and civilian infrastructures. The contribution of these aircraft to warfare is not new, however. What differs from the past is their unprecedented scale and frequency<sup>1</sup>. Military officials and policymakers praise drones because, with them, they do not have to expose

<sup>1</sup> Erik Lin-Greenberg, “Wargame of Drones: Remotely Piloted Aircraft and Crisis Escalation,” *Journal of Conflict Resolution* 66, no. 10 (2022): 1737–65, <https://doi.org/https://doi.org/10.1177/00220027221106960>.

their soldiers to the enemy's counter-fire. Moreover, technology enables neutralising legitimate military objectives while taking the greatest care not to harm non-combatants. However, this does not always happen. There have been numerous cases of parents who saw their children die and families who lost their breadwinners<sup>2</sup>. When there are survivors, many are left with disabilities requiring expensive medical care. Policy guidance can be flawed, and countries do not always comply with international law. Even when UAVs are weaponised to combat terrorism, their utility has proven limited, with little impact on extremists' preparedness, resilience, or recovery. Determining the justification and morality of armed conflict requires distinguishing between *ius in bello* and *ius ad bellum* within international law. The former regulates conduct during warfare and governs the right to resort to force. While these rules always apply, the precise rationale for this applicability and the mechanisms by which it binds drone performances remain unclear. Most academic publications on the nexus of drones and warfare are literature reviews or quantitative investigations. Therefore, there is a noticeable absence of an analysis of people's sense-making and meaning-making. This paper seeks to fill the gap in the literature by describing the perspectives of 30 adult Italians on whether and how drones affect international law. It also tries to delineate a few policy suggestions. The first part of the manuscript describes the objectives and methods. The second focuses on the theoretical framework, while the third presents the results of online face-to-face interviews conducted by the authors. The fourth section summarises the findings.

## RESEARCH METHODS

### Enrollment Procedures, Data Collection & Analysis

The first author created posts on Facebook and other social media platforms common in Italy to attract people who were adults, spoke Italian or English and were interested in the topic. The posts outlined the project's aims and its structure (e.g., the qualitative nature of the interviews). They indicated that the words 'drone(s)' and 'UAV'(s) referred to armed or strike-enabled flying vehicles unless stated otherwise. Individuals were informed of their rights, including the ability to withdraw throughout data collection (but not after data analysis). A link to an online informed consent form, available in Italian and English, was attached to the posts. Recruitment lasted eight months and resulted in a sample of 30 participants, most of whom were Social/Political Sciences or Law graduates, all identifying as Catholic Christians. The group was otherwise diverse, with participants of varying ages working in different professions.

The authors conducted one-on-one online qualitative interviews via Skype and Webex. The research questions were: (1) What do you know about drone warfare? (2) To what extent do UAVs raise legal, ethical, and regulatory problems, and how do you handle these drawbacks? Adopting the approach of McKinlay and Potter (1987), the authors realised that the position of the primary researcher as both an insider (as Italian) and an outsider (as an academician and human rights activist) may have negatively affected what people chose to disclose. At the same time, a foreigner (the second author) could have facilitated the encounters by putting individuals at ease and lowering barriers that might otherwise persist with a conational. In this research, data saturation was reached after 22 people.

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<sup>2</sup> Jamie Allinson, "The Necropolitics of Drones," *International Political Sociology* 9, no. 2 (2015): 113–27, <https://doi.org/https://doi.org/10.1111/ips.12086>.

The authors applied thematic analysis (TA) to probe the subjective accounts, categorise legal formulae and develop insights into the intersection of society and law<sup>3</sup>. They transcribed the interviews verbatim, divided the text into smaller units, and systematically studied the content. Both latent and semantic aspects were considered in the initial review. Then, they identified data patterns referring to topics of interest, from pre-interview assumptions to new conceptualisations and ideologies born out of the sociological encounters. TA's flexibility helped uncover the narratives' legal meanings and ethical tensions. Driven by the data, the technique was bottom-up/inductive rather than top-down (which would have occurred if shaped primarily by the research questions). They coded the materials separately, and when they finished, they compared the results (with inputs from the interviewees) before moving to new ones. This stage was facilitated by NVivo QDAS<sup>4</sup> rather than manual coding. Over time, they collated sparse data into preliminary concepts. Most codes were associated with one theme, although some were linked to more than one. In the next step, the authors refined the conceptual architecture and verified whether previous themes were still valid concerning the entire data set and each other. Moving forward, they adjusted the findings and began structuring the article and preparing for several conferences. Data coalesced around four overarching themes: 1) Drone Warfare as a Test of International Humanitarian Law (IHL). The findings reveal the inadequacy of current international and Italian legislation in remedying the challenges posed by UAVs, such as targeted killings, proportionality, and the right to life. 2) The Ethical Disconnect of UAVs. Drones can be linked to potential desensitisation among operators and diminished public awareness of the human cost of military campaigns. 3) Unintended Harm and Strategic Backfire. Though drones are designed for precision, they are far from flawless. Civilian casualties, collateral damage, and the spread of extremist propaganda have occurred. These phenomena can ruin military and political goals in the immediate and distant future. 4) The Absence of Operational Transparency. Interviewees repeatedly called for greater openness regarding decision-making mechanisms, state accountability, and adherence to legal standards behind the acquisition, trade, production, and deployment of UAVs.

Throughout data collection and analysis, the authors disclosed their motives, emotions, and backgrounds to each other and the participants to ease misunderstandings. Nonetheless, they recognised that it is difficult not to influence or be influenced (by people, ontological and epistemological assumptions, etc.). The authors knew that the research had a few limitations. The qualitative nature of the interviews could not permit the complete generalisation of the findings. They also acknowledged that, given the brutality of the conflicts in the Middle East and Ukraine, opinions on such matters are highly polarised, and individuals may struggle with negative stereotyping when articulating their thoughts. This may have led some interviewees to withhold their full convictions. The sample consisted of Catholic Christians; however, this was consistent with the dominant demographic in the country and matched the cultural and religious context of the study's focus on Italy. The authors translated participants' speech from Italian to English,

<sup>3</sup> Mojtaba Vaismoradi, Hannele Turunen, and Terese Bondas, “‘Content Analysis and Thematic Analysis: Implications for Conducting a Qualitative Descriptive Study,’” *Nursing & Health Sciences* 15, no. 3 (2013): 398–405, <https://doi.org/https://doi.org/10.1111/nhs.12048>.

<sup>4</sup> NVivo (Version 12) Lumivero, “Software for Qualitative Data Analysis,” accessed January 11, 2025, <https://lumivero.com/products/nvivo>.

carefully avoiding regional jargon to maintain clarity. However, translation often involves a loss of meaning due to the lack of direct correspondence between languages and the challenge of capturing contextual nuances. During the interviews, participants referenced various legal documents on conflicts and human rights. However, they did not always specify precise details regarding these sources, which posed challenges in tracing the origins of their statements. Our analysis attempted to map their comments to known treaties and conventions, though complete verification was not always possible

### Theoretical Background

Rapid industrial advancements in the late 20th century spurred an intellectual movement called posthumanism. The philosophy emphasises how people are willing to move beyond physical and conceptual boundaries, redefining what it means to be human and transgressing the assumed natural order of things. Gray (2003) contends that technology paradoxically renders individuals both stronger and more vulnerable. Today, we are so accustomed to having cell phones on hand, utilising navigation software to get to unfamiliar areas, and running Google searches to fulfil every curiosity that it is hard to imagine how these services were accessible just a few years ago. Gray highlights that although progress has undoubtedly made life more manageable, constantly relying on these devices could bring about intellectual shallowness, gradual isolation, and dependence. Cudworth and Hobden (2015) observe that wearable exoskeletons enable soldiers to carry heavy loads in hostile environments. They also opine that these suits change users into cyborgs, restoring lost functionalities (restoration/replacement) and boosting the capacity of existing abilities (enhancement). Drones epitomise the telechiric utopia proposed in the 1960s, where remote vehicles are designed to shield humans from harm. In an extreme interpretation of this concept, warfare could transform into a tournament of robots, ending when one side depletes its ammunition, or its mechanical soldiers are destroyed<sup>5</sup>. UAVs offer extraordinary tactical advantages, as they can be set up amid emergencies for search and rescue missions. They are capable of covering large areas in a short time<sup>6</sup>. Maintaining confidentiality regarding their whereabouts is often imperative for a government to prevent diplomatic fallout. Furthermore, success in most cases depends on secrecy.

Mayer (2011) acknowledges the benefits of UAVs' augmented capabilities, such as zooming, infrared, and night vision. Nonetheless, Gregory (2015) dispels the myth of their invincibility, noting that interpreting captured images and videos still relies on pilots prone to errors and that data must undergo security encryption before becoming accessible to military planners<sup>7</sup>. Drones were first used in Vietnam in the 1960s. They appeared again in Bosnia and Herzegovina, Kosovo in the 1990s, and Afghanistan and Iraq in the 2000s<sup>8</sup>. Russia has utilised them in Ukraine<sup>9</sup>. In all

<sup>5</sup> Pramod K. Nayar, *"Posthumanism,"* (New York, 2018).

<sup>6</sup> Ian Shaw and Majed Akhter, "THE DRONIFICATION OF STATE VIOLENCE," *Critical Asian Studies* 46, no. 2 (2014): 211–34, [https://doi.org/https://doi.org/10.1080/14672715.2014.898452](https://doi.org/10.1080/14672715.2014.898452).

<sup>7</sup> Jeremy Scahill and Staff of Intercept, *The Assassination Complex: Inside the Government's Secret Drone Warfare Program*, ed. Simon and Schuster, 2016.

<sup>8</sup> Elinor Sloan, *Military Transformation and Modern Warfare: A Reference Handbook* (USA: Bloomsbury Publishing, 2008).

<sup>9</sup> Afxentis Afxentiou, "A History of Drones: Moral(e) Bombing and State Terrorism," *Critical Studies on Terrorism* 11, no. 2 (2018): 301–20, [https://doi.org/https://doi.org/10.1080/17539153.2018.1456719](https://doi.org/10.1080/17539153.2018.1456719).

these arenas, innocent people have never wholly been spared. In Afghanistan, in 2010 alone, one American uncrewed aircraft killed twenty-three unarmed people and wounded twelve others<sup>10</sup>. Braman (2002) writes that one of the earliest human tales involving automata is the 11th-century Golem legend, which gained notoriety in the 19th century as an inspiration for the Gothic novel *Frankenstein*. Poignantly, the monster was instructed to fetch water for a household but was not told when to cease, causing the place's flooding. At the core of this myth is people's desire to create something that can perform tasks on their behalf. What makes these attempts ironic is the inability of individuals to give precise enough commands to prevent catastrophe. The Golem's attitude is enlightening when we consider the consequences of replacing human decision-making. Posthumanism compels the legal system to reassert its principles by redefining the boundaries between human and non-human, natural and artificial. Stanzione (2010) and Norman (2021) elucidate how biotechnology, artificial intelligence, and robotics developments unsettle legal constructs like personhood, rights, and liability, necessitating new frameworks for cyborgs, genetically modified organisms, and autonomous machines. They opine that achieving this balance demands targeted legal measures for new ethical challenges. Robotics brings more hurdles. As UAVs and other semi or full-automated weapons take on (more) complex tasks, accountability issues and possible legal personality are born. For them, a polyform *modus operandi*—adaptive yet rooted in justice—must handle posthuman developments and ensure societal stability. This outlook must anticipate future crises between and across humans and non-humans, keeping the legal system equipped to regulate new frontiers. Jurists must transcend classical categories in our age of rapid innovation.

## Results

The interviewees felt that robotics and automation are altering the dynamic of armed conflicts. They reiterated that the prominence of drones surged in the early 2000s when the US extensively deployed them in the Middle East, from Afghanistan to Iraq and Pakistan. The respondents thought UAVs are the best representatives of a world where people can dispatch anybody anywhere and at any time without the discomfort of having blood on their hands. They knew that, per the UN Charter, in some instances, their use might be preferable to other means. Still, it could also constitute a breach of *ius in bello* to resort to more generalised weapons when drones are available (Geneva Conventions of 1949: articles 48, 51, and 57). Still, these individuals affirmed that, even if UAVs are effective on paper, they have proven unreliable in many war theatres. Likewise, they underlined that carrying out missions within the territory of a foreign state always poses an ethical and legal conundrum. If their government consents to taking down a citizen, the act might not be lawful since their right to life and fair trial is not subject to conventional derogations. People do not often live alone. Instead, they tend to inhabit highly populated neighbourhoods, which means that even when a UAV kills an individual, it can also generate unintended consequences, such as the loss of innocent lives. Additionally, it might furnish a hook around which terrorists and extremists develop and propagate narratives of hatred. However, these circumstances are often neglected in reports because, from the manufacturers'

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<sup>10</sup> Kristopher Norris, “‘The Drone Threat to Just War Theory: Responding to Braun,’” *International Relations* 34, no. 4 (2020): 603–7, <https://doi.org/https://doi.org/10.1177/0047117820967983>.

and military's perspectives, the technology fulfilled its purpose. Some participants questioned whether drones genuinely enhance human capacities or create detachment from traditional values. Other interviewees spoke about the merits of artificial intelligence in warfare, yet one question remained: autonomous compared to what? UAVs often function with minimal human supervision, appearing more like independent forces than tools. In this scenario, preserving safety requires not halting progress but establishing strong mechanisms to regulate the development of such weapons. It also requires international dialogue and knowledge exchange to address UAVs' ethical, legal, and operational challenges.

## ANALYSIS AND DISCUSSION

### Mechanised Terror

Kardasz et al. (2016) portray UAVs as vehicles capable of flight without a pilot or passengers aboard. They are controlled remotely using radio waves or operate autonomously along pre-defined routes. They come in various sizes and propulsion methods and can be equipped with explosive charges and optoelectronic devices<sup>11</sup>. Anderson (2009) writes that whereas the US has always insisted that no enemy civilians have died because of drones, evidence disputes this. Although UAVs have ensured the operators' absolute safety, they have often failed to minimise civilian harm. Moreover, these weapons are not immune to mistakes and blunders. In 2009, it took the MQ-1 Predator six attempts to neutralise Baitullah Mehsud, the head of Pakistan Taliban (TTP). Friendly fires are also common. In 2011, in Afghanistan, a group of American marines, after being fed corrupted information by a drone, mistook other operatives for enemies and had bombs dropped on them<sup>12</sup>. The statistics fluctuated because incidents were registered in remote locations or places where the governments had little oversight. To complicate matters, the aircraft are vulnerable. In the Middle East, where Washington has numerous allies, they travel in uncontested airspace, but in other regions, their life expectancy is much shorter<sup>13</sup>.

International law allows using force without authorisation from the UN Security Council. It is a narrow exception found in Article 51 but explicitly pertains to an attack that is either already in progress or imminent to the point where there is no time for careful consideration. Washington openly subverted in 2011<sup>14</sup>. On September 11 (9/11) of that year, the militant organisation al-Qaeda, composed of non-state actors (NSAs), carried out a coordinated assault on American soil. The event was unprecedented as it was the only time in modern history that the mainland was ambushed. By contrast, the Japanese assault on Pearl Harbor as World War II unfolded took place in Hawaii, then a territory. Shortly after 9/11, President George W. Bush commenced a mission to locate and punish the perpetrators in a campaign known as the Global War on Terror (GWOT). However, unlike soldiers, terrorists tend to be indistinguishable from civilians since

<sup>11</sup> Derek Gregory, "From a View to a Kill," *Theory, Culture & Society* 28, no. 7–8 (2011): 188–215, <https://doi.org/https://doi.org/10.1177/0263276411423027>.

<sup>12</sup> Ali, Firdous Imran, and Shaukat Ali, "US Drone Attacks: It's Impacts on Pakistan's Sovereignty," *Annals of Social Sciences and Perspective* 1, no. 1 (2020): 27–39, <https://doi.org/https://doi.org/10.52700/assap.v1i1.16>.

<sup>13</sup> Mohammad Eslami, "Iran's Drone Supply to Russia and Changing Dynamics of the Ukraine War," *Journal for Peace and Nuclear Disarmament* 5, no. 2 (2022): 507–18, <https://doi.org/https://doi.org/10.1080/25751654.2022.2149077>.

<sup>14</sup> Douglas Irvin-Erickson, "Genocide Discourses: American and Russian Strategic Narratives of Conflict in Iraq and Ukraine," *Politics and Governance* 5, no. 3 (2017): 130–45, <https://doi.org/https://doi.org/10.17645/pag.v5i3.1015>.

they do not often have signifiers. For instance, the hijackers looked like ordinary air passengers<sup>15</sup>. This poses a serious quagmire. Another was that Bush accused the Afghan Taliban tribes of harbouring al-Qaeda members. Though a part of al-Qaeda was indeed in Afghanistan (as in Pakistan, a US ally), there was no evidence that this religious group assisted it. Strangely, when the Taliban offered to deport suspected terrorists to stand trial abroad or give intel about them, the US rejected the offer, suggesting a lack of interest in legal prosecution and implying that Washington's strategic objectives diverged from justice. Chomsky (2023) contends that this was precisely the case. He marks out that after 9/11, we witnessed the birth of the rule-based international order (RBIO)<sup>16</sup>, a set of US-driven norms distinct from those of international law, where the White House is both judge and executioner<sup>17</sup>. We also point out that sending drones to take out militants or terrorists in foreign countries, which Washington views as self-defence under RBIO, has been considered a complete breach of the American Constitution, IHL, and IHRL. Regrettably, the US posture has led to significant civilian casualties. In 2013, in Yemen, UAVs misidentified a wedding party as an al-Qaeda convoy, and the subsequent bombing killed a dozen people, most, if not all, of whom were civilians and had no links to religious extremism.

Four interviewees asserted that the globalisation of US sovereignty has never intended to cultivate a transnational civic culture or a shared democratic identity. Instead, its goal is solidifying a geopolitical hierarchy with America as the uncontested hegemon. Interestingly, Laffey (2003), Dugard (2023), and Chomsky (2007) agree with this portrayal. Nevertheless, these scholars add that lamenting the shortcomings of GWOT-RBIO does not entail tolerating the misdeeds of criminals. Instead, it conveys concern that other nations or non-state actors may invoke precedents of illicit or pseudo-lawful conduct set by the White House<sup>18</sup> as a licence to act in a likely manner. Once again, these views are not rare. For instance, a 2004 UN commission, including former US National Security Advisor Brent Scowcroft, proclaimed that permitting one country to unilaterally begin a war or employ unsanctioned methods at its discretion would effectively legitimise such *modus operandi* for everyone<sup>19</sup>. Moscow alleged this rationale when it accused Kyiv of crimes against Russian-speaking Ukrainians, therefore granting itself the right to invade the post-Soviet republic. Twenty respondents felt drones pushed the world into a permanent state of war with already-established foes, governments or communities suspected of being one, and against those who could become enemies due to their non-conformity. Like Anderson (2009) and Bishai (2020), the respondents admitted that UAVs made it too easy for states to contravene *ius ad bellum* and *ius in bello*. This is evident in contested border areas administered often regarded as less than sovereign, such as the mountainous zones between

<sup>15</sup> Isaac Taylor, “Just War Theory and the Military Response to Terrorism,” *Social Theory and Practice* 43, no. 4 (2017): 717–40, <https://doi.org/https://doi.org/10.5840/soctheorpract2017103020>.

<sup>16</sup> John Dugard, “The Choice before Us: International Law or a “Rules-Based International Order”?”, *Leiden Journal of International Law*, 2023, 1–10, <https://doi.org/https://doi.org/10.1017/s0922156523000043>.

<sup>17</sup> Adam Gomez, “Deus Vult: John L. O’Sullivan, Manifest Destiny, and American Democratic Messianism,” *American Political Thought* 1, no. 2 (2012): 236–62, <https://doi.org/https://doi.org/10.1086/667616>.

<sup>18</sup> Rushforth and Elinor June, “There’s an App for That: Implications of Armed Drone Attacks and Personality Strikes by the United States against Non-Citizens, 2004-2012,” *Ariz. J. Int’l & Comp. L* 29 (2012): 623.

<sup>19</sup> United Nations, “A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges, and Change (New York: United Nations, 2004),” n.d., <https://documents.un.org/doc/undoc/gen/n04/602/31/pdf/n0460231.pdf>.

Afghanistan and Pakistan<sup>20</sup>. After reflecting on these circumstances, eleven interviewees reiterated a relevant proviso of democracy. People do not have to be passive spectators. They can demand that politicians and soldiers act morally. In this context, they called the authors' attention to the imperative of maintaining the principle of universality: the standards imposed on others must equally govern our deportment. This precept constitutes the premise of international law—or, as one individual sardonically noted, any iteration of it wishing to command genuine legitimacy.

Some respondents hypothesised that RBIO may violate the tenets of the Caroline Test<sup>21</sup>. They told the authors that on the night of December 29, 1837, British forces crossed into US territory from Canada to set on fire the steamboat *Caroline*. They captured it because Canadian rebels piloted it to bring supplies and men to further the Upper Canada Rebellion. The plan exacerbated political friction between London and Washington. The first deemed seizing and burning the vessel as self-defence. The second considered them a form of aggression against American sovereignty. In the end, Webster reminded the UK that for its conduct to be accepted, it had to prove that, at that time, it had an overwhelming and instant necessity to take the boat in American waters. In 1945, the International War Crimes Tribunal at Nuremberg cited the Caroline Test to reject claims that Nazi Germany's invasion of Norway was preemptive self-defence. It also refused the idea that the nation alone could decide if the move was necessary and that its judgment was conclusive in making that decision.

“Though proponents of drone technology describe its potential to reduce human casualties and limit the physical dangers faced by soldiers, we must also acknowledge the hidden costs that come with it. First and foremost, we cannot lose sight of how they distance us from the “bloody and visceral” reality of the battlefield, and because of that. [...] I am afraid we might become desensitised to the gravity of our crimes” (Paolo, age 50, Naples).

“With the war in Ukraine, we are at a historical juncture. As we push the boundaries of drone capabilities, we risk igniting an arms race where adversaries develop countermeasures that could neutralise ours. Moreover, we must reexamine and ameliorate international law to ensure its continuous relevance” (Gianni, age 40, Rome).

Six participants underscored that artificial intelligence is set to revolutionise warfare even more. It can sift through millions of inputs, identify patterns, and alert commanders at unprecedented speeds. They thought that shortening the “kill chain” ensured victory. They also pointed out that Russia is already testing kamikaze drones in Ukraine. They were not the only ones to have these concerns. Giustra (2024) raised similar points in a recent article for *Responsible Statecraft*. He also declared that given the effort to manipulate public opinion and indoctrinate soldiers, it might be simpler to eliminate the need for them. AI-powered UAVs could solve our societies' political dilemma in recruiting soldiers and “selling” wars to the public. We can infer that, much like the video game *Cyberpunk 2077*<sup>22</sup>, we are blending, or perhaps “updating”, ourselves with machines, creating novel entities that lie somewhere between humans and non-humans, the Robo-sapiens. In warfare, posthumanism and the concept of legal personhood are intertwined as they centre on questions about the nature of humanity or its

<sup>20</sup> Adam Smith, “Drones as Techno-Legal Assemblages,” *Law, Technology and Humans* 4, no. 1 (2022), <https://doi.org/https://doi.org/10.5204/lthj.2333>.

<sup>21</sup> Edward Collins Jr and Martin A. Rogoff, “The Caroline Incident of 1837, the McLeod Affair of 1840–1841, and the Development of International Law,” *American Review of Canadian Studies* 20, no. 1 (1990): 81–107.

<sup>22</sup> K. M. Maj, “On the Pseudo-Open World and Ludotopian Dissonance: A Curious Case of *Cyberpunk 2077*,” *Journal of Gaming & Virtual Worlds* 14, no. 1 (2022): 51–65, [https://doi.org/https://doi.org/10.1386/jgvw\\_00051\\_1](https://doi.org/https://doi.org/10.1386/jgvw_00051_1).



negation. Personhood, routinely defined as the state or condition of possessing human traits such as consciousness, volition, moral agency, and self-awareness, is being challenged by the increasing integration of the human mind with computers on one side and the growing autonomy of machines on the other<sup>23</sup> (Table 1).

**Table 1: Famous Drone Incidents**

Date	Incident	Country Involved
2024	RSF UAV hit a hospital in the city of el-Fasher in Sudan <sup>24</sup>	Sudan, Darfur
2023	US MQ-9 Reaper intercepted by Russian jet over the Black Sea <sup>25</sup>	Russia, US
2022	American drone liquidated key al-Qaeda leader in Afghanistan <sup>26</sup>	US, Afghanistan
2022	Turkish Bayraktar TB2 targeted PKK in Iraq <sup>27</sup>	Turkey, Iraq
2021	US UAV in Kabul mistakenly killed civilians <sup>28</sup>	US, Afghanistan
2021	Iranian drone assaulted US base in Syria <sup>29</sup>	Iran, US
2021	Russian Orlan-10 shot down over Ukraine <sup>30</sup>	Russia, Ukraine
2020	American UAV liquidated Qasem Soleimani in Iraq <sup>31</sup>	US, Iraq
2015	US drone mistakenly bombed trauma MSF hospital in Afghanistan <sup>32</sup>	US, Afghanistan
2011	NATO drone erroneously bombed anti-Ghaddafi rebels in Libya <sup>33</sup>	NATO, Libya
2009	CIA drone assaulted Pakistan's tribal areas <sup>34</sup>	US, Pakistan
2008	Russia destroyed a Georgian UAV <sup>35</sup>	Russia, Georgia

**Source:** *Collected by the author*

## Just and Unjust Wars

- <sup>23</sup> Jennifer Robertson, *Robo Sapiens Japanicus: Robots, Gender, Family, and the Japanese Nation* (Berkeley: University of California Press, 2018).
- <sup>24</sup> Al Jazeera, “At Least Nine Killed, 20 Injured in Sudan Hospital Attack,” accessed December 14, 2024, <https://www.aljazeera.com/news/2024/12/14/at-least-nine-killed-20-injured-in-sudan-hospital-attack>.
- <sup>25</sup> Oren Liebermann et al., “Russian Fighter Jet Forces Down U.S. Drone Over Black Sea After Intercept,” CNN, accessed March 14, 2023, <https://edition.cnn.com/2023/03/14/politics/us-drone-russian-jet-black-sea/index.html>.
- <sup>26</sup> Robert Plummer and Matt Murphy, “Ayman Al-Zawahiri: Al-Qaeda Leader Killed in US Drone Strike,” BBC News, accessed August 1, 2022, <https://www.bbc.com/news/world-asia-62387167>.
- <sup>27</sup> GEOPOLITIKI, “Turkish Bayraktar TB2 UAV Crashes in Northern Iraq, Ends Up in Kurdish Hands,” accessed June 21, 2023, <https://geopolitiki.com/turkish-bayraktar-tb2-uav-crashes-iraq-kurdish/>.
- <sup>28</sup> BBC, “Afghanistan: US Admits Kabul Drone Strike Killed Civilians,” BBC News, accessed September 18, 2021, <https://www.bbc.com/news/world-us-canada-58604655>.
- <sup>29</sup> Al Jazeera Media Network, “Officials: Iran Behind Drone Attack on US Base in Syria,” Al Jazeera, accessed October 25, 2021, <https://www.aljazeera.com/news/2021/10/25/officials-iran-behind-drone-attack-on-us-base-in-syria>.
- <sup>30</sup> InformNapalm, “Russian Orlan-10 Drone Jammed by Ukrainian Electronic Warfare Assets,” accessed June 22, 2021, <https://informnapalm.org/en/russian-orlan-10-drone-jammed-by-ukrainian-electronic-warfare-assets/>.
- <sup>31</sup> Lieutenant Colonel Scott A. Hodges, “The Killing of Qassem Soleimani,” Major Danielle Crowder, JAG Reporter, accessed October 29, 2020, <https://www.jagreporter.af.mil/Post/Article-View-Post/Article/2539536/the-killing-of-qassem-soleimani/>.
- <sup>32</sup> Médecins Sans Frontières, “Kunduz Hospital Attack in Depth,” accessed January 11, 2025, <https://www.msf.org/kunduz-hospital-attack-depth>.
- <sup>33</sup> BBC, “Libyan Rebels Near Ajdabiya ‘Killed in Nato Air Strike,’” BBC News, accessed April 7, 2011, <https://www.bbc.com/news/world-africa-12997181>.
- <sup>34</sup> Forensic Architecture, “The Drone Strikes Platform,” accessed January 11, 2025, <https://forensic-architecture.org/investigation/the-drone-strikes-platform>.
- <sup>35</sup> BBC, “Russia ‘Shot Down Georgia Drone,’” BBC News, accessed April 21, 2008, <http://news.bbc.co.uk/2/hi/europe/7358761.stm>.

As the world is rapidly changing, Arvidsson (2021) advises us to think again, and perhaps better, about international law and just war theory (JWT), a legal tradition dating back to ancient Rome for evaluating the ethics of fighting. The two are closely connected and frequently engage in a mutual dialogue, like a mirrored exchange. JWT thinkers often use legal reasoning to support their ideas. On the other hand, lawyers draw upon morality and philosophy to navigate their discipline's boundaries. The concept of just war has been ingrained in Western culture since its inception. Throughout history, accounts of human suffering often featured explanations or defences for engaging in hostilities<sup>36</sup>. Governments have consistently proclaimed their virtues while casting doubt on their adversaries' conduct. Whether out of self-interest or concern for victims, restraint in waging battles emerged early. War is often supported because it is expected to advance a nation's geopolitical interests. However, the immediate goal frequently relates to domestic matters, as societies traditionally try to avoid unnecessary violence. JWT comprises two distinct but related themes: *ius ad bellum* (rules for the recourse to armed engagement) and *ius in bello* (rules for the conduct of hostilities). For the former, a country enjoys near-absolute jurisdiction over its land and people, but more rules apply. The belligerents' intentions must have sufficient moral weight (just cause); war must be waged by a legitimate authority and represent a last resort<sup>37</sup>. Armed conflicts should have a reasonable chance of success, and the harm caused must be proportionate to the expected benefits. This restriction is also geographical: neutral territories must not be involved in disputes, and neutral nations must ensure the inviolability of their land<sup>38</sup>. This rationale is found in the 1907 Hague Conventions V and XIII<sup>39</sup> and the non-binding Hague Rules of Aerial Warfare<sup>40</sup>. A similar stance was taken in proceedings before the UN Security Council (UNSC)<sup>41</sup> after the 1986 US bombing of Tripoli and Benghazi in response to the West Berlin discotheque terrorist bloodshed<sup>42</sup>.

Drones are relevant for warfare because they allow fast responses to perishable intelligence and access to otherwise inaccessible areas where belligerents may hide. *Ius ad bellum* permits preemption (an assault launched in anticipation of immediate aggression) but prohibits prevention (an assault to counter probable but unprovable aggression). *Ius in bello*, also known as international humanitarian law (IHL), protects individuals throughout armed conflicts, including between countries, a country and a non-state actor (NSA) or dissident factions or ethnic

<sup>36</sup> Seth Lazar, "Just War Theory: Revisionists versus Traditionalists," *Annual Review of Political Science* 20, no. 1 (2017): 37–54, <https://doi.org/https://doi.org/10.1146/annurev-polisci-060314-112706>.

<sup>37</sup> Alexander Blanchard and Mariarosaria Taddeo, "Jus in Bello Necessity, The Requirement of Minimal Force, and Autonomous Weapons Systems," *Journal of Military Ethics* 21, no. 3–4 (2022): 286–303, <https://doi.org/https://doi.org/10.1080/15027570.2022.2157952>.

<sup>38</sup> Alejandro Chehtman, "The Ad Bellum Challenge of Drones: Recalibrating Permissible Use of Force," *European Journal of International Law* 28, no. 1 (2017): 173–97, <https://doi.org/https://doi.org/10.1093/ejil/chx001>.

<sup>39</sup> International Committee of the Red Cross, "Hague Convention (XIII) Concerning the Rights and Duties of Neutral Powers in Naval War, 1907," accessed January 11, 2025, <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-xiii-1907>.

<sup>40</sup> James W. Garner, "Proposed Rules for the Regulation of Aerial Warfare," *American Journal of International Law* 18, no. 1 (1942): 56–81, <https://doi.org/https://doi.org/10.2307/2189222>.

<sup>41</sup> United Nations, "Security Council Meetings in 1986," accessed January 11, 2025, <https://research.un.org/en/docs/sc/quick/meetings/1986>.

<sup>42</sup> Wali Aslam, "A Critical Evaluation of American Drone Strikes in Pakistan: Legality, Legitimacy and Prudence," *Critical Studies on Terrorism* 4, no. 3 (2011): 313–29, <https://doi.org/https://doi.org/10.1080/17539153.2011.623397>.

groups within a nation. Combatants must follow obligations such as removing non-combatants from battlefields and warning antagonists of the consequences of their conduct before engaging. The primary instruments of IHL are the four Geneva Conventions of 1949<sup>43</sup> and their two additional protocols from 1977, which have 196 signatory nations<sup>44</sup>. Under IHL, individuals who do not meet the criteria for combatants (e.g., wearing an official uniform or carrying weapons) are classified as non-combatants. If non-combatants take up arms, they become lawful targets, but the legitimacy of strikes against them depends on the duration and nature of their involvement. Some non-experts confuse IHL with international human rights law (IHRL), as both aim to shield fundamental rights from abuses. However, the two blueprints remain distinct, each with rules, norms, and procedures. IHL creates regulatory mechanisms to ensure that, in war, a government protects the inviolable entitlements of non-combatants and soldiers (and, in some cases, NSAs), except where such sacrifices are legitimate and strictly necessary to achieve peace<sup>45</sup>. IHL functions as *lex specialis* within IHRL, which safeguards individual freedoms in all contexts. IHL and IHRL share the principles of necessity and proportionality, but their meanings differ. In IHL, military necessity permits only those measures essential to achieving a legitimate objective; proportionality requires that harm to non-combatants and infrastructure not exceed the anticipated military advantage<sup>46</sup>. If the expected civilian harm is disproportionate, the attack may be prohibited. Since IHRL governs peacetime situations (with IHL for armed conflicts), the principles assess whether government measures, such as law enforcement or counterterrorism operations, comply with human rights standards<sup>47</sup>.

For Alberstadt (2014), there are no ad-hoc regulations for drones. Nonetheless, he contends that international law suffices<sup>48</sup>. The UN Charter establishes the illegality of the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the UN (Article 2). The UN Charter only allows exceptions in response to an armed attack (Article 51) or by the authorisation granted by the Security Council in cases where it is necessary to maintain or restore international peace and security (Article 42). During an armed conflict, both IHRL, particularly those related to the right to life (except where the convention allows derogation by states, as in the case of the ECHR), and IHL apply. As a result, a drone raid must satisfy the conditions set out by both legal disciplines. The International Court of Justice (ICJ) has stated, however, that the right not to be arbitrarily deprived of life, as affirmed in the 1979 International Covenant on Civil and Political Rights (ICCPR), should be coordinated - to find its exact definition - with the rules on the conduct of hostilities, as the latter

<sup>43</sup> Andrew Clapham et al., *The 1949 Geneva Conventions: A Commentary* (Oxford: Oxford University Press, 2015).

<sup>44</sup> Dietrich Schindler, "Significance of the Geneva Conventions for the Contemporary World," *International Review of the Red Cross* 81, no. 836 (1999): 715–28, <https://doi.org/https://doi.org/10.1017/S1560775500103682>.

<sup>45</sup> Elizabeth Salmón, "Institutional Approach Between IHL and IHRL: Current Trends in the Jurisprudence of the Inter-American Court of Human Rights," *Journal of International Humanitarian Legal Studies* 5, no. 1–2 (2014): 152–85.

<sup>46</sup> Blanchard and Taddeo, "Jus in Bello Necessity, The Requirement of Minimal Force, and Autonomous Weapons Systems."

<sup>47</sup> Anthony E. Cassimatis, "International Humanitarian Law, International Human Rights Law, and Fragmentation of International Law," *International & Comparative Law Quarterly* 56, no. 3 (2007): 623–39, <https://doi.org/https://doi.org/10.1093/iclq/lei185>.

<sup>48</sup> Rachel Alberstadt, "Drones under International Law," *Open Journal of Political Science* 4, no. 4 (2014): 221–32, <https://doi.org/https://doi.org/10.4236/ojps.2014.44023>.

constitutes *lex specialis*. A different situation arises when drones operate outside a theatre of war, particularly for targeted killings (assassinations of known NSAs or soldiers carried out outside a judicial procedure and a battlefield) and signature strikes (also called crowd killing, a subtype of targeted killing by which drones spy on and “decapitate” NSAs). To justify these activities, we have to preliminarily ascertain whether, for example, they can be attributed to one of the two exceptions to the general prohibition. Coincidentally, this enquiry includes determining if UAVs are inherently capable of assignments differently from those carried out using classical means of warfare. We learn from Azzariti (2018) that drones are frequently employed against terrorist groups, who may not act on behalf of the state where they are located. An increasingly prevalent view in legal doctrine is that self-defence against non-state actors is lawful. In practice, the country where the attack occurs often fails to respond or does not oppose using force. However, some suggest that such practices are insufficient to establish a norm, given the reluctance of many governments to endorse this position<sup>49</sup>. In 2001, US State Department Legal Advisor Harold Koh posited that the authorisation for using military force (AUMF), issued by the US Congress, permitted the White House to pursue any individuals or groups guilty of 9/11 and those backing them with all necessary force<sup>51</sup>. For him, AUMF, which also involved UAVs, did not violate international law, as, after 9/11, the US would have been – albeit involuntarily – drawn into an armed conflict. In other words, he offered an expansive reading of the notion of self-defence done to justify a war that was supposed to be widespread, permanent and asymmetrical<sup>52</sup>. Eight participants mentioned that if IHL and IHRL are the applicable paradigm(s) for UAVs, it will be hard for observers to distinguish their bombardments from a vicious form of extraterritorial and extrajudicial use of force. They also recognise that most governments prefer depicting drone operations under a broad self-defence or national security that can do away with the finer details of IHL and IHRL<sup>53</sup>. Examples are many and rather poignant.

In the Middle East, the US has resorted to the infamous double tap technique<sup>54</sup>. For Alexander (2017), the procedure could be against Article 3 of the Geneva Convention and Article 8 of the Rome Statute prohibiting assault on personnel and materials involved in humanitarian assistance. The double-tap method involves an initial airstrike on a designated target, followed by a subsequent strike on the exact coordinates shortly after, often when rescue and medical

<sup>49</sup> Vaio Koutroulis, “The Fight Against the Islamic State and Jus in Bello,” *Leiden Journal of International Law* 29, no. 3 (2016): 827–85, <https://doi.org/https://doi.org/10.1017/S0922156516000339>.

<sup>50</sup> Jasmine Moussa, “Can Jus Ad Bellum Override Jus in Bello? Reaffirming the Separation of the Two Bodies of Law,” *International Review of the Red Cross* 90, no. 872 (2008): 963–99, <https://doi.org/https://doi.org/10.1017/S181638310900023X>.

<sup>51</sup> Noel Sharkey, “The Automation and Proliferation of Military Drones and the Protection of Civilians,” *Law, Innovation and Technology* 3, no. 2 (2011): 229–40, <https://doi.org/https://doi.org/10.5235/175799611798204914>.

<sup>52</sup> Bradley, Curtis A, and Jack L. Goldsmith, “Congressional Authorization and the War on Terrorism,” *Harv. L. Rev* 118 (2004): 2047.

<sup>53</sup> Frédéric Mégret, “The Humanitarian Problem with Drones,” *Social Science Research Network*, 2013, <https://doi.org/https://doi.org/10.2139/ssrn.2228659>.

<sup>54</sup> Williams and Brian Glyn, “New Light on CIA ‘Double Tap’ Drone Strikes on Taliban ‘First Responders’ in Pakistan’s Tribal Are-As,” *Perspectives on Terrorism* 7, no. 3 (2013): 79–83.

personnel have arrived<sup>55</sup>. Although proponents claim it neutralises residual threats, the method disproportionately jeopardises civilians and breaches International Humanitarian Law (IHL). It systematically endangers first responders, medics, and bystanders, violating the principle of distinction and undermining the protected status of non-combatants. The secondary strikes also contravene the obligation to respect and protect medical personnel under Common Article 3 of the Geneva Conventions and Additional Protocol I. Although this tactic has become synonymous with modern drone warfare, it predates its technological application. Under the Obama administration, double-tap strikes became integral to US counterterrorism operations in Pakistan, Yemen, and Somalia. Investigations by The Bureau of Investigative Journalism revealed extensive civilian harm, particularly in densely populated areas, with hundreds of non-combatants killed in Pakistan alone. These strikes, characterised by their inability to distinguish between legitimate military objectives and civilians, have been widely denounced as violations of proportionality and distinction. Critics, including international legal scholars, theorise that such operations are indiscriminate and constitute grave breaches of IHL, rendering them *prima facie* unlawful. Regrettably, transparency measures, such as President Obama's Executive Order 13732<sup>56</sup>, which required annual reporting on civilian casualties, were rolled back under the Trump administration, further obscuring accountability.

Fifteen participants said that the US stores UAVs in Italy in the Naval Air Station (NAS) Sigonella (Sicily), which could make their country complicit in war crimes. In 2018, the European Center for Constitutional and Human Rights (ECCHR) filed a criminal complaint against the base's commander for a drone hit that killed eleven innocent members of the Tuareg ethnic group in Ubari, Libya<sup>57</sup>. In this context, six interviewees insisted that sacrificing innocents for a victory can be legally right but morally wrong, even when military necessity requires collateral<sup>58</sup>. A person's inherent worth is not dependent on a cost-benefit calculus. For three respondents, UAVs reverse the notion that treaties and not might/power shape the relationships between states. What was especially troubling for them was that in the absence of an enemy, a government could invent one to justify ever-increasing military interventionism. That means we face the prospect of endless crises, or as Agamben (2008) would point out, witnessing the exception (war) taking over (peace). Moreover, the philosopher holds that drones erode the opposition between the private and the public in a country, the household (site of reproductive life) and the city (place of politics). This indistinction materialises in the video surveillance of people. A surveilled space no longer holds any public character; it is a grey area between the prison and the forum. The interviewees were well aware that the relative absence of military risks and political costs makes it incredibly tempting to send drones more and more to low-tech communities in permissive air space and relax the constraining rules under which they are

<sup>55</sup> Brian Glyn Williams, "New Light on CIA 'Double Tap' Drone Strikes on Taliban 'First Responders' in Pakistan's Tribal Are-As," *Perspectives on Terrorism* 7, no. 3 (2013): 79–83, <https://www.jstor.org/stable/26296941>.

<sup>56</sup> Barack Obama, "Executive Order 13732—United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force," *Federal Register* 81, no. 130 (2016): 43439–42, <https://www.govinfo.gov/content/pkg/DCPD-201600443/pdf/DCPD-201600443.pdf>.

<sup>57</sup> Kozera et al., "Game of Proxies—Towards a New Model of Warfare: Experiences from the CAR, Libya, Mali, Syria, and Ukraine," *Security and Defence Quarterly* 31, no. 4 (2020): 77–97.

<sup>58</sup> Mégret, "The Humanitarian Problem with Drones."

deployed<sup>59</sup>. They imagined the battlefields dominated by UAVs autonomously forming swarms while coordinating defensive and offensive manoeuvres. They knew history and realised there was always controversy surrounding which belligerent was the aggressor (terrorism is also a slippery concept in international law); each one will undoubtedly claim that they comply with *ius ad bellum*. We should also add that judgments for *ius ad bellum* must be separated from those of *ius in bello*<sup>60</sup>.

"I find drones super disturbing. [...] Listen to me, Fabio, we must thoroughly reevaluate the laws of warfare and how we enforce them in Italy and abroad. All of this is scary" (Giulia, age 51, Venice)

"I do not like these flying things. In the wrong hands, they can wreak havoc, kill innocents and cause armed conflicts. We must address this pressing problem, enforcing regulations and promoting responsible use of technology." (Chiara, age 29, Bologna)

Kamijani and Kashi (2024) underline that states exercise exclusive authority over their airspace, a concept grounded in international law and codified in the Chicago Convention<sup>61</sup>. Article 1 confirms a state's sovereignty over its airspace, while Article 2 extends this to territorial waters. Article 8 prohibits any UAV from operating over another state's territory without prior consent, and unauthorised entry constitutes a violation of sovereignty, potentially breaching the prohibition on the use of force. The UN Charter reinforces this framework. Article 2(4) prohibits using force against a state's territorial integrity or political independence. Armed drone operations lacking consent or a Security Council mandate violate this principle. Although some states invoke imminent threats, critics question whether such actions meet Article 2(4)'s criteria without clear evidence of an armed attack. Article 51 permits self-defence in response to attacks but does not justify prolonged or loosely defined campaigns. Sovereignty concerns deepen when drones deployed for non-military purposes shift to armed missions without renewed authorisation. The dual-use nature of UAVs complicates their legal status. IHL mandates distinction and proportionality, aiming to protect civilians. Yet enforcement of unauthorised drone operations under the Chicago Convention remains limited.

Ruschi (2020) notes that drones turn the battlefield into a virtual space, where adversaries appear only as "iridescent impulses" on a screen, disconnecting operators from direct combat. This paradigm questions conventional aspects of JSWT, like proportionality and distinction. Bobbio (1975) asserts that the development of nuclear weapons already fell outside accepted moral and legal bounds. UAVs and other autonomous technologies further destroy the lines separating fighters from non-combatants, erasing distinctions fundamental to humanitarian law. Posthumanism questions this mechanisation and asks how such technologies change ideas of agency, ethics, and violence. Particularly in signature attacks and targeted killings, the dependence on algorithms questions the humanistic qualities underlying just war ideas. Blakeley (2018) comments that the core of IHL runs the danger of being reduced to a set of operational algorithms. Specifically, the drone's mechanised framework breaks from conventional moral

<sup>59</sup> Michael Walzer, "Just & Unjust Targeted Killing & Drone Warfare," *Daedalus* 145, no. 4 (2016): 12–24, [https://doi.org/https://doi.org/10.1162/daed\\_a\\_00408](https://doi.org/https://doi.org/10.1162/daed_a_00408).

<sup>60</sup> Jasmine Moussa, "Can Jus Ad Bellum Override Jus in Bello? Reaffirming the Separation of the Two Bodies of Law," *International Review of the Red Cross* 90, no. 872 (2008): 963–90, <https://doi.org/https://doi.org/10.1017/s181638310900023x>.

<sup>61</sup> International Civil Aviation Organization, "Convention on International Civil Aviation," accessed January 12, 2025, [https://www.icao.int/publications/documents/7300\\_orig.pdf](https://www.icao.int/publications/documents/7300_orig.pdf).

reasoning in warfare, moving the locus of decision-making from human deliberation to machine computation. Moreover, the "smartification" and "humanisation" of weapons help to bring civilian and military sectors together in line with the posthumanist criticism of the limitations separating human action from mechanical activities.

### **Lex Specialis and ICCPR**

The interaction of *lex specialis* between the International Covenant on Civil and Political Rights (ICCPR) and international humanitarian law (IHL) manages armed conflicts in legal frameworks. This principle establishes that IHL, as the more specific set of rules, overrides ICCPR provisions in a clash between countries, resolving tensions between the regulation of hostilities and the protection of individual rights. The International Court of Justice (ICJ), in its 1996 Nuclear Weapons Advisory Opinion<sup>62</sup>, clarified that IHL serves as the *lex specialis* for interpreting the ICCPR during the conflict. Regarding Article 6, the ICJ held that IHL norms define the threshold for arbitrary deprivation of life, aligning state conduct with hostilities. This approach preserves the ICCPR's relevance, where IHL lacks precise directives that safeguard human rights beyond the battlefield. Judicial developments have further shaped *lex specialis*. In *Hassan v. UK*<sup>63</sup>, the European Court of Human Rights (ECtHR) recognised that detention under IHL constitutes an exception to the prohibition on arbitrary detention under Article 5 of the European Convention on Human Rights (ECHR). The Human Rights Committee (HRCtee), through General Comments 35 and 36, reinforced IHL's precedence in conflict scenarios while underscoring the ICCPR's procedural guarantees. This dual architecture limits arbitrary state power while accommodating armed conflict realities. UAVs operate in legal grey zones, particularly in targeted killings and surveillance. While IHL permits strikes under specific conditions, the ICCPR's right to life imposes stricter procedural obligations. Critics imply that prioritising IHL under *lex specialis* bypasses the ICCPR's safeguards, particularly in transparency and accountability for civilian harm. The ECtHR addressed extraterritorial obligations in *Al-Skeini v. UK*<sup>64</sup>, holding that human rights obligations extend to military actions abroad while recognising IHL's relevance. This balance of security and protection highlights the challenges of applying dual frameworks. General Comment 36 from the HR Committee outlines the need for lethal force to align with IHL's targeting rules and the ICCPR's prohibition on arbitrary killing. The Committee's call for greater transparency in operational decisions reflects concerns over accountability in drone warfare.

Hybrid norms aim to bridge gaps between IHL and the ICCPR. The International Committee of the Red Cross (ICRC)'s Interpretive Guidance on Direct Participation in Hostilities advocates for capturing rather than killing combatants when feasible, combining IHL's operational pragmatism with the ICCPR's focus on life. Judicial rulings, such as the Israeli Supreme Court's Targeted Killing case, illustrate how hybrid principles can reduce harm while meeting obligations under both frameworks. Criticism of *lex specialis* points to accountability gaps, where IHL's

<sup>62</sup> International Court of Justice, "Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion," ICJ Reports 1996, accessed December 4, 2025, <https://www.icj-cij.org/case/95>.

<sup>63</sup> European Court of Human Rights, "Hassan v. United Kingdom, No. 29750/09," ECHR 2014-VI, accessed January 11, 2025, [https://hudoc.echr.coe.int/fre#%7B%22itemid%22:\[%22001-146501%22\]%7D](https://hudoc.echr.coe.int/fre#%7B%22itemid%22:[%22001-146501%22]%7D).

<sup>64</sup> Rights.

permissive standards enable practices to evade human rights scrutiny. For example, IHL-based detention often bypasses the ICCPR's strict procedural protections. Drone operations, justified under IHL's proportionality and necessity criteria, frequently lack sufficient post-strike investigations into civilian casualties, undermining ICCPR accountability. The ECtHR's *Al-Skeini* ruling exposed the need for extraterritorial human rights obligations to complement IHL, contrasting with the earlier *Banković* decision, which limited ECHR applicability outside state territories. Subsequent rulings have addressed these gaps by expanding jurisdiction while retaining IHL's operational relevance.

### **Italian Drone Legislation**

Romano (2020) informs us that, despite Italy only recently acquiring UAVs, the country has long facilitated American remote aerial missions, primarily through its military base at Sigonella. In 2015, Italy obtained authorisation from Washington to arm its crewless aerial vehicles, integrating itself into drone warfare. However, Italian authorities have confirmed that any use would be limited to defensive purposes. Despite these assurances, there is significant uncertainty regarding whether such authorisations have been given and the protocols by which they are granted. What is undeniable is that this communication deficit conflicts with the principle of state responsibility under international law. With respect to this, readers should note that despite the widely reported death of Giovanni Lo Porto, an Italian aid worker killed by a US drone in Pakistan in 2015, the Italian government has remained silent on that issue. Per Legislative Decree No. 66 of 2010, UAVs operated by the Italian Armed Forces are classified as military aircraft. They must be listed in the Military Aircraft Registry (RAM) overseen by the Directorate of Aeronautical Armaments and Airworthiness (ARMAEREO). Drones are used in Italy for national defence and security within designated "segregated areas" to prevent interference with civilian aviation. The Military Code offers guidelines for their deployment, certification, and registration. Article 743 of the Italian Code of Navigation defines remotely piloted aircraft (RPA) as aircraft. Still, it excludes those operated by the military or state, which fall under the Ministry of Defence's jurisdiction instead of civilian aviation agencies. In Italy, jurisdiction over UAV-related offences depends on where the incident occurs, not where the drone operates, which may be outside the country. For violations during international missions, Article 19 of Law No. 145 of 2016 assigns jurisdiction to the Rome Ordinary Tribunal. For seven participants, the legitimacy of unilateral force outside established conflict zones blurs the boundaries between law enforcement and armed conflict. Another issue lies in the criteria for target selection. Additionally, they reiterated that Amnesty International and Human Rights Watch have frequently raised concerns about accountability and data on collateral damage. The status of victims of UAVs and the availability of remedies for them also warrant close examination. Whereas some states offer *ex gratia* payments to victims' families, such compensation is insufficient to address legal and moral responsibilities. Furthermore, victims' families have limited avenues for seeking justice, as neither the states conducting the strikes nor those hosting the bases for drone operations, like Italy, are willing to clarify the legal bases of their military campaigns.

### **Blessed is the Drone?**



Since the sample members were Italian, it is worth describing how the Roman Catholic Church (RCC), the leading religious institution in Italy, regards warfare. The RCC played a role in shaping JWT. In the early centuries of Christianity, as it spread throughout the Roman Empire, many theologians encountered Roman law. They adopted the concept of *ius belli* (law of war), which required that conflicts be formally announced according to a procedure with official oversight. More precisely, within Latin doctrine, warfare prioritised procedural correctness, focusing solely on proper legal procedures without sorting out ethical or substantive justifications. Cicero held that a war is just (*bellum iustum*) when it is appropriately declared and seeks reparations from an aggressor. Nonetheless, he emphasised the importance of understanding the causes of organised violence. During the Middle Ages, Hugo Grotius expanded on these concepts in an essay entitled *De Jure Belli ac Pacis*<sup>65</sup> (1625). He summarised the right factors that justify a war (*ius ad bellum*), such as defence, retribution, and the reclamation of territorial rights. He also described the best possible conduct of combatants (*ius in bello*). He insisted on the necessity for both parties in a physical dispute to comply with principles stemming from rationality and fairness. These concepts became the foundation of international law. Discussions regarding the justness or unjustness of war diminished in the 19th century as legal positivism, which asserts that states inherently possess the right to engage in conflict, gained prominence. Another turning point occurred after World War I with the adoption of treaties that limited the use of force to settle political disputes<sup>66</sup>.

The Covenant of the League of Nations (as an addition to the Treaty of Versailles on June 28, 1919) excluded member states from resorting to organised violence to assert claims (Articles 11-16). The Kellogg-Briand Pact of August 27, 1928, or the General Treaty for Renunciation of War as an Instrument of National Policy, furthered this shift. The legal blueprint changed again after the atrocities of World War II and the establishment of the UN in 1945. States were stripped of the *ius ad bellum* previously upheld by classical international law. In recent times, one intellectual who gained prominence is Walzer (2002). This is because he introduced the concept of double effect (DDE) or the dirty hands problem. Walzer (2006) posits that decisions with an ethically questionable outcome can be acceptable under the following conditions: the intended end must be reasonable; the methods or means chosen to achieve it must be morally right; the negative consequences that are anticipated should not be the intended outcome(s); and the intended goal must outweigh the collateral effects accompanying its realisation<sup>67</sup>. His assumptions remain valid today. The first reference to JWT in Christian theology is attributed to Saint Augustine of Hippo<sup>68</sup>.

Though he condemned institutionalised violence in line with the spirit of universal love proclaimed by the Gospel<sup>69</sup> (Letters, III 189, 6), he nonetheless justified its use if it fell within divine Providence (De Civitate Dei IV, 6.15). This marks the beginning of appraisals of the concept of a just war. In agreement with Augustine, Saint Thomas Aquinas believed that an

<sup>65</sup> Jean Bethke Elshtain, *Just War Theory* (NYU Press, 1992).

<sup>66</sup> Mark Evans, *Just War Theory: A Reappraisal* (Edinburgh University Press, 2020).

<sup>67</sup> Danny Marrero, "Is the Appeal of the Doctrine of Double Effect Illusory?," *Philosophia* 41, no. 2 (2013): 349–59, <https://doi.org/https://doi.org/10.1007/s11406-013-9436-3>.

<sup>68</sup> Christopher Toner, "The Logical Structure of Just War Theory," *The Journal of Ethics*, 2010, <https://doi.org/https://doi.org/10.1007/s10892-010-9072-0>.

<sup>69</sup> Michael Ramsey, *The Gospel and the Catholic Church*, ed. MA Peabody (Hendrickson Publishers, 2009).

armed conflict could be acceptable if declared by a constituted authority (legitimate auctoritas) for a right cause (iusta causa) and carried out to achieve peace<sup>70</sup>. If adhered to, these conditions could even permit deception (Summa Theologiae<sup>71</sup>, II<sup>a</sup>-IIae q. 40 art. I). The schemata would develop further in the direction of legitimate auctoritas and iusta causa during the 16th and 17th centuries<sup>72</sup>. The premise underpinning this stance is that war is evil, yet due to original sin, humans cannot avoid it<sup>73</sup>. What they can do is curb brutality through religion. In 1963, Pope John XXIII's encyclical *Pacem in Terris*<sup>74</sup> emphasised that, for Christians, endorsing organised violence is irrational, particularly in the presence of nuclear weapons, as it could lead to humanity's destruction. However, the idea of self-defence remained intact. The Second Vatican Council, through *Gaudium et Spes* in 1965, stressed the need to work toward the abolition of all wars. In 2020, Pope Francis, with the encyclical *Fratelli Tutti* (FT) (borrowing the title of the Admonitions of Saint Francis of Assisi), declared that it is difficult for a Christian to accept an armed conflict, regardless of the conditions that led to it (ius ad bellum) and how it is conducted (ius in bello) (Par 227-232). Notably, he did not deem it impossible. Using a term like that would have implied that weapons are never permissible (even in the case of self-defence), making the military profession incompatible with Christianity. Pope Francis does not go that far. However, he rejects the idea that organised violence is fundamental to human nature. Therefore, he asserts that the adjective "just" conveys something positive in an action and can no longer be associated with the noun "war." Johnson (1973) postulates that whereas international law examines which government initiated an armed conflict (except in rare cases where a preemptive move is permissible—the first resort to force is always denied, and the second is always granted), the RCC evaluates the morality rather than the legality of a belligerent's claims. For JWT, war is ethically neutral, as the nation meeting the ius ad bellum criteria is justified in waging it, but the one that does not is behind an unjust war. On the other hand, the RCC considers organised violence inherently immoral, regardless of how and by whom it is initiated. From this perspective, Christianity emphasises ius in bello and downplays ius ad bellum. This stance is evident in the 1870 Postulatum and the 1931 Conclusions of the Conventus of Fribourg.

Apropos of the law governing Catholic Christianity, Beal's (2000) work and the Code of Canon Law<sup>75</sup> supply valuable insights. Canon 287 §1 directs clergy to promote the cause of peace and reconciliation, urging them to avoid practices that perpetuate human suffering. Canon 1752 addresses the supreme law of the Church: *salus animarum* (the salvation of souls). From this perspective, one could reckon that human dignity must be preserved in all circumstances. This assertion originates from the First Letter of Saint Peter, which states that the faithful should rejoice with an inexpressible and glorious joy as they achieve the goal of their faith: the salvation of their soul. Thus, we may interpret, through the words of the Apostle Peter, that *salus*

<sup>70</sup> James F. Keenan, *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Con-Sciences* (A&C Black, 2010).

<sup>71</sup> Brian Davies, *Thomas Aquinas's Summa Theologiae: A Guide and Commentary* (Oxford: Oxford University Press, 2014).

<sup>72</sup> Romanus Cessario, *Introduction to Moral Theology (Catholic Moral Thought, Volume 1)* (CUA Press, 2001).

<sup>73</sup> Michael G. Lawler and Todd A. Salzman, "Human Experience and Catholic Moral Theology," *Irish Theological Quarterly* 76, no. 1 (2011): 35–56, <https://doi.org/https://doi.org/10.1177/0021140010387976>.

<sup>74</sup> Pope John, "Pacem in Terris," *Survival* 5, no. 4 (1963): 146–47, <https://doi.org/https://doi.org/10.1080/00396336308440402>.

<sup>75</sup> "Codice Di Diritto Canonico," 2025.

animarum, being the ultimate aim of faith, can, in some sense, be equated with God Himself<sup>76</sup>. This argument leads to another consideration. We can proclaim that the use of drones must adhere to Christian doctrine to preserve the purity of the spirit. Canon 1397 - § 1. asserts that whoever commits murder, kidnaps or unlawfully detains a person through violence or fraud, or mutilates or severely injures them shall be punished according to the severity of the crime with the penalties enumerated in canon law. Under this precept, we can argue that UAV operators who commit extrajudicial, summary, or arbitrary executions must face punishment. Canon 211 obliges the faithful to contribute to Earth's sanctification, thus opposing practices—such as indiscriminate drone raids—that compromise human dignity and global harmony. Finally, it is worth underlining that Canon 223 §1 affirms the Church's commitment to the common good and public welfare, extending this principle to the oversight and accountability of UAV deployment. Canon 747 §2 mandates the promotion of morality to guide societal conduct, reinforcing ecclesiastical refutation of unchecked exercise of military force.

### **Juridical Responsibility of AI-powered UAVs**

The authors and the interviewees agreed that responsibility for combat drones operated by Artificial Intelligence (AI) poses many hurdles. One central point is that robots do not have legal personality. Therefore, they cannot bear accountability for damages to infrastructures and injury or death of people. The onus must instead be ascribed to individuals or entities involved in the drone's design, operation, or deployment. This allocation must consider several factors, such as the level of control operators have over the drone and the prospect of harm. Victims of drone-related damages are still required to demonstrate causality, yet there is room to alleviate the burden of proof when finding a causal link becomes excessively onerous. This principle may be adjusted in cases where the complexity of AI systems makes it near-impossible for the victim to trace the exact cause of the damage. Furthermore, a dual burden system—fault-based and strict liability—ought to coexist. This duality ensures that operators can be held liable for negligence. However, strict liability would apply to cases where harm is caused without fault but due to the inherent risks associated with AI-driven drones. Insurance schemes must mirror these risks: the higher the likelihood of damage, the greater the need for mandatory insurance, chiefly when operators may not be financially equipped to compensate victims for serious harm. In the interconnected chain of technology operators, liability should be "allocated" in proportion to the control each party has over the risk. Logging systems—such as black boxes—should also be mandatory for AI-operated platforms to provide critical data during accidents or malfunctions. Moreover, new due diligence standards, including compensation funds, are vital to ensure that victims of such emerging technologies are not left without a remedy.

### **Policy Proposals for Oversight and Accountability**

The authors contend that to avoid drone incursions, countries should establish sanitary cordons around critical facilities, including educational institutions, healthcare centres, and refugee camps. They assert that control may be delegated to international bodies such as the Security

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<sup>76</sup> I. Pérez de Heredia, "Ecumenical Profiles of the *Salus Animarum* in the Codification of the Catholic Church," *Ius Ecclesiae* 12, no. 2 (2000): 465–91.

Council or regional groups like the Organisation for Security and Co-operation in Europe (OSCE). The UN may deliberate on invoking Chapter VII of the UN Charter to enforce binding mandates. At the same time, OSCE could establish a specialised task force responsible for settling disputes and ensuring adherence to these mandates. The authors believe these entities can engage with the International Court of Justice (ICJ) to resolve legal conflicts. Satellite imagery and advanced UAV detection systems would reinforce on-site checks. Creating a worldwide code of conduct for drone operations offers an additional layer to regulate the use of unmanned aerial vehicles. Principles would prohibit targeting non-combatant populations, preserve the standards of proportionality and necessity, and require post-mission assessments to determine compliance with humanitarian law. It is paramount that this rule explicitly forbids punitive drone strikes against civilians and requires thorough assessments after any such strikes. An independent regulatory organisation modelled on the International Atomic Energy Agency (IAEA) will monitor compliance, with the authority to examine state practices, investigate violations, and publish public compliance reports. For the authors, this entity could conduct on-site inspections, maintain a global registry of UAV activities, and deploy investigative teams when alleged breaches occur. Perhaps transparency measures require countries to submit detailed data on drones. Regarding no-drone zones, the authors think their sizes should be tailored to operational needs. Nevertheless, a minimum radius of 10 kilometres may reduce UAV incursions and safeguard civilian infrastructure. Implementing geofencing protocols in uncrewed aerial vehicles is another means to prevent unauthorised UAV incursions. A universally applicable code of conduct would ensure standardised and responsible drone operation. Said differently, it would mitigate inconsistencies in national policies and prevent abuses. Per customary international law, there might be explicit bans against signature strikes based merely on behavioural patterns and the obligation to issue prior warnings before conducting attacks. The authors also posit that operators must verify targets using several intelligence sources and record the details of their decision-making procedures. Capacity-building activities, including training programs and technical workshops, may be organised by the United Nations Office for Disarmament Affairs (UNODA) to assist governments in bringing their conduct close to the proposed criteria

## CONCLUSION

Bryden (2012) and Heyns et al. (2016) contend that drones replace the two-way dynamics of conventional warfare with a one-way process. They also expect them to advance in sophistication, shrink in size, become more affordable, and thus more accessible. The expertise for operating these systems is becoming increasingly widespread worldwide. An increasing number of countries are likely to integrate UAVs into their military arsenals and pursue targets far from what would typically be considered conflict areas. Some nations might even explore using drones for domestic law enforcement, such as border security, tackling organised crime, and managing crowds. There are reports of UAVs already being used by NSAs in the Middle East and elsewhere. Lefante (2023) zeroes in on the fact that when the conditions for *ius ad bellum* are met, the use of force is restricted to combatants as stipulated by *ius in bello*. The Geneva Conventions describe them as individuals belonging to armed forces or militias who meet specific criteria: reporting to a responsible chain of command, wearing identifiable signs or uniforms, openly carrying weapons, or abiding by the laws and customs of armed conflict.

Countries must distinguish between combatants and non-combatants—individuals who are not part of the armed forces of either side or refuse to perform military-like activities. This category includes medical and religious personnel serving in the armed forces. Soldiers cannot target non-combatants. Moreover, the Geneva Conventions reiterate that combatants must exercise caution to avoid harming civilian infrastructure. Any non-combatant who decides to participate in hostilities can be lawfully targeted. When an individual's status is uncertain or unclear, they should be considered non-combatants. In circumstances where the use of force involves zones outside of armed conflicts, international law does not offer clear instructions. UAVs are at the centre of this problem because they have been found repeatedly breaching countries' territorial sovereignty in incidents that remained isolated but often escalated to increasing hostility and even direct conflict between nations. Generally, the official justification is that drones assist in targeting terrorists and extremists (though some argue they lock the military into an open-ended mission with little, if anything, to do with security).

From the statements and homilies by Pope Francis <sup>77</sup> and various conferences against weapons of mass destruction<sup>78</sup>, we can assert that the RCC is wary of drones. For the religious institution, they cause individuals to lose control over life and death. Furthermore, they complicate efforts to maintain a sense of humanity in warfare, which was central to the codification of JWT. RCC does not frame fighting as something nefarious that should be avoided almost at any cost. Rules can curb its effects on society, but not its nature. That insight, which the interviewees considered accurate, should lead directly to efforts to develop a better grammar of moral judgment. A pair suggested that in bilateral situations, Christians abandon the right to self-defence for the right to defend the neighbour, as their idea of love stresses that one should not judge in one's favour. In trilateral situations, they advanced that Christians should succour the innocent against the aggressor even when extending protection requires force. For the respondents, the third-party status permits people to be objective onlookers and determine who is guilty and innocent in a dispute, perhaps referencing the ideas of Forsythe (1974), Miller (1986) and Capizzi (2015). Nevertheless, intervening should not alter feelings of compassion and empathy Christians display for the victim and the wrongdoer. Love for the neighbour takes form in bearing arms, and love for the aggressor in non-combatant immunity and just intention (stipulating that war ends with peace and, hence, the creation of new neighbours). The principle reduces the legitimate preference a state has for its citizens. If countries utilise drones to exact justice and ameliorate social order, then the participants have nothing against them. Other interviewees appreciated their point of view but added that political and religious pluralism complicates the schemata. Historically, wars are a product of a conflict of interest (together with alternative conceptions of justice and love). Working from this argument, like Baer et al. (2006), the respondents speculated that JWT might be born because people cannot institutionalise trilateral relations (in the bilateral one, Christians are a party of a dispute and not an independent

<sup>77</sup> Francesca Sabatinelli, "Papa Francesco: La Preghiera per La Pace Durante l'Angelus Di Santo Stefano," Vatican News, accessed January 11, 2025, <https://www.vaticannews.va/it/papa/news/2024-12/francesco-angelus-santo-stefano-giubileo-porta-santa.html>.

<sup>78</sup> Pope Francis and Seven Nobel Peace Prize Laureates, *A World Free from Nuclear Weapons: The Vatican Conference on Disarmament*, ed. Drew Christiansen and Carole Sargent (Washington, DC: Georgetown University Press, 2020), <https://doi.org/https://doi.org/10.2307/j.ctv13843h1>.

observer). To move beyond the impasse, they advocated linking the right to wage war to the responsibility to protect the common good (prescribed by all nations) and not particular interests. They also reiterated that we should approach the enemy as our neighbour, and that will push us to seek reconciliation and other inclusive strategies. From a posthumanist perspective, UAVs embody a convergence of religion, science, and war, stretching the boundaries of human physical and ethical limits. International law, once (considered) a rigid barrier, has morphed into an undefined, porous membrane, easily traversed by machines and individuals. Though there is no guaranteed way to eliminate them, several strategies can help reduce the likelihood of unlawful conflicts and mitigate their negative impact on civilians. For the participants, posthumanism can aid lawyers and judges in identifying novel forms of legal personhood and, thus, accountability. It can also help us see how non-human entities instruct, make demands upon or injure human beings and their collectives within and beyond the law.

### Suggestions for Future Research

Scholars could investigate how individuals from different national backgrounds perceive the dronification of warfare. Comparative studies are helpful because they could reveal variations in legal, ethical, and strategic concerns, as well as the diverse solutions proposed by individuals across various regions and continents. It would also be worth analysing when and how UAVs gain new armaments and how international law responds.

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