



Legal and Ethical implications of Targeted Killings using CUAVs

A Comparative analysis of Targeted killing operations in the US and Israel

Humma Ghaffar

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Abstract

This thesis explores the ethical and legal implications of targeted killing operations employing Combat Unmanned Aerial Vehicles (CUAVs), focusing on the practices of the United States and Israel. Grounded in Just War Theory and international law, the research critically examines how both nations justify these operations under the principles of self-defence and national security. Through a comparative analysis of specific case studies, such as the assassinations of Qasem Soleimani and Baha Abu Al Ata, the study highlights the complexities of balancing security imperatives with adherence to international humanitarian and human rights laws. The findings reveal significant ethical tensions, particularly concerning the principles of proportionality, distinction, and the risk of extrajudicial killings. The lack of transparency and accountability in drone operations further complicates their legitimacy. Additionally, it advocates for comprehensive policy and legal reforms to enhance oversight and regulation, ensuring compliance with international standards and ethical norms. This research aims to contribute to the ongoing discourse on modern military practices, urging a more just and accountable framework for the use of lethal force in contemporary conflicts.

Keywords

Targeted killings, CUAVs, Just War Theory, International Law, Self-defence, Proportionality, Distinction, Necessity, United States, Israel

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LIST OF ABBREVIATIONS

UN – United Nations

GC – Geneva Conventions

IHL – International Humanitarian Law

IHRL – International Human Rights Law

CUAVs – Combat Unmanned Aerial Vehicles

ICCPR – International Covenant on Civil and Political Rights

1. Introduction

The emergence of targeted killing operations, especially with the use of Combat Unmanned Aerial Vehicles (CUAVs), has generated a great deal of discussion about the ethical and legal implications of these operations in the framework of international law. The United States and Israel are becoming widely recognised participants in these operations, and in attempt to justify their conduct, they frequently invoke the concepts of national security and self-defence while navigating intricate national and international legal frameworks.

With an emphasis on the use of CUAVs in targeted killings, this thesis conducts a thorough analysis of these defences. Through an examination of notable cases like targeted killing of Qasem Soleimani's and Baha Abu Al Ata's, this study seeks to clarify the intricate ethical challenges and human rights issues that arise when such operations take place. It also explores the disputes between the upholding of human rights and security imperatives by providing a critical evaluation of how both states interpret and apply international law to justify their respective policies.

The objective of this study attempts to provide a comprehensive knowledge of the evolving dynamics of modern warfare and the substantial effects of new military technologies in alignment with Just War Theory principles through a comparative analysis of the tactics taken by the US and Israel. Moreover, it investigates the relationship between just war theory and international law with the goal of strengthening scholarly discourse on the ethical implications and legality of targeted killings in modern conflict settings.

By engaging with these critical issues, this thesis lastly, aspires to foster a deeper understanding of the balance between security and ethical standards in the context of counterterrorism. It challenges the reader to consider the implications of current military practices and the moral boundaries within which states operate, ultimately advocating for a more balanced and just approach to the use of CUAVs in conflict scenarios.

1.1. Research aims / Research question(s)

The aim of this research is to investigate the ethical and legal implications of targeting killing operations in accordance with international law. Additionally, this paper examines the national legal frameworks in the United States and Israel that support the nations' policies that permit targeted killing operations. Finally, this study seeks to illustrate the multiple ethical challenges of targeted killings utilising revolutionary lethal technologies like Combat Unmanned Aerial Vehicles (CUAVs) used as a just method against the war on terror.

The following are the research questions that this paper aims to answer in accordance with the research aim.

1. *How have the US and Israel applied the legal interpretation of international law to support the targeted killing operations using Combat Unmanned Aerial Vehicles (CUAVs)?*
2. *From the standpoint of Just War Theory, what are the ethical and legal ramifications of using Combat Unmanned Aerial Vehicles (CUAVs) for targeted killings?*

1.2. Relevance to Human Rights

This thesis explores the interaction between international human rights law and targeted killings carried out with CUAVs, making it relevant to human rights studies. State-initiated targeted killings, especially when CUAVs are involved, give rise to serious human rights issues involving the protection of civilians, due process, and the right to life. This study sheds light on possible violations of human rights and the difficulties in holding states accountable by examining the legal framework and ethical implications of these actions. In addition, the comparative study of the US and Israeli strategies provides insight on the practical application of many ethical and legal norms, expanding our comprehension of the effects of military technologies on human rights. With an emphasis on the necessity of adhering to standards of human rights, this study aims to contribute to current discussions and policy decisions on the use of CUAVs in conflicts and counterterrorism operations.

1.3. Limitations

The subject of law will be treated indirectly throughout the essay when it comes to Just War Theory and somewhat more directly when it comes to the interpretation of international law for its legal justification on military actions. However, the purpose of this essay is not to evaluate the normative content of international law regarding the use of drone technologies. Instead, the focus on this essay will be on Just War Theory and the moral aspects this theory will bring in an analysis of the use of CUAVs. Focus will be on the use of drones in targeted killing operations, that is, when drones are used to target potential terrorists. Using drones for other purposes such as intelligence gathering will be excluded from the essay.

Although it is an interesting topic, it is not the purpose of this essay to investigate the potential ways in which this new technology can be used or the rapid development of new technology. Neither is the purpose of this essay to present an explanatory model for state behaviour regarding the deployment of drones but merely to analyse some of the motives which so far

have been made as regards the use of drones, limited to the scope of Just War Theory and rational choice models.

1.4. Thesis Outline

The ethical and legal implications of employing CUAVs for targeted killings are examined in this thesis. It examines previous research reviews that lay the groundwork for the theoretical framework, which incorporates international law and Just War Theory. The methodology section then follows on to demonstrate why the particular states for case selections and the use of comparative analysis in this theory are effective. It also provides a description of the thesis's material selection. Using the cases of Qasem Soleimani and Baha Abu Al Ata as examples, an analysis focuses on the international legal framework, the application of US and Israeli national law, and the application and alignment with the principles of just war theory to the targeted killing operations. An ethical evaluation of the challenges associated with using CUAVs for targeted murders follows a comparative study of the US and Israeli approaches. The thesis concludes with a summary of the outcomes, recommendations for future research, and implications for international law and ethics.

1.5. Definitions

Targeted killing is usually referred to as the premeditated killing of an individual by a government or its agents (Banks and Raven-Hansen, 2003). Others refer to it as the intentional killing of a specific civilian or unlawful combatant who cannot reasonably be apprehended, and who is taking a direct part in hostilities (Visbal, 2011). And yet another definition describes the intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval (Abresch, 2009). As many descriptions as there are, for the purposes of this paper, "targeted killing" means using lethal force that is attributable to a subject of international law with the deliberate intent to kill specific individuals who are not in the physical custody of those who are targeting them (Melzer, 2008).

Combat Unmanned Aerial Vehicles (CUAVs) have been referred to in many ways such as RPV (remotely piloted vehicle), drone, robot plane, and pilotless aircraft. Most commonly referred to as UAVs, these powered aerial vehicles are defined by the US Department of Defence (DOD) as follows: they can fly autonomously or under remote control; they can be expendable or recoverable; they can carry a lethal or nonlethal payload; and they can use aerodynamic forces to provide vehicle lift (Bone, Elizabeth; Bolkcom, Christopher, 2003).

2. Previous Research

Driven by historical incidents and legal ambiguity, the practice of utilising drones to carry out targeted killings has grown contentious in modern warfare. The use of drone strikes to target American citizens accused of terrorism, for instance Anwar al-Awlaki, is an example of the U.S. strategy of targeted killings following 9/11 (Ramsden, 2011). This has brought up difficult legal concerns regarding striking a balance between international and constitutional law and national security. Similarly, Israel has been conducting targeted killings since the Israeli-Palestinian conflict during the Intifadas, which sparked discussions about the ethics and legality of use lethal force against people who are considered threats (Phinney, 2007).

Lisa Hajjar has published extensively on the subject of "lawfare," which is the tactical application of legal systems and concepts as weapons in conflict, much like conventional military tactics (2013). Hajjar's study examines the development of lawfare over time, emphasising its growing importance in contemporary disputes. She investigates at how state actors and non-state actors use human rights and international humanitarian law to legitimise their activities, undermine their opponents, and impact public opinion around the world. Hajjar also demonstrates how legal arguments and institutions are used to accomplish military and political goals through in-depth case studies, including the Israeli-Palestinian conflict and the American War on Terror. Her research highlights the double-edged nature of lawfare, in which legal tactics can be used to support or hinder accountability and justice in international relations (Hajjar, 2013).

Understanding the ethical and legal consequences of applying the law as a weapon in armed conflict is greatly aided by Hajjar's work, especially regarding advanced military technologies. She examines how lawfare affects the formulation and application of international law, including concepts like the role of international courts, challenges of sovereignty, and the shifting of legal standards. This thesis builds on Hajjar's seminal research by focusing on the use of lethal combat unmanned aerial vehicles (CUAVs) for targeted killings, a strategy that has generated important ethical and legal discussions. It examines the unique legal and moral frameworks that surround drone strikes, delving into questions of state accountability, civilian casualties, and due process. This research attempts to give a deeper knowledge of how contemporary military technologies are changing the face of lawfare and their broader implications within modern conflict by expanding on Hajjar's insights into the application of combat unmanned aerial vehicles (CUAVs).

3. Theory

To analyse the ethical and legal aspects of targeted killings, Just War Theory has been chosen for this research study. The purpose of this section is to provide a descriptive understanding of just war theory's principles and how they are used in modern conflict settings. Additionally, it briefly discusses the challenges that occur in applying just war theory in practical situations due to military's use of cutting-edge technologies such as combat unmanned aerial vehicles (CUAVs).

Just War Theory Framework

Just War theory propounds that adhere to certain norms for the just conduct of war, in turns, acting against injustice by prescribed norms of justice (Senn and Troy, 2017). Just War Theory is a doctrine of military ethics which has its roots in both the tradition of religious writings and in the writings of secular and religious international law (Silverstone, 2011). It is one of the oldest normative traditions in western culture and can be traced back to fourth-Century writings of St. Augustine, in ideas by Thomas Aquinas during the Thirteenth century, to Immanuel Kant and Michael Walzer (ibid). It has been central to moral justifications of war making, involving the normative and meta-ethical presuppositions for various judgements about the justice of the war, and the ethical and legal rules which should regulate how war is fought.

Principles of Just War Theory

Just War Theory divides into further three principles or supposedly kinds of justice that must be satisfied as a legal and ethical justification of use of force. 1) Right to go to war (Jus ad Bellum); 2) Conduct of war (Jus in Bello); 3) consequences of war (Jus post Bellum). However, it usually is segmented into two principles, justice to initiate war referred as Jus ad Bellum and justice during war, referred as Jus in Bello. These two elements of Just War Theory are fundamentally different in application, for instance, jus ad bellum defines moral principles and these principles are rarely or explicitly codified in legal terms such as in United Nations Charter, whereas, the practice of Jus in Bello has been significantly translated into international law and for what now is known as 'laws of armed conflicts' or 'international humanitarian law' of which the four Geneva Conventions and three Additional Protocols plays a major part (Calcutt, 2011). Therefore, this research aims to analyse these two principles of Just War Theory in accordance with targeted killings using the Combat UAVs to evaluate the legality and ethical considerations.

I. Jus ad Bellum (Criteria for waging War):

History has shown that the concepts governing the legality of a state resorting to use of force against another, as well as the methods and means to conduct the armed conflict, have developed into a set of rules known as Jus ad bellum (Nussbaum, 1943). These rules are intended to prevent the irregular use of armed force by prescribing the conditions under which one State is permitted to use force against another. The primary legal sources on Jus ad bellum can be found under Article 2(4) of the UN Charter, which provides a general prohibition against the use of force and sets out only two lawful exceptions to this prohibition, namely authorization of the Security Council acting under Chapter VII, and the inherent right of collective or individual self-defence in response to an armed attack, which is Article 51 of the UN Charter (Reisman, 1984). Moreover, UN members are obliged to act “in conformity with the Principles of Jus ad Bellum” (Silverstone, 2011).

Given the constant emergence of new forms of hostilities today, which may allow for alternate interpretations, the Principles of Jus ad Bellum are especially pertinent. According to Rocheleau (2020), the Principles of Jus ad Bellum offer a framework for addressing the validity of a state's claim that justifies going to war or threatening to use force against another state. The principles are outlined by James Turner Johnson (1981) as follows: it must be established and carried out by a *Legitimate Authority* such as an authorized representative of a sovereign political entity; it must have a *Just Cause* which justifies the use of force in the event of defence and not out of self-interest backed by *Right Intentions* with the pursuit of peace and reconciliation; it must be undertaken as a *Last Resort* means that all other legal and political remedies has been exhausted and finally, it must have a *Probability of Success* (Johnson, 1981).

II. Jus in Bello (Principles of conducting war):

The principles of Jus in Bello are directed towards the ‘civilized’ conduct of armed conflict and are codified as law of armed conflict (LOAC) in international law. The LOAC is a harm-minimisation strategy that aims to keep organised conflicts within limits (Gil, 2019). The LOAC regulates organised military conflict by imposing reciprocal obligations and offering reciprocal privileges for participants at both a command and individual level. It is most effective where all parties (state and nonstate) to a conflict accept the rules or agree to the ‘contract’ but can also be used to constrain the activities of one party (the state) to a non-international conflict (Calcutt, 2011). It offers parties to a conflict certain protection including status as ‘lawful combatants’, but breaches of the conventions are crimes and grave breaches are international crimes.

These principles include the concept of distinction, proportionality, and necessity. These rules are intended to prevent unnecessary suffering and destruction while not impeding the waging of war. First, the *principle of distinction* requires that the parties to a conflict differ between both the military forces and objectives on one hand and civilian and civilian properties on the other (Schulte, 2012). The key rules of armed conflict in coordinated with principle of distinction includes that attacks must be limited solely to military objectives; combatants who can no longer take part in hostilities must be protected; and it is forbidden to kill or wound an adversary who surrenders (ICRC). Second, the *principle of proportionality* requires that the use of force should be proportionate to the threat (Silverstone, 2011). Proportionality generally refers to the conduct of military operations in which considerable harm to innocent civilian may result from the contemplated military action. International Committee for Red Cross (ICRC) states that “it is forbidden to use weapons or methods of warfare that are likely to cause unnecessary loss or result with excessive suffering” (ICRC). Third, and last, *principle of necessity* requires actions that lead to minimum suffering and prevent unnecessary destruction and disruption of the population’s economy. According to the ICRC Customary International Humanitarian Law Customary Rules, Customary IHL Rule 14 states that “The principle of necessity states that only those measures that are necessary to accomplish a legitimate military purpose are allowed (ICRC).”

III. Application of Just War Theory in Modern Conflict Settings

While Just war Theory has eclipsed its rivals as the most widely accepted normative approach to warfare, changes in the international order over the last century such as the President George W. Bush’s declaration of “war on terror” that have led many to think that the framework of just war has been outdated and less effective (Taylor, 2017). Paul Schulte offers a typical statement of this view, with his claim that:

“Just war theories’ precepts are losing direct relevance to the most critical strategic choices. Its abstracted set of conventions no longer grips the increasingly convoluted landscape of twenty-first century conflict. This creates a disputationous screech of lost moral traction. Statesmen, philosophers, soldiers, and lawyers will have to work hard to rethink [just war theory’s] intellectual purchase on events”(Schulte, 2012).

In contemporary conflict settings, the application of just war theory necessitates a rigorous examination of its core principles within the context of evolving geopolitical landscapes and technological advancements. Furthermore, the dynamic nature of modern warfare, characterized by asymmetry, non-state actors, and emerging technologies, underscores the imperative for continuous refinement and adaption of just war criteria to effectively address

contemporary challenges while upholding moral integrity and international norms. Scholars and practitioners alike grapple with the complexities inherent in assessing the justifiability of military action, emphasizing the need for meticulous scrutiny of factors such as just cause, proportionality, and distinction between combatant and civilians. This entails an interdisciplinary approach, integrating moral philosophy, international law, and political science to navigate ethical dilemmas and reconcile theoretical precepts with real-world exigencies.

Additionally, evolving technology such as Drones or specifically Combat Unmanned Aerial Vehicles (CUAVs) presents a challenging new scenario in warfare and have partly revolutionized war conduct within the framework of Just War Theory. Yet, the application of Just War Theory in the context of drones distinctly within the domain of military ethics (Skerker, 2020). The longstanding tradition of just war acts as a framework for the armed forces, enabling them to approach and execute warfare in a calculated manner. Its primary objective is to equip soldiers with the capacity to meticulously evaluate their options and make morally sound judgments, even in the heat of battle (Islam, 2023). This time-honoured tradition holds significant importance in the realm of drone warfare, as scholars specializing in military ethics have extensively studied its suitability and consequences. Scholars have argued that CUAVs may have tendency of blurring the line between combatant and civilians and regardless of its “surgical precision” the principle of distinction can be disrupted amid war (Skerker, 2020).

Moreover, Just War Theory provides moral and ethical justification for engaging in war, but only when the cause is deemed just. The principle of having a just cause is a fundamental tenet of just war theory, as it aims to improve the state of the world (Calcutt, 2011). In contemporary context, the importance of just cause in modern conflicts has decreased significantly. This may be due to the ambiguity surrounding the war on terror or the belief that certain wars should not have been pursued (Nylen, 2020). Consequently, the concept of just cause has evolved as cultural perspectives on war and warfare shift, as the potential for automated conflict through technologies like CUAVs grows (Guthrie, 2022).

4. Method

Researchers in the social sciences compare the standard of living in different cities, the stability of governments in different nations, the economic practices of different social groupings, and the effect of rituals on social cohesiveness. Comparison is one of the essential mental processes that make the world comprehensible when it comes to classification (Bailey, 1994). This study employs comparative analysis as a methodology to provide an organised and rigorous approach to analysing the policies and patterns of two distinct states: the US and Israel, geographically and creatively, leading to a thorough understanding of the significant issue like targeted killing.

For a thesis on drone-assisted targeted killings, comparative analysis comparing the trends and policies of two governments can be quite impactful (Pennings, Keman and Kleinnijenhuis, 2006a). Comparative Analysis is used as the research design of this study which enables a thorough legal analysis and comparison of the laws pertaining to drone-assisted targeted killings, exposing disparities in legal frameworks, moral issues, and tactical methods (ibid). Moreover, this thesis project is based on Qualitative method which makes it possible to identify parallels and contrasts in techniques, targeting criteria, collateral damage, and effectiveness by examining the patterns and practices of targeted killings in various states (Drozdova and Gaubatz, 2017). This ethical and legal analysis enables well-informed conclusions to be made on the more morally or practically good policies and practices, resulting in suggestions for international organisations, military strategists, and governments. Additionally, by offering a thorough assessment of targeted killing policies and practices, this research advances academic understanding and may inspire alternative ideas and discussions in the field. All things considered, comparative analysis as research design and Qualitative method is a strong methodological tool for researching difficult and contentious subjects like technology-assisted targeted killings, providing insightful information for both scholarly research and policy debates (ibid).

Although comparison analysis provides insightful information about drone-assisted targeted killings, there are certain potential disadvantages to consider. In most situations, the comparative technique is neither used and used rigorously, nor is it used in a systematic manner. This could lead to incorrect generalisations about what goes on in society as well as biased perspectives of reality in addition to erroneous judgements or conclusions. Furthermore, it is possible to ignore qualitative elements that are crucial to comprehending the complete ramifications of targeted killings, such as societal norms, historical circumstances, and public opinion. Lastly, because international relations and warfare are dynamic fields that are always

changing, comparative analysis may find it difficult to keep up with these changes, which could eventually make its results less applicable or obsolete. Despite these difficulties, if methodological constraints and contextual subtleties are carefully considered, a diligent and rigorous approach to comparison analysis can nevertheless produce insightful information about targeted drone killings (Pennings, Keman and Kleinnijenhuis, 2006).

4.1. Case Selection

This comparative study of targeted killings is particularly striking because it compares the United States with Israel. First and foremost, while both countries have a long history of using targeted killings as a counterterrorism strategy, their legal, political, and ethical systems are quite distinct. The manners in which each state justifies, conducts, and oversees these operations can be extensively compared relative to these distinctions.

Second, each state's political situation and public discourse provide an insight into broader social perspectives on legitimacy, security, and human rights. Israel's regional security concerns and its distinct geographical context contrast with the United States, which has a global military presence and upholds democratic ideals. This offers a thorough understanding of the ways in which various political contexts affect the use and interpretation of targeted killings.

Third, the specific cases of Baha Abu al-Ata and Qasem Soleimani provide as well-known illustrations of the complexity of contemporary conflict using CUAVs. These examples bring up important issues related to proportionality, discrimination, and legitimate power that are at the foundation of just war theory, both legally and ethically. Examining these cases assists in understanding how each state achieves a difficult balance between fulfilling security goals and abiding by international ethical and legal standards.

Overall, the case selection used in this research study advances the understanding of Israel's and the United States' targeted killing tactics while also advancing discussions on the morality, legality, and long-term effects of these strategies in modern conflict.

4.2. Material

In this thesis, a comprehensive qualitative analysis has been conducted utilizing both primary and secondary sources. Primary sources include essential legal documents such as the UN Charter, the Geneva Conventions, international law instruments such as ICCPR, and various customary international law rules. These documents serve as the foundational texts for the legal analysis and provide the necessary legal framework for the research. Additionally, qualitative data from reports comparing the conditions and legal environments of two states have been

incorporated to support the comparative analysis. Secondary sources comprise academic journals and books that offer critical interpretations, theoretical frameworks, and scholarly debates relevant to the research topic. These sources have been instrumental in contextualizing the primary data, providing insights into existing literature, and supporting the arguments developed throughout the thesis. By integrating these diverse sources, the research ensures a robust and comprehensive examination of the subject matter, grounded in both authoritative legal texts and scholarly discourse.

5. Analysis

As the landscape of warfare continues to evolve in the 21st century, characterized by non-state actors, asymmetric conflicts, and technological advancements, the ethical considerations surrounding targeted killings have become increasingly paramount (Shereshevsky, 2022). Targeted killings, defined as the intentional use of lethal force by a state against a specific individual or group, often raise questions about legality, morality, and effectiveness (Meisels, 2018). The complex legal and ethical implications of targeted killings in modern warfare are thoroughly explored in this section, which mostly focuses on US and Israeli operations. The first part of the section (5.1) provides a comprehensive analysis of the international legal framework for targeted killings, including key provisions from the International Human Rights Law (IHRL), International Humanitarian Law (IHL), and United Nations Charter. This fundamental understanding provides the way for a detailed exploration of the domestic legal frameworks in Israel and the United States (section 5.2), highlighting how each nation operates within its boundaries and provides justification for its actions (section 5.3).

Following the legal context, the analysis explores how these targeted killing operations fit into the ethical framework of just war theory, which assesses the legitimacy of war and conduct within it. Detailed case studies (section 5.4) of the targeted killings of Qasem Soleimani and Baha Abu Al Ata are then conducted using this theoretical foundation. This analysis also examines the legal and policy arguments put forth by Israel and the United States to see how these acts comply with or deviate from the principles of Just War Theory. An examination of the ways that the US and Israel approach targeted murders is then provided, along with a comparison of the two states' techniques (section 5.5). This comparison aims to uncover the nuances in their application of Just War Theory and the broader implications for international law and ethics.

The final section (5.6) of this analysis covers the ethical dilemmas that arise from targeted killing operations, especially when Combat Unmanned Aerial Vehicles (CUAVs) are used. It offers a critical viewpoint concerning how to maintain a balance between the necessity of security and human rights obligations under international law, as well as possible improvements and alternatives to current practices.

5.1. International Legal Framework

Combat Unmanned Aerial Vehicles (CUAVs), also referred to as drones, have changed counterterrorism and modern military operations. Even though these technologies have several

tactical benefits, their application—particularly in the context of targeted killings—raises difficult legal and ethical concerns. The United Nations Charter, International Humanitarian Law (IHL), International Human Rights Law (IHRL), and particular drone-related frameworks like the Missile Technology Control Regime (MTCR) are the primary areas of discourse in this section's evaluation of the international legal frameworks governing targeted killing operations using combat UAVs.

5.1.1. The UN Charter

The legitimacy of drone warfare depends on adherence to the UN Charter. Article 2(4) of the Charter states that a state's political independence or territorial integrity may not be threatened or infringed by force unless necessary for self-defence or with the UN Security Council's approval (Reisman, 1984). This paragraph highlights how crucial it is for states to uphold accountability and legitimacy by giving a justification for employing drones in the framework of collective security or self-defence, as specified in Article 51 (UN Charter, 1945).

The UN Charter's Article 2(4) was drafted to prevent the catastrophic impact of full-fledged interstate conflicts (Ewald, 1990). It emphasises that, with the exception of self-defence, all member states should abstain from engaging or threatening to use force against the political independence and territorial integrity of any state (Andreias, 2019). This paper, in the following sections of this analysis, emphasises how using drone technology for military purposes requires thorough justification and respect to international standards.

For example, the criteria outlined in Article 2(4) are often considered to mandate that any use of force, including drone strikes, be justified by an immediate threat or executed with formal authorization from the UN Security Council in modern conflicts (Abeyratne, 2015). By ensuring that the use of drones in combat is strictly regulated and open to international observation, this clause aims to maintain international peace and security.

5.1.2. International Humanitarian Law (IHL)

Hostilities are governed by international humanitarian law (IHL) in order to mitigate the impact that that occur on both combatants and civilians. IHL is codified in agreements like the Geneva Conventions and its Additional Protocols I and II (*The Geneva Conventions and Additional Protocols - ICRC*, 1949). For example, attacks that could inflict disproportionately more damage or spread terror among the civilian population more than on military targets are forbidden by Additional Protocol I's Article 51(5)(b) (*GC,AP I*, 1979). In addition, Article 57

of the Protocol highlights that in order to minimise casualties during an attack, military means such as drone operators must prioritise protecting civilians and evaluate potential harm (*GC, AP I*, 1979).

The fundamental principles of International Humanitarian Law (IHL), which were developed in response to the atrocities of World War II and are outlined in the Fourth Geneva Convention, Article 48 mandates that means of force (Drones) must respect the distinctions made between civilians and combatants (*GC IV*, 1949).

The principle of proportionality in IHL, for instance, requires drone strikes to refrain from inflicting disproportionately high civilian losses in comparison to the expected military benefit. In order to minimise injury to civilians, drone operators must perform thorough assessments prior to initiating an assault (Wright, 2015). UAVs must also target only legitimate military goals and make a clear distinction between combatants and non-combatants in accordance with the concept of distinction (Meisels, 2018).

5.1.3. International Human Rights Law (IHRL)

By defending basic liberties and rights even in times of armed conflict, international human rights law (IHRL) strengthens international humanitarian law (IHL). Article 6 of the ICCPR states that stringent compliance with legal and procedural requirements is necessary to prevent drone strikes that cause arbitrary casualties (*ICCPR*, 1976). Furthermore, by prohibiting torture and other cruel, inhuman, or degrading treatment, Article 7 of the ICCPR stresses the humane treatment of all people, including detained combatants and suspects targeted by drones (*ICCPR*, 1976).

Drone operations, for example, are required under IHRL to respect the right to life, meaning that any use of lethal force must be justified, necessary, and proportionate with the threat that exists (Raman, Lushenko and Kreps, 2021). This is especially important when using drones for counterterrorism operations. Ensuring that individuals caught during drone operations are not subjected to torture or inhumane treatment is part of the IHRL's responsibility to treat them humanely (*ibid*).

5.1.4. Arms control and Disarmament Framework

Although there are frameworks for arms control and disarmament treaties, it is difficult to apply them to drone technology and military use because CUAVs were not particularly considered when these accords were drafted (Seitzer, 2004). An international export restriction system

called the Missile Technology Control Regime (MTCR) aims at preventing the spread of missile and unmanned aerial vehicle (UAV) technology that can deliver weapons of mass destruction. Thirty-five states make up the MTCR, which was founded in 1987 with the goal of coordinating national export authorization initiatives to stop the spread of certain technology (MTCR, 1987).

Despite not having legal force behind it, the MTCR is extremely important for controlling the proliferation and transfer of war drones (Islam, 2023). Member states agree to enforce uniform export policy standards in order to regulate the transfer of technology connected to missiles, including unmanned aerial vehicles (ibid). This unofficial political agreement aims to limit the spread of specific missile and unmanned aerial vehicle (CUAV) technology that can transport 500 kg of payload across at least 300 km (Brooks, 2014). Although there are states that contend that the MTCR does not completely forbid UAVs and their related technologies, it is difficult to understand how UAVs and related technologies would not breach the regulations of the regime (ibid).

Understanding these frameworks in a nuanced manner and working to adapt them to the realities of contemporary conflict are necessary in order to address the ethical and legal difficulties raised by drone warfare. Improved transparency, accountability, and global collaboration are necessary to guarantee that the utilisation of combat UAVs complies with international law and upholds human rights.

5.2.Domestic Legal Framework

When analysing targeted killings from a legal standpoint, it is crucial to distinguish between the domestic laws in the US and Israel. Each country has its own legal framework governing the use of force. Although there are similarities between the two nations in this aspect, it would be unwise to assume that they both operate under the same domestic legal restrictions. This section aims to portray the legal justification behind the policies of the US and Israel. However, it is important to consider that each country's constitution and domestic laws hold ultimate authority.

5.2.1. US Legal Justifications

The United States legal framework for targeted killings represents a meticulously coordinated interplay of domestic statutes, constitutional principles, and international law considerations (Wallerå, 2020). At its foundation lies the *Authorization for Use of Military Force (AUMF)*, enacted by the US Congress on September 18, 2001, in the aftermath of the terrorist attacks

occurred on September 11, 2001 (Hajjar, 2013). AUMF grants the President broad authority to use military force against individuals and groups deemed responsible for those terrorist attacks such as Al-Qaida and its affiliates, as well as against any “nation, organisation, or person” determined to participate in terrorist attacks (Savell, 2021).

Under this broad mandate, the US government has justified targeted killings as a necessary and effective tool in combating terrorism (ibid). However, there are several concerns regarding the legality of AUMF as law. The AUMF’s legality has been subject to scrutiny, along with its debatable scope and duration, yet it is a cornerstone of US justification for counterterrorism strategy (Amato, 2024). Over time, it is evident through events that the scope of AUMF has been interpreted expansively to justify military interventions and targeted killings beyond its initial aims (ibid). Critics argue that it has been allowing for perpetual warfare without proper congressional oversight or authority (Hajjar, 2013). And lastly, it is hard not to compare its compatibility with international law, particularly regarding sovereignty and the use of force in other countries, under Article 2(4) of the UN Charter (UN Charter, 1945).

Additionally, another concern lies within the operationalization of the AUMF. The AUMF does not prescribe specific methods or technologies for conducting military operations. However, from legal perspective, the use of CUAVs in targeted killing is seen as consistent with the AUMF’s authorization of force against terrorist organizations and their associates. Moreover, the international law on armed conflict also lacks clear guidance on the use and regulation of drones which is relatively seen as modern method of warfare. There is no definition or legally binding treaty specifically addressing the legality of UAVs, instead it becomes subject to general rules of International Humanitarian Law (Shereshevsky, 2022).

Furthermore, *Executive Orders* wield significant influence in shaping governmental policies and actions, including the controversial practices such as targeted killings. Executive orders are, by definition, directives that the President of the United States issues to oversee the federal government's operations (Driesen, 2020). They have the force of law and can be used to implement policies, enforce laws, or manage the executive branch’s operations (Cohn, 2021). Executive orders are typically based on the president’s constitutional authority as the head of executive branch and are often used to bypass the legislative process when immediate action is deemed necessary (ibid).

The US presidents have historically utilized executive orders in response to perceived threats such as national security, that necessitate decisive actions. For example, Executive Order 12333

titled as “United States Intelligence Activities” (1981), signed by President Ronald Reagan, is a foundational document that outlines the roles and responsibilities of various US intelligence agencies and sets forth guidelines for their operations. One notable provision of the Executive Order 12333 is the prohibition of assassination, which states that “no person employed by or acting on behalf of the US government shall engage in assassination or targeted killing as a method of conducting foreign policy and achieving political goals” (Executive Orders, 1981).

Although the ban on assassination in the order has a force and effect on congressional statute of the US, Executive Order 12333 has been used as primary legal justification for targeted killings operations for instance regarding national security by the US (Johnson III, 1992). The order acknowledges the need for intelligence activities to safeguard the US against threats posed by terrorist organizations (‘Executive Orders’, 1981). Therefore, by authorizing the use of lethal force, which in this context can be refer as attack via CUAVs, in self-defence and outlining procedures for intelligence operations, Executive Order 12333 has provided a legal rationale for the practice of targeted killings as a legitimate tool of national security policies.

To conclude the United States legal framework for targeted killing operations, one could say that targeted killings have become entrenched as a routine aspect of the U.S. counterterrorism strategy, with AUMF and Executive orders serving as key justification for their continued use.

5.2.2. Israeli Legal Justifications

Israel, much like all other states, relies on international law for its legal justification for targeted killings primarily to garner legitimacy and uphold its actions within the framework of universally recognized legal standards. By invoking principles of self-defence and use of force enshrined in international law, such as those outlined in the UN Charter (1945), Israel seeks to demonstrate that its actions are not only permissible but also fulfilled the requirement of just war criteria as response to imminent threat to its state (Dahal, 2020). Israel, much like all other states, enjoys the protection of self-defence, which includes defending both individuals and the collective (Wheatley, 2021).

Following the implementations of targeted killings operations using remote surveillance and targeting technologies a.k.a. drones in the early 2000s, the Israeli legal framework underwent some major transformation to reach a more comprehensive approach (Hajjar, 2013). The catalyst for such changes was a ruling by the Supreme Court of the Israel regarding the legality of the targeted killings. In the case of the *Public Committee Against Torture vs. the Government of Israel*, the petitioners claimed that Israel and the Palestinians were not in an international

armed conflict, and therefore the actions that were allowed to be taken against suspects of terrorist activities were those allowed by the law enforcement model, that is, through the ordinary standards of arrest and a fair trial (*H CJ 769/02*, 2006).

However, in Israel, the use of lethal force by law enforcement agencies is regulated by the *Law of Police*. In accordance with the Israeli Penal Code, actions performed by a public official while on duty are considered justified and exempt from punishment if they involve the use of force that aligns with their responsibilities and is necessary as per the law and regulations (1977, Article 35). Similar regulations are outlined in Chapter seven of the Penal Code, which permits the use of lethal force to prevent the killing of oneself or others (*Israel - Penal Law 5737*, 1977). This provision allows law enforcement officers and civilians to employ advanced weaponry as a final measure to thwart the lethal use of firearms in situations where armed suspects are involved in terrorist activities.

Under the *judicial scope*, the Israeli Supreme Court ruling H CJ 769/02 (2006) established that the Israelis and the Palestinians were in an international armed conflict; diverting from the traditional concept that International Armed Conflicts were only between recognized states (*The Public Committee against Torture in Israel et al. v. The Government of Israel et al., Supreme Court of Israel*, 2006). Despite recognizing the existence of an armed conflict, the ruling stated that Palestinian terrorists could not be considered as combatants based on the fact, they fail to fit the legal status of combatants established in chapter 1 of the Hague convention (1907), and which is repeated in article 13 of the Geneva convention I and II, as well in article 4 of Geneva convention III (1949)(Visbal, 2011).

Despite the fact the Israeli Supreme Court ruling 769/02 has not any direct or indirect influence over international law, it constitutes a vanguard legal precedent that has not taken place even in the US Supreme court, which in such cases as targeted killing operations has expressed its inability to deal with such sensitive subjects of national security. The Israeli Supreme court decision is the only modern case in which a *judicial authority* of the highest level within a democratic country, has taken the challenge to discuss and legalize the implementation of targeted killing operations (Visbal, 2011).

5.3. Alignment with Just War Theory Principle

In recent years, targeted killings using UAVs have become a significant tool in the military strategies of both the United States and Israel. These operations have sparked the legal and ethical implications in compliance with Just War Theory Principles. Just War Theory provides

a comprehensive framework for assessing the legitimacy of warfare, encompassing principles such as necessity, proportionality, and distinction. In the context of targeted killings, these principles serve as a guiding pillar, ensuring that military actions are conducted ethically and in accordance with international law. By examining how the legal justification of both states, the US and Israel, align with the principle of Just war theory, we gain insight into their commitment to upholding moral standards and complexities in contra.

5.3.1. Necessity: Assessing threats and objectives

The Necessity Principle is a fundamental aspect of just war theory. According to this principle, war is only justified in cases of self-defence, where the use of force is absolutely necessary and there are no other alternatives to stop illegal or unjustified violent attacks (Taylor, 2017). Both the United States and Israel have claimed to face hostile threats from various adversaries, and they argue that they have the legal right to proactively eliminate these threats through targeted killings using drones (Banks and Raven-Hansen, 2003; Calcutt, 2011). These targeted killings are carried out with the aim of preventing future anticipated attacks. However, the use of this legal justification, known as "anticipatory self-defence," often contradicts the normative concept of self-defence as defined by the law of war and international treaties such as the United Nations Charter (Andreias, 2019).

There are certain limitation on the degree of force and the timing of anticipatory action before an attack occurs (Badalič, 2021). The temporal aspect of anticipatory use of force can be divided into two periods, with the first being a situation where there is still enough time for slow mobilization in self-defence. This means that there should be some consideration given to maintaining civility and allowing time for protection (ibid). According to the perception of international law in modern international society, the notion of necessity enables states to defend themselves and exercise their inherent right to self-defence (Dahal, 2020). Initially, this concept was established as an exception to the prohibition of the use of force outlined in Article 51 of the UN Charter (1945), if the self-defence measures met the requirements of necessity set by international law. There are different levels of immediacy, with the highest level being immediate action that is necessary in terms of Jus ad bellum, which limits armed self-defence to situations where immediate action is required (Corn, 2011). States should not be allowed to exploit the concept of necessity based on speculation in anticipation of an attack, as this would be an abuse of power (ibid). However, this requires having prior information on all the relevant facts and circumstances, as well as rare opportunities for debate and communication.

Ultimately, under classical self-defence laws, the concept of necessity can lead to international conflict if avoidable, as stated by the United Nations General Assembly (Gazzini, 2006).

5.3.2. Proportionality: Weighing expected benefits against harms

Proportionality adheres to principles of probability as it utilizes terms that pertain to probabilities, ranging from values above and below 1 and 0 (Taylor, 2017). The phrase "expected loss of life and civilian collateral casualties" encompasses numerous subjective assessments based on probability estimates regarding the prospective number of innocent civilians who may experience direct harm in the future (Haas and Fischer, 2017). For instance, during targeted killings operations, there exists the possibility of failure wherein the release of combat unmanned aerial vehicles (CUAVs) fails to hit the intended target or causes harm to nearby innocent civilians (Yaacoub *et al.*, 2020). Various factors, such as the visibility of terrorist objectives and the direct risk posed to the group employing them, play a role in shaping the course towards harm. The capacity to directly witness the intended target and the capacity to counter combat also factor in, including the decision not to counter what is deemed most likely in relation to the prevailing circumstances (*ibid*).

Proportionality principle posits that the amount of damage inflicted should be proportional to the amount of damage threatened, as stated in the legal frameworks of *jus ad bellum* and *jus in bello* (Haas and Fischer, 2017). This principle applies to targeted killings, requiring that the military advantage gained from an attack is not overly excessive compared to the expected loss of life and property on the threatened side (*ibid*). Its purpose is to regulate the level of force used in self-defence, prohibiting the use of force that causes unnecessary and excessive harm. Proportionality is recognized as a complex, subjective, and imprecise principle (Taylor, 2017).

5.3.3. Distinction: Target selection and avoidance of Civilian harms

The principle of distinction holds great significance in the field of Just War Theory and international law that governs the behaviour during conflicts. Its primary goal is to mitigate harm to civilians, minimize unintentional casualties, and differentiate between individuals engaged in combat and non-combatants (such as civilians or individuals involved in hostilities) or participants in hostilities who are required to clearly identify themselves or openly carry weapons. The incorporation of combat unmanned aerial vehicles (CUAVs) or drones, along with the implementation of targeting techniques, strives to uphold this principle by decreasing the potential for civilian harm and errors.

The United States and Israel utilize combat unmanned aerial vehicles (CUAVs) and their methods of target selection, which can have an impact on the ethical and legal regulations regarding the targeting of armed groups outside of their respective territories (Borg, 2020). Through Paradigm Analysis, the United States and Israel apply their targeting methods to legally justify their operations within the framework of law enforcement (Ganor, 2021, chap. 10). This justification is based on factors such as judicial authorization, proportional response, and the absence of feasible alternatives (Gil, 2019). However, their domestic and international legal practices demonstrate a more lenient approach towards identifying individuals as legitimate targets by the state (Wang, Christen and Hunt, 2021).

5.4. Case Studies: Qasem Soleimani and Baha Abu Al Ata

The case studies of Qasem Soleimani and Baha Abu Al-Ata present a complex narrative within the realm of international conflict, necessitating a comprehensive examination within the framework of Just War Theory principles. Soleimani, a prominent Iranian military leader, and Abu Al-Ata, a senior figure with Palestinian Islamic Jihad organization, were both targeted and killed in military operations conducted by the US and Israel, respectively. Along with the background history and the context of the targeted killing operation, this section also focuses on in-depth analysis of the legal and policy justifications invoked by the US and Israel in their actions, guided by the principles of Just War Theory (Gunnflo, 2016). By scrutinizing the legality and ethical considerations surrounding the targeted killings, this study endeavours to assess the extent to which the actions of the US and Israel adhere to the precepts of Just War Theory, encompassing *jus ad bellum* and *jus in bello* doctrines.

5.4.1. Qasem Soleimani

Qasem Soleimani, renowned as one of Iran's prominent military figures, held a high-ranking position as a trusted aide to the Supreme Leader (Kelemen and Kiss, 2022). He led the Quds Force as deputy commander, a distinguished division within Iran's Revolutionary Guard Corps (IRGC), which operates extensively in several nation-states across the Middle East such as Lebanon, Iraq, Syria, Yemen and Gaza. On January 3, 2020, Qasem Soleimani was targeted by the US drone strikes near Baghdad International Airport. The airstrike killed around ten people including General Soleimani and eight other militants (*Iran, The Targeted Killing of General Soleimani | How does law protect in war? - Online casebook, n.d.*).

This operation exacerbated tensions between the US and Iran, marked by a series of 'retaliation' incidents, including attacks on oil-tankers, the downing of US surveillance drone, assaults on

Saudi oil facilities, all of which heightened fears of initiation of full-fledged warfare led to this air strikes event (Kelemen and Kiss, 2022). The aftermath of the attack proved this retaliatory session as a continues one, along with the profound consequences of the targeted killing of General Soleimani, shaking the landscape of the Middle East. Iran seen it as an act of war against their sovereignty. This led to retaliatory missile strike by the Iran on US military bases in Iraq, escalating the conflict between the two countries (ibid).

5.4.2. Baha Abu Al Ata

On 12 November 2019, in a significant military action, the Israel Defence Forces (IDF) executed a meticulously planned operation by targeting and eliminating the highly influential Palestinian Islamic Jihad (PIJ) commander, Bahaa Abu al-Ata, through a precise and calculated airstrike, showcasing the IDF's immense capability (Segell, 2022). With utmost accuracy, the artillery strategically struck Abu al-Ata's residence, resulting in utter devastation as the entire structure was reduced to rubble, leaving no remnants of its once-standing stature. Tragically, this operation did not come without loss, as it regrettably resulted in the unfortunate demise of two individuals (source: Al Jazeera, 2019).

According to Israel, Abu al-Ata was considered an imminent threat, constantly involved in orchestrating and carrying out attacks on Israel from the Gaza Strip. Since 2018, the group PIJ has consistently launched numerous rockets and mortars into Israel, often utilizing provocative tactics such as shooting near IDF positions or executing roadside bombings near the border (Wheatley, 2021). Following the successful assassination of Abu al-Ata, the repercussions rippled throughout the region, igniting a fierce and intense exchange of heavy artillery fire between the PIJ and the IDF (Segell, 2022). This formidable clash, characterized by its relentless nature, endured for a gruelling period of 48 arduous hours (Spitka, 2023). The harrowing conflict encompassed relentless confrontations, showcasing the unwavering determination of both parties involved.

5.4.3. Legal and Policy Justifications within JWT Framework

The US justified the targeted killing of Soleimani as an act of self-defence under Article 51 of the UN Charter, asserting that Soleimani posed an imminent threat to US personnel and interests in the region. The US administration of Donald Trump argued that Soleimani was responsible for orchestrating attacks against American forces, including the storming of US embassy in Baghdad and the death of American contractor on Iraqi military base as previously mentioned (2020). Additionally, the US cited Soleimani's broader role in supporting and

directing proxy militias throughout the Middle east, which posed a continues threat to regional stability and US allies (Kelemen and Kiss, 2022). From a policy perspective, the US sought to disrupt Iran's destabilizing activities in the region and deter future aggression by eliminating a key architect of Iran's military strategy (ibid).

Similarly, Israel justified the targeted killing of Baha Abu Al-Ata as a necessary measure to protect its citizen from imminent threat posed by Palestinian Islamic Jihad (PIJ), which is referred as a terrorist organization by Israel. Israel officials argued that Abu Al-Ata was actively planning and orchestrating imminent attacks against Israeli civilians and military personnel, including rocket launches and other acts of terrorism (Segell, 2022). The Israeli government invoked its right to self-defence under international law, as well as its responsibility to maintain security and protect its citizens from terrorist threats. From a policy perspective, Israel aimed to degrade the capabilities of PIJ and deter future attacks by eliminating a high-ranking commander responsible for planning and executing terrorist activities against Israel (Dahal, 2020). However, these two cases of targeted killings raise complex ethical questions when viewed through the lens of Just war Theory principles.

From a *Jus ad Bellum* perspective, which concerns the justification for going to war, both the US and Israel cited "self-defence" as the primary rationale for their actions (Johnson, 1981). However, within Just War Theory, the principle of just cause requires that military actions must be undertaken only in response to evident grave threats or in response to an armed attack, followed by other six principles including last resort. It is critically questionable whether the perceived threats posed by Soleimani and Baha Abu Al-Ata met this threshold or whether diplomatic and non-lethal means could have been exhausted before resorting the lethal force to calculate this act as just (Nussbaum, 1943).

Moreover, in terms of *Jus in Bello*, which concerns the conduct of war, concerns arise regarding the proportionality and discrimination of the targeted killings (Johnson, 1981). Just War theory stipulates that military actions must be proportionate to the threat posed and must discriminate between combatant and civilian. Critics argue that the use of CUAVs as a mean of lethal force in targeted killing operations risk causing disproportionate harm to civilians and civilian property, especially when conducted in densely populated areas, and raises questions about collateral damage inflicted on civilians (Taylor, 2017). In the case of Soleimani and Abu Al-Ata, both operations were carried out in densely populated areas questioning the notion of proportionality and distinction. The US and Israel argue that targeting individuals must meet

strict criteria to ensure that they are combatants or are directly participating in hostilities based on intelligence citations external to the public realm (Abeyratne, 2015). Additionally, it can be critically questionable whether Soleimani and Abu Al-Ata were indeed legitimate targets under international law, whether they were actively participating in terror activities at the time of attack or whether their killing amounted to extrajudicial executions, which are made outside international law safeguards as defined by International Human Rights Law (IHRL), for political purposes.

Finally, Just War Theory emphasizes the importance of having a legitimate authority sanction military action (Johnson, 1981). While both the US and Israel asserted their right to self-defence under international law, an important step is missing such as, requirement of the authorization from the UN Security Council or legitimate legal proceedings from international bodies (UN Charter, 1945). Critics argue that unilateral military actions without authorizations raise concerns about the accountability and adherence to the rule of law (Popovski and Turner, 2008).

These factors present complex ethical dilemmas within the framework of Just war Theory and the legality of targeted killing operations in compliance with international law which will be further discussed in following section in this analysis. As both States invoked self-defence as legal justification, question remains about the proportionality, distinction and legitimacy of their actions, highlighting the variety of legal interpretations and need for scrutiny and accountability in matters of war and conflict.

5.5. Comparative Analysis of US and Israel's Approaches

Terrorism as a social and political phenomenon itself does not have a single, covenanted, binding or universally accepted definition and therefore it is understood differently among states (Stepanova, 2008). It is critical to recognise that there are many aspects, extents, impacts, and factors contributing to terrorism (Visbal, 2011). It can be caused due to political, religious, economic or ideological reasons (ibid). It can be local, national or even transnational and moreover, it can be conducted through shootings, bombings, and kidnapping (Davis, McNerney and Greenberg, 2016). Therefore, counterterrorist measures can also vary from one country to another according to their needs to fight terrorism within each unique conflict (Hajjar, 2013). This research study aims to solely focus on the states' response towards terrorism in terms of combating counterterrorism. The objective of this section is to conduct a comparison of the policy of targeted killings applied by the US and Israel, and to determine the

main legal and moral challenges that these states face in the counterterrorism struggle against non-state actors.

The legal framework and legal justifications that have already been analysed in previous section of this analysis; it will now further be elaborated in this section through the perspective of comparative analysis. This section also focuses on the legality and legitimacy of ‘targeted killing as a counterterrorist measures’ using by lethal remote technology a.k.a. CUAVs conducted by the US and Israel. At the same time, it aims to explore how the phenomenon of terrorism has entered a more complex environment where the traditional boundaries of law such as Just War Theory are no longer been applied and targeted killing is deemed as only method of combating terrorism.

5.5.1. Similarities in the Application of JWT

The legal justification for targeted killings provided by the United States and Israel following 9/11 reflects similar themes when considered from the perspective of just war theory principles (Senn and Troy, 2017). Legal experts for the Both States have highlighted that these actions align with the core aspects of just war theory – military necessity, distinction, and proportionality (ibid). These arguments are primarily based on the right to use force in self-defence as outlined in the United Nations Charter, along with the rules of war like the Hague Convention (1907) and the IV Geneva Conventions (1949).

In the exercise of its ‘right to use force’ under the Article 2(4) of the UN Charter and in ‘self-defence’ under the Article 51 of the UN Charter and customary international law, the US maintains that it is legally justifiable conducting targeted killings of suspected terrorists in compliance to international law (Banks and Raven-Hansen, 2003). The principle of military necessity justifies these actions against combatants, requiring a high level of justification for the use of lethal force by positively identifying combatants as individual who directly engage in hostilities or civilians who forfeit their protection rights due to active participation in hostilities (Johnson, 1981). The US argues that to assess the lawfulness of such operations within the framework of International Humanitarian Law (IHL), the proportionality principle must take into consideration both the presence of civilian in the vicinity of the target – potential civilian casualties, and the level of threats posed by terrorists to the US (Wallerå, 2020).

Similarly, the Israel has taken a broad approach to justifying targeted killing operations by framing them within the realm of self-defence on a global scale, citing a perceived need to defend against a growing interconnected global threat of terrorism (Wheatley, 2021).

According to Israel's justification, these operations are deemed legitimate responses to imminent threat to its security and safety of its citizens (ibid). Imminence of an attack refers to its imminent nature and unavoidable factor, means that state must meet conditions such as principle of necessity that justifies the use of force in self-defence (Spitka, 2023). Adhering to the principles of Just War Theory, Israel emphasizes on the immediacy of the threat posed by individual targets for targeted killings and asserts that these actions discriminate between combatants and non-combatant respecting the principle of proportionality within the framework of Just War Theory (Andreias, 2019).

5.5.2. Differences in the Application of JWT

The US and Israel justifies targeted killing under international law, notably Article 51 of the UN Charter, which affirms the inherent right of self-defence as above-mentioned. However, the notion of "imminent threat" has been variedly interpreted under the reference of self-defence and just war theory application. Within the Just War Theory, the interpretation of imminence in the context of targeted killing is informed by principles such as necessity, proportionality, and distinction (Calcutt, 2011).

In the context of the US, the interpretation of imminence has evolved over time, particularly in the aftermath of the September 11, 2001, attack, where the notion of "global war on terror" (Calcutt, 2011). It encompasses a broader understanding of potential future harm, allowing for pre-emptive strikes against individuals associated with terrorist organizations. This interpretation aligns with the principle of necessity, as it seeks to prevent future attacks or harm to national security threats. However, there may be a concern that this broad interpretation may stretch the traditional concept of imminence beyond its traditional meaning, potentially undermining the principle of proportionality by justifying pre-emptive actions based on speculative threats rather than immediate dangers (Nussbaum, 1943). In contrast, Israel presents the interpretation of imminence of threat narrowly focused on the immediate threats posed by individuals actively participating on hostilities (Wheatley, 2021). This interpretation reflects a stricter adherence to the principle of necessity and proportionality, as targeted killings are portrayed as pre-emptive measures to stop imminent attacks.

Another distinction is the scope of conflict in which targeted killings take place. Within the framework of Just War Theory, the scope of conflict plays a crucial role in determining the legitimacy of military actions, including targeted killings (Cohn, 2021). Just War Theory

traditionally distinguishes between two types of conflicts: traditional interstate wars and non-traditional conflicts, such as insurgencies or counterterrorism operations (Taylor, 2017).

The scope of conflict for the US has expanded beyond the interstate warfare to include the counterterrorism efforts on a global scale such as Al-Qaida or Al-Quds. This expansion has led to targeted killings being conducted in regions where the US is not engaged in traditional armed conflict, raising the concern about the legality and proportionality of such actions. The justification for such operations often relies on the same argument of pre-emptive self-defence against non-state actors deemed to pose a threat to US national security interests (Wright, 2015). Conversely, Israel's scope of conflict primarily centres around its ongoing conflict with militant groups such as Palestinian Islamic Jihad (PIJ) within the context of interstate conflict between Israel and Palestine. Israel justifies its targeted killing operations under the principle of necessity and leaving the concerns for the legality of interstate targeted killing and potential impact on civilian population and broader aspects for peace and stability in the region (Hajjar, 2013).

5.5.3. Impact on Legality and Legitimacy

“Actions are always either legal or illegal; they cannot be partly legal. In contrast, legitimacy is fluid and changing, and depends on perceptions and outcomes” (Popovski and Turner, 2008). The legality of an action or policy is assessed by references to legal texts, case law, and precedents. Legitimacy, on the other hand, is a relative measure as it depends upon the perceived accept-ability. It can strengthen legality and add more authoritative power to treaty-based customary rule. However, when laws are seen as limited, obsolete, or harmful to people, legitimacy can act as a corrective force, invoked in the name of global justice, human dignity and emergency protection (Seitzer, 2004).

This section aims to present the legality and legitimacy perspective of the targeted killing operation conducted by the US and Israel in compliance with international law. The use of targeted killings by both the US and Israel raises significant questions about its legality and legitimacy under international law and customary practices. While legal frameworks such as the notion of self-defence under international law and domestic policies may provide justification, concerns about compliance with International Humanitarian Law and International Human Rights Law standards persist. Moreover, the lack of transparency, accountability, and oversight undermines the legitimacy of targeted killing operations, leading to questions of extrajudicial killings and violations of due process. Additionally, it aims to highlight the public perception

and moral creditability of such actions that may weaken the legitimacy both domestically and internationally.

5.5.4. International Law Compliance and Accountability

In accordance with Article 2(4) of the United Nations Charter, which is considered a primary legal authority in the global arena, the general rule in international law prohibits the use of force by one state against the territory of another (Gil, 2019). Despite this rule, there are several international agreements and rulings that deviate from Article 2(4), allowing for certain uses of force and self-defence under treaty law, customary law, and established practices (Reisman, 1984). Both states involved argue that their targeted killings were confined to areas where their right to self-defence was justified. The international community's stance on this topic has been uncertain and varied, depending on the specific circumstances of the operation. Decisions and statements from international organizations like the UN Security Council (Callamard and UN. Human Rights Council. Special Rapporteur on Extrajudicial, 2020), as well as draft articles from the International Law Commission (Ramsden, 2011) and rulings from the International Court of Justice for case of the US (*Hamdan v. Rumsfeld, United States Department of Justice*, 2006) as well as Israeli targeted killings case (Milanovic, 2007), suggest that targeted killings in areas not typically considered battle zones are not in line with established state practices and legal opinions. This leaves targeted killings in a grey area lacking recognized legality under international law (Seitzer, 2004).

Targeted killing operations have been rather controversial with respect to their conformity with international law since their emergence and application (Hajjar, 2013). The controversy stems from the applicability of the international humanitarian law – particularly the Geneva Conventions – to the targeted killing by drones and the legality of the relevant legal framework which regulated it. Transitioning from using drones for self-defence to involving the territorial state and individual self-defence suggests that self-defence is not a feasible option when using drones (Yaacoub *et al.*, 2020). Instead, the emphasis shifts to complying with the rules and principles of the territorial state and individual self-defence.

Moreover, another impact on the legality of targeted killings operation lies within the concept of Extrajudicial Killings, which refers to the deliberate execution of individual without oversight or due process, represents a significant challenge to international law and human rights aspects of law (Senn and Troy, 2017). The International Human Rights Law (IHRL) places certain limitations on states and provides a strong shield against the factor of

arbitrariness (Milanovic, 2007). While the concept of extrajudicial killing has its historical roots embedded in international law and customary practices, its prevalence in modern conflict settings and counterterrorism operations has brought it to forefront of international legal discourse (ibid). In the context of targeted killings conducted by the US and Israel using CUAVs, the concept of extrajudicial killings impacts a lot on the legality notion provided by both states' justification in certain cases, such as the case of Soleimani (discussed in sect.3) and human rights violation such as right to fair trial or due process in the case of Abu Al-Ata (discussed in sect.3). Additionally, it presents a challenge in the legal sphere concerning targeted killings, as well as the legal standing of non-state actors involved in armed conflicts. Targeted killings that take place outside conventional battlefields are particularly contentious because they often go against accepted rules of warfare (IHL) and raise concerns regarding violation of the rights of sovereignty (IHRL) (Gunnflo, 2016).

5.6. Ethical Implications

From a traditional standpoint, the ethical utilization and implementation of military technology have traditionally centred on the just war theory's concept of *jus in bello* – the proper use of force when it is initiated (Ganor, 2021). However, the advancement and utilization of CUAV technology in the last ten years have raised concerns regarding the clash between the technical capabilities and ethical standards of military technology, leading to disagreement among military stakeholders and global public opinion in certain instances of force application. As academics wonder whether accountability to justice and ethical norms lessens dramatically due to the distance and apparent impartiality of the battlefield, different points of view need to be addressed about this ethical challenge surrounding CUAV usage and activities in conflict. This research study throughout analysed the ethical considerations of targeted killing using the advanced technology a.k.a. drones or CUAVs, this section continues to contribute to highlighting some of the ethical challenges regarding the targeted killings operations in compliance with international law and human rights.

5.6.1. Ethical Dilemmas of Targeted Killings

While the technology itself may not present wholly new moral and legal dilemmas, it may exaggerate some of them and accelerate other trends such as speed, precision, or blur targeting the distinction between combatants and civilians, present in other forms of armed conflict (Boyle, 2015). The principle of distinction, which requires parties to the conflict to distinguish between combatant and civilians, the one of the primary ethics of warfare. Professor Somin in the hearing before the Subcommittee on the Constitution of the civil rights and human rights

of the committee on the judiciary US senate, pointed out that: “In the war on terror, we face an adversary that generally does not wear uniforms and often does not have a clear command structure, therefore, it is often difficult to tell who a legitimate target is and who is not” (‘S. Hrg. 113-876’, 2013).

Although the use of targeted killing, whether by drones or with other weapons is not inherently illegal or unethical, the problem of choosing targets does raise some very serious issues (Cohn, 2021). This situation raises two possible ethical problems. First, sometimes one might inadvertently or recklessly target an innocent person. Second, and even worse, there's a chance that the government could pick on an innocent individual on deliberately because they might be government critics or otherwise offend prominent government figures (ibid). For instance, when Israel justifies its airstrikes in densely populated areas as means of necessity to neutralize imminent threats posed by suspected terrorists, the principle of proportionality at the same time requires that attack must not outweigh the expected harm of civilian populations (Wheatley, 2021).

Another ethical dilemma arises from the lack of transparency and accountability surrounding drone operations. The secrecy shrouding these operations makes it difficult to assess their legality, effectiveness, and impact on civilian populations (Abeyratne, 2015). In the context of targeted killing operations, the US and Israel strictly maintains control over oversight mechanisms, secrecy over use or misuse of CUAVs and civilian casualties during the military action (Abeyratne, 2015). It becomes challenging to evaluate the actions of these agencies since crucial operational details are often classified and questioning operational personnel about intelligence operations is typically prohibited (Cherif *et al.*, 2009).

This lack of transparency within intelligence agencies leads to a breakdown in public trust towards the government, weakening its authority and credibility, which are essential elements of a robust state (Callamard and UN. Human Rights Council. Special Rapporteur on Extrajudicial, 2020). One can argue that neglecting to investigate and prosecute such instances could undermine faith in the legal system and the human rights framework's ability to safeguard us from violence, potentially fuelling more conflict and insecurity (Schulte, 2012). The unaccountability of security institutions also undermines civilian oversight and the role of parliaments in ensuring compliance with the rule of law (Raman, Lushenko and Kreps, 2021).

5.6.2. Balancing Security Imperatives with Human Rights Obligations

In the complex landscape of counterterrorism, the pursuit of security often intersects with the imperatives to uphold human rights such as right to life (Article 6 of the ICCPR) and right to fair trial (Article 14 of the ICCPR). However, Philip Alston's Member State Report (2007) notes that achieving the right balance is one challenging task of its own. He mentioned that building resilience within the context of targeted killings will require a concerted re-examination of existing legal norms to reflect and respond to the novel ways in which militaries are now engaged in warfare that impact the lives, dignity, and citizenship rights of individuals targeted (Alston, 2007). This includes proposing possible new treaty regimes such as a Data Protection Agreement which would place positive duties on states by ensuring that classified counter-terrorism measures do not outweigh human rights standards (ibid). As states grapple with the challenges of combating terrorism while respecting fundamental human rights, the need for alternative approaches that strike a balance between security imperatives and human rights obligations become increasingly apparent in contemporary settings.

As this study evaluated the risks of the practice of targeted killings especially involving the deliberate and premeditated means of lethal force (CUAVs) against specific individuals believed to pose threats – suspected terrorists, has generated significant scrutiny. This study has already analysed how such operations risks violating international law, undermines due process, and contributes to ethical complexities under the framework of Just War Theory principles. While primary focus of this research lies within the interest of International Humanitarian Law, this section, however, seeks to explore alternative strategies to targeted killings that prioritize International human rights law while effectively addressing security concerns as it is an important factor as well (Lushenko, 2022). There are several alternative suggestions that could be taken into consideration:

1. **Early Intervention and Preventive Measures:** The foundation of human rights-based counterterrorism is prevention, which focuses on dealing with the underlying issues that lead to radicalization and extremism. States can address the underlying issues and vulnerabilities that give rise to terrorism by allocating resources towards education, socioeconomic development, and social inclusion initiatives. Early intervention techniques help those who are at risk of radicalization break away from violent ideas and reintegrate into society. Examples of these initiatives include youth outreach and mental health care.
2. **Legal protections and Due Process:** To guarantee that counterterrorism measures adhere to international law and protect due process rights, strong legal protections are

necessary for the respect of human rights. This involves designing and putting into practice counterterrorism legislation and policies with respect to the principles of legality, necessity, proportionality, and non-discrimination in mind. In addition, protection against arbitrary detention, torture, and other abuses of power relies on independent judicial scrutiny and legal representation.

3. **Public Engagement and Transparency:** By fostering trust between impacted communities and law enforcement, community engagement programmes are essential to human rights-based counterterrorism. States can create focused interventions that address security concerns while upholding human rights by engaging with local stakeholders, promoting communication, and taking cultural sensitivity into consideration. Furthermore, communities have the capacity to reject extremism and violence from within through community-led projects including counter-narrative programmes and grassroots reconciliation initiatives.
4. **Restorative Justice and Rehabilitation:** Restorative justice and rehabilitation are given precedence over punitive measures in human rights-based counterterrorism strategies. States need to support rehabilitation programmes that address the underlying reasons of radicalization and assist people in reintegrating into society, as opposed to using extrajudicial executions or holding people without charge for an indeterminate period. This covers social services catered to the requirements of ex-extremists and their family, as well as access to counselling, education, and career training.

6. Conclusion

This thesis has undertaken a comprehensive examination of the ethical and legal implications of targeted killing operations employing Combat Unmanned Aerial Vehicles (CUAVs), focusing on the practices of the United States and Israel. By grounding the analysis in Just War Theory and international law, the research has elucidated the intricate balance between national security imperatives and human rights obligations.

To conclude, this thesis has illuminated the significant ethical and legal issues surrounding targeted killings using CUAVs, highlighting the nuanced interplay between advanced military technologies and the enduring principles of Just War Theory and international law. The findings underscore the complexity of balancing the imperatives of national security with the stringent requirements of international humanitarian and human rights laws. The comparative analysis of U.S. and Israeli practices reveals divergent interpretations of self-defence and imminent threat, pointing to a broader discourse on the flexibility and limitations of international legal frameworks. The ethical dilemmas posed by the use of CUAVs, including issues of proportionality, distinction, and the risk of extrajudicial killings, call for a rigorous reassessment of current military doctrines and operational protocols.

Moreover, the thesis identifies significant gaps in transparency and accountability, which undermine the legitimacy of targeted killing operations and erode public trust. This lack of oversight poses critical questions about the rule of law and the potential for abuse in the conduct of modern warfare. This study also employed a comparative analysis methodology, scrutinizing the legal frameworks, policies, and specific case studies of the United States and Israel. The qualitative approach facilitated an in-depth exploration of the ethical and legal nuances, providing a rich contextual understanding of the implications of targeted killings using CUAVs.

Finally, the thesis recommends comprehensive policy and legal reforms to enhance oversight and regulation, ensuring that the deployment of CUAVs and AI-based technologies aligns with international legal standards and ethical norms. This research contributes to the ongoing discourse on modern military practices, urging policymakers, scholars, and international bodies to work towards a more just and accountable framework for the use of lethal force in the context of contemporary conflict.

Key Findings:

Both the United States and Israel rely on the principle of self-defence as articulated in Article 51 of the UN Charter to justify targeted killings. However, their respective interpretations of

"imminent threat" and the scope of self-defence diverge significantly, reflecting broader strategic and geopolitical considerations. The principles of proportionality and distinction, fundamental to International Humanitarian Law (IHL), are frequently compromised in these operations. The deployment of CUAVs in densely populated areas exacerbates concerns regarding compliance with IHL and International Human Rights Law (IHRL), particularly in relation to civilian casualties and collateral damage.

The application of Just War Theory to CUAV operations reveals inherent ethical tensions. While CUAV technology provides enhanced precision and reduces the risk to military personnel, it simultaneously blurs the distinction between combatants and non-combatants, challenging the principles of distinction and proportionality. The opacity and lack of accountability in drone operations erode public trust and raise significant questions about the legitimacy of extrajudicial killings.

Future Research Recommendations:

Future researcher can investigate the ethical and legal ramifications of AI-based drone strikes. It is a very interesting topic to research on. The advent of artificial intelligence in military operations, exemplified by the most recent invention – Israel's '*Lavender*' AI system directing bombing campaigns in Gaza, introduces new ethical and legal challenges (Source: +972 Magazine, 2024). These include the potential for increased civilian casualties and the profound ethical implications of autonomous decision-making in lethal operations. Scholars should explore how AI technologies might exacerbate or mitigate the existing ethical dilemmas associated with CUAVs and assess their impact on the principles of Just War Theory.

Moreover, there is a critical need for research focusing on the broader human rights implications of targeted killings, particularly concerning the right to life and due process. Investigating the long-term psychological and societal impacts on affected populations will provide a more comprehensive understanding of the consequences of these operations. Comprehensive policy and legal reforms are essential to address the gaps in accountability and transparency in CUAV and AI-based operations. Future research should propose robust frameworks for enhanced oversight and regulation, ensuring stringent compliance with international legal standards. To address these challenges, the thesis advocates for future research on AI-based drone strikes, emphasizing the need to understand the broader ethical and legal impacts of autonomous decision-making in lethal operations.

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