Modern Warfare: The Weaponization of Traditional Diplomacy

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Abstract—Since the inception of jus ad bellum, and its subsequent adoption into international law bodies, the face of warfare has entirely changed. The world has moved from C4 and B-24 bomber jets to unmanned aerial vehicles and cyber warfare. Force has shifted from its traditional definition to a newer, twenty-first century one which includes economic sanctions, intelligence gathering, independent drone strikes, and data mining. In this increasingly complicated arena of international relations, how does the framework of jus ad bellum relate?

I. Body

What kind of world do we live in today? This is a question many people must ask every time they turn on the news to coverage of another corrupt election, another roadside bombing, another genocidal atrocity halfway across the world. Terrorism, religious extremism, these are the new global threat. Whether these violent actors are individuals, organizations, or nations, how do we handle such militants? To this end, world leaders hold summits, and log thousands of travel miles each year to discuss these plaguing issues. Although world leaders may not always agree on what should be done, they can at least agree that something must be done. That “something” is normally where the term “force” appears in the conversation. Should people “use force” to subdue a militant nation seeking a nuclear weapon? Should people “use force” to take out a prominent leader of Al Qaeda? Since the term “use of force” was first employed in Geneva in 1945, the world has evolved well beyond the phrase. In past usage, it often referred to “hot war” and mass bloodshed was its defining characteristic as it conjured visions of bomber jets, marching troops in camouflage, and mushroom clouds rolling to the heavens. But in 2014, it may just as well mean intelligence gathering by hacking Chinese government entities, independent drone strikes in remote parts of Pakistan, and a global embargo on Iranian oil. These consequential “hot war” decisions are typically made within the theoretical framework known as “jus ad bellum” to help leaders determine whether conflict falls within their “right to war.” Naturally, now that modern day “use of force” methods stop short of all-out war, some critics have argued that jus ad bellum’s potency may have eroded over time.

Contrarily, it retains its relevance if one stops to consider the different avenues of force now available in the twenty-first century. It remains extremely important in international political arenas in which nations are judged for either straying or remaining on the path of accepted usage.

The original qualifications for “use of force” were derived from the 1945 Geneva Convention, in what many consider the birth of international law. Out of the rulings and writings of the Convention, a war theory of historical origin and distinguished pedigree was codified into a law called jus ad bellum, the right to war.¹ Or, more specifically, the right to employ force against another nation or group. It provides a framework by which to judge the necessity of action before engaging by means of four simple principles: just cause, authority, proportionality, and last resort. This framework germinated in the minds of those still haunted by the terrors of two World Wars, but modern war simply isn’t waged that way anymore. Soldiers no longer dig trenches, nor storm beaches. Nations don’t pit one army against another, nation against nation. However, because the way in which we approach war has changed, does this also mean that the rules of jus ad bellum and the “use of force” has changed? Sometimes, the enemy has neither a face nor a name. Today’s conflicts are much more subtle; they are waged in the shadows. As a result, the use of force has been updated to its newer, twenty-first century definition: that a nation must be better equipped to fight the foes of Western progression with economic sanctions, isolated autonomous weapon strikes, and global intelligence networks.

With these changes in tactics, there is still jus ad bellum in affect, which makes this new face of war a very interesting one. Unlike storming beaches and dropping earth-shattering bombs, the new intelligence gathering and drone spying strategies of modern war truly question the jus ad bellum theory and its applications. The United States and other powerful nations have begun to employ jus ad bellum and the right to self-defense in just these instances. A University of Santa Barbara City College professor and Director of AYearWithoutWar.org, Professor Joe White was able to comment on his expertise in the area of a right to war:

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“We see this is much of the intelligence gathering, as well as the drone spying by the military. Their basis is that they are using these tactics to protect ourselves from future attacks and dangers to our country, but this does not necessarily fall in line with the principles of jus ad bellum. The principles include: a nation may not defend itself unless it is being threatened, the threat must be real and genuine, the nation must be capable of carrying out the threat and lastly, the threat must be imminent.”

When military and intelligence agencies send spy drones on a hunch or by tapping into telephone lines or email accounts for purposes of self-defense, they must have a justifiable reason for doing so, because of an imminent threat can be carried out by the other nation. If it cannot be proven that the reasoning for this self-defensive tactic falls within the four stated principles of jus ad bellum, then the nation is violating an essential part of the right to war theory. With these new war tactics comes a new degree of right to war, with more to evolve in the coming years.

In 1945, America was the world’s only superpower nation. Europe was ravaged by years of violent war, and heavily indebted from the effort of fighting. Life after “the bomb” was dominated by a Russian-American power struggle, an ideological stalemate that played out across the world for the next 50 years. When the Berlin Wall came down, a movement of nonproliferation took over, with the world’s most powerful nations spending the last 30 years ensuring its reality. In 2014, America is far from a superpower nation; it may retain cultural hegemony, but any economic clout it once wielded has been surrendered to growing sovereign debt. The rest of the international landscape has also taken on a vastly different shape. Europe is a union in more ways than ever imaginable in 1945, with the advent of a single currency in 1999. It is recovering from the financial crisis slowly, with the help of an extremely powerful German economy. There are a multitude of organizations like NATO, the United Nations, and the WTO that are dedicated to international cooperation, diplomacy, and world trade. The rise of power in East Asia is especially important to note. While Japan was an Axis Power in World War II, its economy has slowed in recent decades due to an aging population and currency issues. Meanwhile, China, India, and South Korea have veritably taken off, experiencing GDP growth far surpassing the developed world’s average.

Most significant to note in these changes from then-to-now is the opinion of war. In 1917 and again in 1941, it seemed the only option: declare war on Germany. It had widespread support among the nation’s involved.

America’s economy benefited, as the wartime economic boom almost single handedly reversed the Great Depression. But wars no longer have widespread support; in fact, for democratic nations that commit troops abroad, it can hurt political leaders’ credibility and damage reelection bids — not to mention the international censure risked. Wars also no longer necessarily stimulate the economy. In the 1940’s, the world economy was not as enmeshed as it is today. World trade is more important than ever, and nations are more connected legally, economically, socially, and intellectually than ever before. In times of recession, like the recent global financial crisis of 2008, the costs of war may just increase economic drag rather than stimulate a recovery like in 1941 America. Defense industries may still experience an economic boost in wartime, but at the expense of government budget appropriations.

Wars have always been expensive, this remains true even as the mechanics of warfare itself have changed. King Louis XVI’s France was nearly bankrupted by its continued funding of the American Revolution, as it was persuaded that a loss to Britain of the American colonies would severely weaken their age-old enemy. When the French and Americans signed the Treaty of Alliance, and the Treaty of Amity and Commerce in 1778, it signaled the beginnings of French military troop involvement, not to mention all the arms, uniforms, and various supplies provided to the Americans under the guise of neutrality. However, in truth it only compounded France’s growing social unrest and widening socioeconomic gap among the Three Estates, ultimately leading down the path of bloody revolution to 1789. In the twenty-first century, the United States commitments in Iraq and Afghanistan may end up costing more than $6 trillion total, compounding their ever-growing national debt. Liberal Americans would argue this $6 trillion could have been better spent on education reform, healthcare, or Social Security welfare programs, rather than costly defense projects in an unpopular overseas occupation. Demonstrably, the traditional recourse of “hot war” is no longer viable. There is an avenue of traditional “hot war” which still exists, notably total nuclear holocaust, however no reasonable, democratic nation believes this to be the right and just solution.

To prevent that absolute suicidal effort of total war, nations have turned to new tools of force to enact change. One such tool is the economic sanction. No American President before Barack Obama has relied so heavily on sanctions as an international tool, a clear sign of the times.
Now, punitive sanctions are the primary response against militant nations. Although intervention by traditional force was suggested against Syria, it was too unpopular, and the ultimate result was a worldwide embargo on Syrian oil and commodities. America has had sanctions against Iran in place since 1987. Only recently strengthening its embargo by adding a freeze on Iranian banks. The EU passed sanctions on Iranian oil and commodities after 2007 as a punishment for its continued research into nuclear armament capability.\textsuperscript{vi}

What makes the economic sanction such an attractive course of action? First, it’s much easier to obtain multilateral support for an economic sanction than for a troop commitment. Second, the world economy is fragile and susceptible to any perceived changes in trade and political stability. A country’s access to international markets is arguably its most important asset. Without access to foreign markets to both buy and sell its goods, a nation’s economy stagnates and with it education, wealth, consumption, and overall quality of life. In theory, this threat of imposed depression should coerce the militant nation into submission, or redress, for its varied wrongdoing. Third, an economic sanction creates a stigma which sets a nation apart as guilty and disobedient. It’s the “time-out” of the international marketplace, and third-world or developing nations eager to curry favor with their powerful trade partners are quick to distance themselves from their unruly neighbors.

However, as effective as sanctions can be, there are always instances in which they don’t work as well. In fact, in recent history, economic sanctions have proven an unsuccessful strategy in not only the Middle East, but also in North Korea. In the Middle East, Syrian leader Bashar al-Assad has become more hostile since the placement of international restrictions on him and his regime. Also, the efforts to choke off Iran’s nuclear capability have only driven them closer to weapons of mass destruction. In North Korea, the restrictions have only further strained relations with the United States, leading to an increase in missile testing off the coast. Learning from these developments, we know that there is a fine line when it comes to applying sanctions to unruly nations.

The United States has undoubtedly pioneered the art of applying sanctions as a diplomatic force. Currently, Iran, Myanmar (Burma), Cuba, and North Korea are the nations feeling the direct effects of existing nonproliferation sanctions. Nonproliferation sanctions are designed to prevent the spread of weapons of mass destruction (WMD) by blocking the property of those individuals “engaged in proliferation activities and their support networks,” and banning the imports of nations deemed by the Secretary of State to have propagated WMDs.\textsuperscript{vii}

The United States also enacts sanctions against the nations of tyrannical dictators presumed guilty of large-scale humanitarian crimes, like Saddam Hussein of Iraq, or Fidel Castro of Cuba. These include, but are not limited to, trade embargoes, freezes of financial assets, and travel limitations or visa restrictions.\textsuperscript{viii} In the case of Iraq, U.S. sanctions in 1990 cut 97% of oil exports, upwards of 90% of imports, and caused a 40% drop in civilian production.\textsuperscript{ix} By 1993, GDP had fallen from $40 billion to only $17 billion, inflation jumped to 170% of previous value, and the value of the Iraq dinar plummeted from about 1/3 of the U.S. dollar to over 3,000 per dollar.\textsuperscript{x} The European Union imposes sanctions in much the same way as the United States in accordance with Article 215 of the Treaty on the Functioning of the European Union.\textsuperscript{xi} Like the Iraq sanctions, the Iranian sanctions are another prime example of this symmetry. The first U.S. sanction against the Islamist Republic of Iran was enacted in 1987 under then-President Ronald Reagan, which imposed an import embargo on Iranian-origin goods and services. It was expanded under President Clinton in 1995 to include restrictions on U.S. involvement with the Iranian petroleum industry, and again in 1997, prohibiting all “investment activities” of U.S. persons with Iran. Although these sanctions did not necessarily garner multilateral support from other western nations, they were effective. Similar to the Iraq dinar, the Iranian rial eroded by 50% of its value following the 1995 sanctions, only to recover by about a third later that year. In 2008, President Obama revoked the “U-turn” of Iranian transfers, declaring that, “U.S. depository institutions are no longer authorized to process transfers involving Iran that originate and end with non-Iranian foreign banks.” And again, in 2010, he further extended the existing trade sanctions to include the ban of certain foodstuffs and carpets.\textsuperscript{xii} European sanctions against Iran began in 2007 with general “restrictive measures” passed by the European Parliament. From 2007, Iran has seen a gradual decline in gross national income per capita,\textsuperscript{xiii} whether that is directly attributable to the sanctions is unclear.
In 2010, the restrictive measures were expanded to include “dual-use goods and technology,” “key equipment [...] and] restrictions on the investment in the Iranian oil and gas industry,” to include “uranium mining and nuclear industry.” It also expanded the restrictions “on transfers to and from Iran,” and all financial relationships with the Islamist Republic of Iran. These strengthened sanctions were designed to bring a reluctant Iran to the bargaining table in hopes of persuading it to open its nuclear facilities to UN regulators. As of late Iran has been more cooperative, so the U.S. has lessened the severity of its sanctions; only time will tell whether the nonproliferation efforts will really take hold.

Sanctions and intelligence gathering/stealing have in some way received more positive feedback from civilians, because of its decrease in the measure of brutality. Marla Ruzicka’s study discusses the kinds of changes to war that need to be made to preserve the lives of the innocent that live in countries of conflict. As our world has progressed into this technological era, it is becoming more realistic to deal with conflicts by sanctions and data mining. It creates for more of a jus ad bellum approach, by using every means available to deal with conflict before waging war. Approaches like employing sanctions to cut off resources, sending drones over areas, rather than foot soldiers, and intelligence gathering, rather than dropping bombs, all create a safer and more civil way of approaching conflict. This is not an answer in all cases however, and there are always issues with every change.

Like all international policies, sanctions too are flawed. Historically, it’s extremely possible that the fiscal sanctions placed on a post World War I Germany (exorbitant reparation payments leading to hyperinflation) sowed the seeds of discord which brought a charismatic Adolf Hitler to power. In recent history, economic sanctions have proven an unsuccessful strategy in not only the Middle East, but also in North Korea. In the Middle East, Syrian leader Bashar al-Assad has become more hostile, since the placement of international restrictions on him and his regime. Also, the efforts to choke off Iran’s nuclear capability have only driven them closer to weapons of mass destruction. In North Korea, the restrictions have only further strained relations with the United States, leading to an increase in missile testing off the coast. Learning from these developments, we know that there is a fine line when it comes to applying sanctions to unruly nations.

Sanctions can only be truly effective if all nations comply. A joint U.S., EU embargo against North Korea could work in theory, eventually starving them out and forcing a regime change. However, since North Korea is still supported by Chinese resources, an embargo is little more than a paper denunciation. Likewise, if Russia eventually cuts ties with Syria, sanctions may yet prove useful in ousting Bashar al-Assad. Although, without the compliance of the world’s wealthiest hegemonic nations, economic sanctions are futile. This will increasingly become the case, as the U.S. loses its hegemonic power; networks and coalitions will become even more crucial in this multipolar world. (Source: USA Today, “Intel See U.S. Losing Superpower Status by 2030”) However, economic sanctions can be imposed upon single entity groups or individuals, they’re not as easy to quantify, or enforce, as a nation.

Economic sanctions fail in certain instances, like in the Afghani desert in the caves of Al Qaeda. Do terrorists really care if they can’t use Western goods or banks? Many jihadist terrorists hate the very principles and ideas of the West, so cutting them off from Western resources hardly seems punitive. No, where economic sanctions end, military force begins. Now, instead of invading Syria or Libya under the guise of preventing human atrocity, saving civilians, and spreading democracy, NATO creates a no-fly zone. Instead of ordering troops to a terrorist leader’s hideout, the United States President orders an autonomous drone strike. These quick, one-target missions are becoming the face of modern warfare. The United States is still at the forefront of drone usage. According to their Council on Foreign Affairs, “From September 2001 to April 2012, the U.S. military increased its drone inventory from fifty to seventy-five hundred, of which approximately 5% can be armed.” So the United States currently has about 375 missile-capable drones stationed throughout the world.

Drones are incredibly useful for intelligence gathering missions, as they are quiet and easily maneuvered to identify enemy targets. When armed, they can take out militant bases quickly, without risking the life of the pilot (unlike a traditional bomber like the F-16). “Boots on the ground” invasion and occupation by a foreign military is unlikely to gain widespread international support. Occupation has become unthinkable in most parts of the developed world.
It’s hard now to fathom sailing ships up to the beaches of southern England and landing troops. Occupation or full-scale invasion is simply too expensive, as the Americans have found out the hard way in the Middle East in the past decade. In 2014, the traditional type of war is all but extinct. Terrorist plots are systematic, catastrophic, but not consistent. They are unpredictable and often appear irrational. Thus, a nation is far more likely to take out a terrorist base by independent weapons strike, than by full-out invasion. Furthermore, how is a nation to invade an enemy that could be anywhere and everywhere? Despite this impossibility, it’s important to note that not all countries are as readily on board with autonomous weapons as the United States. Perhaps the largest contribution to this reluctance is the legal controversy surrounding its use.

Some have signed on to the use of autonomous weapons simply because they are more “humane.” Many humanitarians and activists are concerned with the safety of the local civilian population, and some argue that drones are safer for the people who live in these areas. Often these civilians in highly contested areas experience alarming rates of injury and death. Marla Ruzicka, a young peace activist, founded the Center for Civilians in Conflict and traveled to Afghanistan to get a better idea of what the civilian losses may be, since the conflicts had begun. With her effort, it was established that the number of civilian casualties were somewhere between 100,000 to over a million, depending on the projections. The number is unclear, one that can never be made exact, but it is clear that minimizing these casualties of civilians caught in the cross fire should be a top priority. Marla Ruzicka spoke of a Kenyan proverb that said, “When elephants fight, the grass gets trampled. That’s what war is. And the elephants will continue to fight.” This means as long as the military is sending troops into civilian cities, it is probable that there will be some unintentional crossfire casualties due oftentimes to the close proximity of terrorist organizations to civilian homes. This is where activists have begun to back the increased use of drone strikes. It allows easier penetration of highly civilian areas with a lower risk of civilian casualty by using precise air strikes.

The legality of drones is, at best, murky. In late 2013, Human Rights Watch, and Amnesty International alleged the U.S. had violated international law and should be charged with war crimes for the killing of civilians in unmanned aerial attacks in Pakistan and Yemen. The White House press secretary fired back stating that they take “extraordinary care [...] to make sure counter-terrorism actions are in accordance with all applicable law.”

By contrast, in 2012 when an Iranian drone (claimed by Hezbollah) was shot down over Israel, the EU responded that it supported Israel because it “condemns violation of any country’s sovereignty and territorial integrity, including through violation of its airspace.” In late 2012, prominent Austrian politician Hans-Peter Martin, a Member of the European Parliament, questioned the Commission (Vice President/High Representative) on the legality of U.S. drone strikes, claiming that in his “observer’s opinion, [it] is compatible neither with human rights nor with the fundamental rights recognised by the EU.” His question was in response to a report that had been recently released by the British Bureau of Investigative Journalism which (through use of media reports) aimed to establish a rough estimate of the amount of U.S. drone strikes carried out in Pakistan, Yemen, and Somalia from 2001 to 2012. In January of 2013, the Vice President and High Representative Ashton released a joint statement in which they explained that during a biannual informal discussion with the U.S. regarding international law, “The EU side, in the context of this in-depth dialogue has raised a number of questions and concerns [with the US] regarding counter terrorism and international law, including on the use of drones.” Clearly, drones occupy an unusual niche of international law, that have yet to be agreed upon or codified. Even as the U.S. defends the practice, it too admits that in the future, international and domestic pressure will likely force its military to scale back their drone usage. Conversely, the U.S. military also contends that drone strikes will still likely comprise a large part of their counter terrorism strategies for the next decade. The world’s opinion matters, and although no nation has publicly refuted the United States claim that drone strikes are justified under Article 51 of the United Nations Charter, neither have any corroborated it.

The foreseeable issue with drones (beyond the potential illegality) is the proliferation of the technology. The United States has perhaps inadvertently set the example that a nation can use a drone in any air space it wishes whether allied or not. What’s to stop other nations from developing the technology and doing the same? Technically, every nation should have the same access to autonomous weapons usage since the U.S. bases their claim on Article 51, the “self-defense” doctrine. Should Russia be allowed to monitor former bloc nations with drones? Should China be capable of an imminent drone strike against Japan over the Diaoyu/Senkaku islands?
The EU admitted in 2012, that it intends to develop its own drone program to be used for “surveillance purposes only” in “non-segregated airspace” subject to air traffic control.\textsuperscript{xxi} Because the United States can’t justify its actions as being any more correct than for any other nation, it should proceed cautiously in the exercise of its unilateral power, as it doesn’t enjoy the might it once did, and other nations are quickly rising to contest its claim.

Some within the United States would argue that drone usage is more trouble than its worth. In 2011, the U.S. instigated an airstrike against one of its own citizens, U.S.-born Anwar al-Awlaki, living in Yemen. As an American citizen he was guaranteed the right to “due process of law” under the Fifth Amendment of the U.S. Constitution, but he was summarily executed without a trial.\textsuperscript{xxvii} He was taken out by independent drone strike, and since at the time he was not engaged in an openly hostile activity (i.e. the U.S. could claim self-defense), making it very questionable whether his execution was justifiable. The United States court system has multiple established precedents of Executive Privilege in cases of national security, such as this. But, regardless of what the court has decided, is it appropriate for a nation to violate its own Constitution on international soil? The precedent that this sort of action sets for other nations around the globe is certainly not a positive one.

Force may not even necessarily take place in physical space anymore. It has become standard to gather intelligence on other nations, not just those with perceived threats, but against allies as well. “Knowledge is power,” and cyber space is a gray area open to exploitation. Today, it’s hard to imagine a time when computers were not essential to everyday life; there is very little that would prove difficult to find online. The EU was concerned back in 2001 about “network and information security” incidents. They seemed particularly worried about the possible interception of online communications: “Interception of communications for reasons of public security is authorised for limited purposes in all EU Member States. A legal framework is in place to allow [certain agencies and people] to intercept communications.”\textsuperscript{xxxviii} The United States has been worried about communication interception since they pioneered the technology to “tap” “hard phone lines”\textsuperscript{xxxix} in 1968. In 1986, the U.S. Congress passed the Electronic Communications Privacy Act, which protected all types of oral, written, or electronic communication through every step of the formation process including its ultimate storage on a computer.\textsuperscript{xx} The issue here is, rightly, privacy.

Necessarily, as cyberspace continues to become a greater part of our lives, so does the need for heightened security.

To this end, governments and corporations have massive security networks, passwords, clearances, and firewalls to protect sensitive information. An incident of “hacking” in which an individual gains access to said information through the brute force of a cyber attack, virus, or stolen password information\textsuperscript{xxxi} can cause irreparable damage if the information obtained is exploited. “A cyber attack using malware to infect an adversary’s cyber-physical weapons system can launch remotely, physically destroy the system, and cause collateral damage to civilian property” with “no physical invasion of territory and little risk of human death or injury.”\textsuperscript{xxxii} This can be especially damaging in cases of economic or military espionage when intellectual property is copied or stolen. In late 2013, it became apparent that Chinese hackers in Shanghai had spent the better part of the previous two years hacking into about 20 different United States defense contractors to obtain the latest information on drone technology.\textsuperscript{xxxiii} If Chinese military developers use that (allegedly) stolen property, at the very least, to close the gap between the U.S. technology and China’s, how is that substantively different from the classic tactical strategy of bombing a base to deplete an enemy’s resources? Either way, the opposition’s advantage is lost. The end result is the same, the method has simply changed. Consequently, intelligence gathering will continue to foster controversy and mistrust.

Three theories have been propagated to evaluate cyberspace vulnerabilities and attacks. The first is a target-based approach structured around the intended target of the attack. The U.S. Congress has identified 16 areas of “critical infrastructure” significant enough to be considered on par with an armed attack. These include banking, healthcare, transportation, communications, and agriculture.\textsuperscript{xxxiv} Any attack on these important civilian or government economic sectors will trigger a response in self-defense as they are crucial enough to the daily functioning of the American State and economy to merit such a response. The second approach is instrument-based and comes solely from the U.N. Charter definition of “force” and the types of “weaponry” typically defined therein. It determines whether the physical items used to conduct an attack constitute weaponry; since a computer or a virus are not listed as a typical weapon, a cyberattack may not necessarily qualify under this framework.
A cyberattack must be evaluated carefully to determine whether any international codes were actually broken.

Intelligence gathering has been a major headline for 2013, and for many world leaders, a major headache. Following the bombshell dropped by Edward Snowden, a former U.S. NSA operative,xxxvii that the United States gathers “metadata” of information on its own people, not to mention the peoples of foreign nations, the system seems to be crumbling under the weight of its own secrecy. In the months that followed, it was alleged that the U.S. tapped the phones of not just known terrorists, but the influential German Chancellor Angela Merkel,xxxviii and the president of Brazil, Dilma Rousseff.xxiv Intelligence gathering is, without a doubt, here to stay as a tool in an international game of force, but it faces sweeping reforms in transparency and methodology. As of December 18, 2013 a Presidential task force recommended changes of NSA policies to President Obama.xv

As an exercise, it might be interesting to examine how these new tools of force can exist within the framework of jus ad bellum. When placing an economic sanction on the goods and services of another nation is there a just intention? If the intention is squeezing the foreign economy to force the removal of a corrupt government (Cuba), or a tyrannical dictator guilty of war crimes (Bashar al-Assad), perhaps that is just. If the intention is achieving nonproliferation goals by imposing sanctions on nations that insist on continuing the search for nuclear capability (Iran), perhaps that too is just. However, the second intention does seem unfair when the governments that impose economic restrictions already have weapons of mass destruction. If used for that purpose, further clarification may be necessary.

Next, do nations have the authority to impose said sanctions? Theoretically, any nation with sovereign power has the authority necessary derived from its citizens, constitution, or laws. In the case of sanctions, however, the question is perhaps less about authority than it is about power. Economic sanctions will only be effective, if the nation imposing them is large enough, wealthy enough, and powerful enough to make a difference in the international market. A tiny country like the Principality of Monacoxix may impose a sanction on Iran, but it is little more than a formal declaration of disapproval. Whereas, if the European Union as a whole, or the United States, imposes a sanction, that could be a potentially fatal blow to the restricted economy.

The third approach is an effects-based approach evaluating the results of an attack, rather than the target.xxxv If, perhaps a cyber attack should take out the communications of the New York Stock Exchange, the repercussions of this attack may be on a level with the physical destruction of a traditional bomb strike. The loss of life in a classic airstrike or bombing is undoubtedly devastating. However, in the 1970’s the United States was researching a neutron bomb that would release lethal amounts of neutron and gamma radiation, with minimal affect to the existing infrastructure. Demonstrating the principle that, people can reproduce and generations can continue on, but the lost buildings equal wasted funds and a complete, permanent loss. It is a pessimistic, economic view but it is costly to rebuild a decimated city from the ground up. NATO hoped to employ the neutron bomb, if it ever needed to bomb one of its own cities, thereby preventing a total loss of existing infrastructure. A cyberattack may not physically destroy any buildings or resources, but it can permanently cripple or disable an invaluable system. This is the most typically cited evaluation method.

In time, perhaps a theory similar to jus ad bellum can be derived for cyber space. In fact, Michael Schmidt has proposed an extremely popular effects-based framework for cyber warfare. In it, he discusses six factors which differentiate classic “hot” force from a violent attack to induce an economic or political outcome. Leaders should carefully consider the 1) severity, 2) immediacy, 3) directness, 4) invasiveness, 5) measurability, and 6) presumptive legitimacy of an attack before reacting.xxxvi Factors like severity, the amount of property damage or loss of life, and invasiveness, the degree to which the country or region was affected, seem reminiscent of jus ad bellum. Immediacy, the relative speed with which the negative effects of the “attack” might spread, and presumptive legitimacy, whether the act is deemed legitimate or not by international law, are both seemingly unique to Schmidt’s theory. A traditional bomb strike would take immediate effect upon detonation, with the exception of atom bombs whose radiation effects can be felt for decades to come. However, a cyberattack may be time-released to affect certain factors at different times, or the effects may be felt more gradually, as more areas of the particular infrastructure shut down. All traditional bombs are presumed illegal by international law, unless somehow justified by the actions of their intended targets, however an economic sanction may technically prove an agent of economic coercion, but it is legal.
Reasonable hope must exist that taking out this individual or base will severely damage the prowess of a terrorist organization or foil an imminent terrorist plot. Again, proportionality is difficult to judge in this situation. Does taking out an architect of the September 11 attacks with a drone strike (minimizing civilian death) seem like a proportional response? Difficult question, since thousands of American civilians died in the September 2001, attacks. However, thousands of civilians have also died in roadside bombs and other terrorist attacks in the years that followed, during the American “War on Terror.” It is hard to judge a proportional response in this instance. Autonomous weapons are also used indiscriminately across borders. Something which often causes more problems than the drone mission itself solved. In the future, these airspace disputes should be negotiated ahead of time, if possible. Generally, in drone strikes, the attack must prevent civilian casualties at all costs, while still achieving the ultimate goal and taking out the intended target.

Drones are not always used as a last resort, so in this instance the *jus ad bellum* theory fails. Typically, these autonomous weapons strikes are used against individuals guilty of previous crimes, without a preamble of diplomacy. They don’t stand trial. They aren’t granted rights and due process under the War Crimes Tribunal in the Hague. They simply find themselves in the crosshairs of an unmanned aerial vehicle. It’s not a last resort, it’s an assassination to head off further attacks and confuse the line of succession within the terrorist organization.

Finally, does international espionage and intelligence gathering fit the “right to war” theory? In many cases, it’s completely unjustifiable. There is no internationally accepted intention for gathering information on a peaceful ally nation. If there is a realistic threat that could be more easily monitored and contained by researching and watching the suspected targets, that may prove an acceptable intention. Gathering intel simply to be “ahead” of everyone else is not a just intention under this theory. Spying can only be fully justified if the militant involved is hatching a terrorist plot that may yet be stopped. Technically, any nation retains the authority to conduct its own intelligence. The question is, how far does that authority extend? Does it extend to monitoring their own citizens? The citizens of its allies? When tapping phone lines, or bugging houses, did the nation or agency involved seek the proper authorization to do so? Authority must always be constrained within international guidelines.

With rare exceptions, sanctions must be multilateral agreements with many trade partners to generate enough economic clout and consumer market share to make a difference. This ties in closely with the “reasonable hope” parameter: the economic sanctions must be imposed in such a way, and by such nations, that they can reasonably expect to induce the hoped-for outcome.

Proportionality is always the parameter most open to interpretation. When enacting an economic restriction, governments must take into account that they are normally not responding to a previous attack, so perhaps their sanction should somehow attempt to meet the level of humanitarian violence caused or the magnitude of the nuclear proliferation issue. This would still be difficult to quantify. However, the proportionality of the sanction may be a moot point, since economic restrictions are approximately all the same. This parameter need not be as strictly monitored as say, invasion, or bombing, since it requires no comparable military force or loss of life. Economic sanctions are diplomacy with an edge. If enforced to their fullest extent, economic sanctions could cost hundreds of thousands of people their livelihoods. It could plunge a nation into a depression, inflate the currency, hurt government education programs and attendance; it would take years for a country to get back on its feet. Light restrictions are typically imposed first, followed by rounds of international discussions to reach a compromise. If none is reached, the sanctions may be strengthened or added to, as a last resort, where traditional diplomacy failed.

Drone strikes fall more traditionally into the *jus ad bellum* framework, with a few key exceptions. The intention when using a drone for surveillance must be justifiable under international law as “self-defense.” The intention when an armed drone is deployed for a strike is quite different. A nation must have clear, incontrovertible evidence that the planned strike is at the location of a known militant, guilty of some act of terror for which their death is justified. Nations have the sovereign authority to protect their own interests. Whether that be through intelligence gathering or through the assassination of terrorist leaders. However, they do not have the authority to collect evidence on allies or to kill civilian bystanders.

The drone must not take off without a specific mission in place to take out a base, or hideout, of a known terrorist. There must be solid evidence collected, and a clear procedure established so the nation’s leader may give the go-ahead.
Propportionality in this case framework is an issue of privacy. Everyone is guaranteed a fundamental right to personal privacy under their various constitutions (the United States Fourth Amendment in the Bill of Rights and the European Union’s Charter of Fundamental Rights Articles 7 and 8). When gathering intelligence, a government must be cautious of the fine line between “awareness” and “stalking.” Any kind of spying, be it intercepting emails, tapping phone calls and text messages, or watching someone by security camera, is a violation of that person’s privacy. It is something many people have grown accustomed to: a security camera (or perhaps multiple cameras) is watching anytime a person enters a restaurant or store. Although it may now feel like commonplace acceptance, it is still important to remember there are exceptions (like bathrooms) where cameras cannot be placed as a person’s legally justifiable expectation of privacy would be jeopardized. Proportionality in spying means not reducing someone to little more than a lab rat, who is carefully watched and monitored. A target of intelligence gathering efforts must not be completely stripped of basic human dignity. In this case, too, the final parameter of jus ad bellum, “last resort,” fails. In many cases, intelligence gathering networks are the first resort of a government seeking to understand a complex situation. This may not be all bad; learning as much as possible before acting, or passing judgement, is wise.

Although the types of force have changed, the right to war theory is not obsolete. It’s an important guide for governments contemplating imminent force, or those who have strayed off the path of accepted usage.

Sanctions continue to be the economic edge of force, which as the world’s economy grows ever more interconnected could one day prove more fatal than a bomb. Drones are in a state of flux, and their continued role in military force remains to be seen; regardless, they may yet prove successful in a commercial sector. It is, clear, however that autonomous devices are the future of modern war machines. Intelligence gathering has been the major headline of 2013, and as a result, it faces many changes in targeting, processing, and storing information. Huge adjustments need to be made in transparency of information collection, and the privacy rights of people must be honored. However, there is no future in which intelligence gathering ceases; it is too valuable a resource to prevent massive terror plots from becoming reality. It was unthinkable in 1945 that the face of modern warfare could be anything other than weapons of mass destruction.

Large-scale invasion, horribly destructive bombing raids, this was to be the future of warfare as foreseen by the Greatest Generation. The generations of this new millennia can’t even contemplate that future. They see artificial intelligence as the hallmark of new weapons capability. They understand the growing importance of international cooperation and approval. Containment is their only choice, so they continue to seek new types of force to effect change without resorting to traditional “hot war” practices. In the future, the definition of force may be interpreted even further as new tools of diplomacy and force emerge.


