

The Implications of U.S. Drone Strikes

Rishaad Ismael

Several months before Osama bin Laden was killed on May 2, 2011, his compound in Abbottabad, Pakistan was being secretly monitored by the United States. The Central Intelligence Agency's surveillance of the compound included video feed captured and transmitted by the agency's new stealth aircraft, the RQ-170 Sentinel. Flying high above the compound of the world's most wanted man on the actual night of the raid, this particular aircraft sent live video feedback to Washington and eavesdropped on electronic transmissions, thereby enabling U.S. officials to be aware of a Pakistani response, in case there was one. The RQ-170 Sentinel aircraft also avoided detection from Pakistani radar despite the fact that Pakistan's Military Academy is located less than a mile away.

In the unlikely event that the aircraft was detected and shot down by Pakistani military officials, the pilots of the RQ-170 Sentinel would have emerged physically unscathed since they were never actually inside the aircraft. Instead, the pilots of the RQ-170 Sentinel, like the pilots of other drones, fly their aircraft from thousands of miles away by remote control. Although the operation on Osama bin Laden's compound only required an intelligence-gathering mission for drones, drone strikes against terrorists, especially in Pakistan, have become very common, especially after September 11, 2001, and even more so after the death of Osama bin Laden on May 2, 2011. The very idea of targeting individuals and groups for execution internationally by means of these remotely piloted planes has been troubled with controversy from the outset. Many experts have claimed, for example, that such strikes may even violate international law. In this paper, I hope to bring to light the implications of the various issues surrounding drone strikes emanating from the United States.

What is a drone?

A drone, or an unmanned aerial vehicle, as it is technically known, is defined by the Department of *Defense's Dictionary of Military and Associated Terms* (2007) as “a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload.” Essentially, a drone is a remotely piloted plane. Drone operators, as they are known, are usually sitting in trailers in California or Las Vegas controlling drones that are operating in places like Iraq or Afghanistan. Drones can be as small as insects or as large as commercial airliners and are moving in the direction of becoming fully automated. Today, drones are often used not just for gathering information, but also in strike missions, such as the two U.S. strikes that were carried out in Libya on April 23, 2011. As is normal, few details were provided about the strikes themselves.

The drone as a remotely piloted combatant aircraft is a relatively new phenomenon. Traditionally, drones have been used by the C.I.A. for mostly reconnaissance missions. Addressing the issue of the drone's role in war, Bille Yenne (2010), author of more than two dozen books on military topics, writes in his book *Birds of Prey*, that “as recently as the beginning of the twenty-first century, unmanned aerial vehicles were just a footnote in the annals of military history” (p. 5). However, Yenne goes on to note that after the events of September 11, 2001, the role of the drone was drastically increased: Suddenly, with the Global War on Terror, all this changed. Beginning with Operation Enduring Freedom in 2001, unmanned aerial vehicles suddenly had a role to play - not only an important role, but a vital role. As far as popular culture is concerned, unmanned aerial vehicles may actually have been the signature new weapons system of the Global War on Terror battlefield. (p. 5)

After September 11, 2001, although they were and are still being used for reconnaissance missions, drones were used more and more for actual strikes.

Do drone strikes violate international law?

When President Obama assumed office in 2009, he ordered drone strikes against suspected terrorists in the Pakistan/Afghanistan border. Such strikes have increased drastically. Some international lawyers condemn these attacks and believe that they are illegal assassinations that violate international law. Recently, the United Nations has raised questions about the legal issues surrounding United States drone strikes.

For example, in a *New York Times* article, Charlie Savage (2010) reports that Philip Alston, the United Nations special representative on extrajudicial executions, has “warned that the American example would lead to a chaotic world as the new weapons technology inevitably spread.” The report goes on to quote Alston as saying “this strongly asserted but ill-defined license to kill without accountability is not an entitlement which the United States or other states can have without doing grave damage to the rules designed to protect the right to life and prevent extrajudicial executions.” This future “chaotic world” that Alston refers to is a frightening one when one considers the possible scenarios. Essentially, we are telling the rest of the world that they too, in the name of national security, can use drones and hunt down targets in other countries without having to provide a legal justification for doing so.

According to experts, the legality of U.S. drone strikes hinges on a few factors including whether or not the United States is in a state of ongoing armed conflict. If we are engaged in armed conflict, then it can be argued that the U.S. drone strikes are indeed legally permissible. If we are not engaged in armed conflict, then the U.S. drone strikes can be deemed as unlawful, according to international law. Some legal experts, such as Harold Koh, a top legal advisor to the State Department, believe that the United States is indeed involved in an ongoing armed conflict. Therefore, they argue that this justifies the United States drone strikes. In a speech to the American Society of International Law on March 25, 2010, Koh argues: As recent events have shown, Al Qaeda has not abandoned its intent to attack the United States, and indeed continues to attack us. Thus, in this ongoing armed conflict, the United States has the authority

under international law, and the responsibility to its citizens, to use force, including lethal force, to defend itself, including by targeting persons such as high-level Al Qaeda leaders who are planning attacks.

On the other side of the argument are those like Mary Ellen O'Connell, a professor of International Law at Notre Dame Law School, who believe that the United States is not engaged in an ongoing armed conflict. For this reason, O'Connell believes U.S. drone strikes violate international law. In an interview with Stuart Russell on Swarthmore College's War News Radio (2010), O'Connell explains briefly why she believes that U.S. drone strikes are unlawful:

There are two things you look into: 1) has Pakistan ... attacked the United States? Then we could respond in self-defense. That hasn't happened so we're not responding in self-defense so we have no right to use military force in Pakistan ... arguing self-defense. So the next question is 2) is there armed conflict going on in those countries in which the governments have asked us to come in and help them in solidarity to fight as we're doing in Afghanistan right now so Hamad Karzai has asked us to come into Afghanistan to help suppress the civil war. Well Pakistan ... [hasn't] asked us to do that either.

According to O'Connell, in one case, the United Nations found a U.S. drone strike to be clearly unlawful. Her research paper titled "Unlawful Killing with Combat Drones," published in July 2010 at the Law School of the University of Notre Dame, says that "in January 2003, the United Nations Commission on Human Rights received a report on the Yemen strike from its special rapporteur on extrajudicial, summary, or arbitrary killing. The rapporteur concluded that the strike constituted "a clear case of extrajudicial killing." The Yemen strike O'Connell refers to occurred on November 3rd, 2002. It killed six passengers in a car, including one American citizen. According to the paper, U.S. officials said that one of the passengers was a suspected lieutenant in Al Qaeda.

One of the major issues that complicates the legal debate concerning drone strikes involves the very definition and understand-

ing of armed conflicts. Armed conflicts are usually recognized by international law when they involve two states or a state and a non-state entity such as a rebel group. Since the United States primarily targets Al Qaeda and its affiliates with its drone strikes, this poses a problem because Al Qaeda is not confined to a specific geographic area. As such, it is not recognized as a state. Although it can be recognized as a non-state entity, the fact that it is a transnational group not limited to any specific country further complicates the matter.

Zero Civilian Casualties?

One of the recurring criticisms of the U.S. drone program is that it lacks transparency. Due to its secretive nature, even data about who has been killed is not always readily available. Even in the cases where such data is available, conflicting reports make it difficult to sort out the truth.

The Central Intelligence Agency, in announcing the precision of drone strikes, said that from May 2010 to May 2011, there were absolutely no civilian casualties in Pakistan. President Obama's top counterterrorism adviser, John Brennan, referring to drone strikes, said that "there hasn't been a single collateral death because of the exceptional proficiency, precision of the capabilities we've been able to develop" (Johnson, 2011). Many found this hard to believe. Among them is the editor of *The Long War Journal*, Bill Roggio, who tracks drone strikes and is a supporter of the C.I.A. drone program. In an article titled "C.I.A. Is Disputed on Civilian Toll in Drone Strikes," reporter Scott Shane (2011) quotes Mr. Roggio's views on the matter: "I believe the people conducting the strikes work hard to reduce civilian casualties. They could be 20 percent. They could be 5 percent. But I think the C.I.A.'s claim of zero civilian casualties in a year is absurd."

Shane also says that The British Bureau of Investigative Journalism has countered the C.I.A.'s claim of zero casualties. According to its research, "at least 45 civilians were killed in 10 strikes" during the year-long period to which the C.I.A. refers. While the C.I.A. claims that one of its drone strikes on May 6, 2011 along the Pakistan/Afghanistan border wiped out only the intended targets in a pickup truck, British and Pakistani journalists found that the missiles struck a school, a restaurant and a

house, killing eighteen people, including six civilians (Shane, 2011).

Such discrepancies in basic information concerning drone strikes may not help the United States garner the kind of support it needs from countries, such as Pakistan, that facilitate our drones. In fact, as some U.S. officials have pointed out, the program's apparent lack of transparency may even be used as fertile grounds to sow anti-American sentiments among terrorist organizations.

Do our drone strikes make us less safe?

Some U.S. officials, including Congressman and 2012 presidential candidate Ron Paul, believe that drone strikes may even make the United States less safe. According to an article titled "Paul Says Drone Strikes 'Make More Enemies'" by Julian Barnes (2011), Paul believes that drone strikes "make things worse." The presidential candidate further explains: "Sometimes they miss. Sometimes there is collateral damage. And every time we do that, we make more enemies." Others have expressed similar sentiments.

David Kilcullen (a former counterinsurgency adviser to Gen. David Petraeus - the former Director of the Central Intelligence Agency) and Andrew McDonald Exum (a former Army officer in Iraq and Afghanistan from 2002 to 2004) (2009) make a similar argument:

Press reports suggest that over the last three years drone strikes have killed about 14 terrorist leaders. But, according to Pakistani sources, they have also killed some 700 civilians. This is 50 civilians for every militant killed, a hit rate of 2 percent — hardly "precision." American officials vehemently dispute these figures, and it is likely that more militants and fewer civilians have been killed than is reported by the press in Pakistan. Nevertheless, every one of these dead noncombatants represents an alienated family, a new desire for revenge, and more recruits for a militant movement that has grown exponentially even as drone strikes have increased.

While it cannot be denied that the drone program has had a tremendous amount of success in terms of wiping out leadership figures of terrorist organizations, experts argue that leadership vacuums in terrorist organizations are quickly refilled. Moreover, one cannot help

but wonder whether the threat of drone strikes can truly deter a group of individuals who are known for welcoming death.

Dennis Blair, the director of National Intelligence from 2009 to 2010, is of the view that drone strikes alone cannot cripple terrorist organizations. Blair (2011) notes that “Qaeda officials who are killed by drones will be replaced. The group’s structure will survive and it will still be able to inspire, finance and train individuals and teams to kill Americans.” Blair also believes that “as the drone campaign wears on, hatred of America is increasing in Pakistan” (para. 7).

Is hatred of America increasing due to drone strikes? There are documented cases that seem to suggest that drone strikes can indeed trigger violence against American forces. Consider the following case: On December 30, 2009, a Jordanian doctor and suicide bomber, Humam Khalil Abu Mulal al-Balawi, blew himself up and killed eight Central Intelligence Agency agents at an outpost in Afghanistan. He was invited to the outpost to provide information about Al Qaeda. He turned out to be a double agent who was actually working for the Taliban (Warrick, 2011). It was one of the worst days in the C.I.A.’s history. A few days later, a pre-recorded video message from Mr. Balawi emerged. According to Stephen Farrell (2010), Balawi announced in the posthumous video that his attack was in retaliation to the 2009 drone strike that had killed the Pakistani Taliban leader, Baitullah Mehsud.

Abandoning the drone program altogether is clearly not the answer. However, if we are to continue to achieve progress in the area of national security, we must, in addition to spending billions of dollars annually on drone technology, at least acknowledge and have debates about relevant issues such as the role drone strikes might be playing in inspiring new attacks on Americans.

Are drone strikes ethical?

Since we are fighting a war without actually being on the battlefield, many worry about the ease of killing that drones seem to facilitate. Peter Singer, author of the 2011 best-selling book *Wired For War*, in a 2009 lecture titled “Ethical Implications of Military Robotics” at the United States Naval Acad-

emy in Annapolis, Maryland, offered his views on the matter:

We have new questions of law and ethics. For example, what do you do about unmanned slaughter? That is, what do you do when you kill someone that you didn't intend to kill, such as the three times we thought we got Osama Bin Laden with a Predator drone strike, and we got someone else instead? In one case, it was an Afghan civilian who was just unlucky enough to look like Osama Bin Laden when viewed through the soda straw of a Predator drone.

These are very tough ethical questions which cannot be divorced from the military progress we are achieving by using these drones. The battlefield is no longer the same and so the rules of ethics must necessarily be re-assessed. Singer raises very serious issues concerning the dehumanization of war. He offers the following insight:

Take the issue of war crimes. You could argue that war crimes might be less likely with robots because robots are emotionless. Robots don't care if their buddy gets killed. They don't commit a crime of revenge or rage, which is how a lot of war crimes happen. But robots are emotionless. They don't have a sense of empathy, a sense of guilt. A robot looks at an 80-year-old grandmother in her wheelchair the same way they look at a T-80 tank. They're both just zeros and ones in the programming language.

Singer's point is not that we will suddenly become desensitized to the pain and suffering of other human beings because of our access to drones, but that with our access to drones, it becomes easier to disconnect ourselves from all the negative emotions that would otherwise be associated with killing another human being. Does this automatically mean that we should discontinue drone strikes? Singer's argument is not one that argues for the discontinuation of drone strikes. Rather, it is an argument that calls attention to one of the moral underpinnings of drone strikes. If we show no regard for the moral issues surrounding drone strikes, we make no distinction between ourselves and the morally corrupt. These are issues that need to be a part of our national discourse.

In order to assess the ethical ramifications of drone strikes, the secrecy behind the program itself will have to be demystified. How can we form opinions about the morality of drone strikes when the justifications that lay the foundations for the strikes themselves are kept secret? In an article titled “The Predator War,” published on October 26, 2009 in *The New Yorker*, Jane Mayer writes that “the drone program, for all its tactical successes, has stirred deep ethical concerns.” She quotes Michael Walzer, a political philosopher and the author of the book *Just and Unjust Wars*, as asking “Under what code does the C.I.A. operate?” Walzer also says the following about the drone program:

There should be a limited, finite group of people who are targets, and that list should be publicly defensible and available. Instead, it’s not being publicly defended. People are being killed, and we generally require some public justification when we go about killing people.’

Targeted killings by drones have been a hotly debated topic because of the unwillingness of the U.S. government to provide information regarding their justifications for the strikes. When *The New York Times* brought a lawsuit against the Justice Department under the Freedom of Information Act so that the department might release the memorandum providing legal justification for the 2011 drone strike in Yemen that killed Anwar-al-Awlaki, an American citizen, judge Colleen McMahon ruled that the memorandum might remain a secret. However she noted the legal issues and frustration that stood in her way. In her ruling, she wrote “I can find no way around the thicket of laws and precedents that effectively allow the executive branch of our government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws while keeping the reasons for their conclusion a secret” (Liptak, 2013). The fact that the judge expresses frustration at the legal wall of support that protects the Justice Department’s right to not release information concerning a drone strike that killed an American citizen should give us an idea about the complexity of the ethical debate. That we can execute our own citizens without due process of the law should worry us.

Conclusion

Drones are fascinating. The technology is mind-blowing. However, every new development in this technology should also bring with it new questions about responsibility and ethics. The fact that war is now literally at our fingertips does not necessarily mean that our ethics should suffer. Killing by remote control might be easier to swallow than slicing the throat of an enemy but both should be considered equally immoral. Possessing a better technological weapon than one's enemy does not grant a moral right to employ that weapon. Any technology that makes it easier to kill people, instead of being shrouded in secrecy, ought to be publicly discussed and endure rigorous rounds of public debates. The progress that we have made by employing these drones cannot be discounted. We have succeeded in wiping out most of Al Qaeda's leadership figures and even those of the Taliban. But when we find that our most advanced technology is being used to wage wars against other countries and kill our fellow human beings, maybe it is time for us to rethink our obsession with acquiring killing machines and start focusing more on rebuilding and maintaining our human relationships.

References

- Barnes, J. (2011, November 6). Paul says drone strikes "Make more enemies". *The Wall Street Journal*. Retrieved from <http://blogs.wsj.com/washwire/2011/11/06/paul-says-drone-strikes-make-more-enemies/>
- Blair, D. (2011, August 14). Drones alone are not the answer. *The New York Times*. Retrieved from <http://www.nytimes.com/2009/05/17/opinion/17exum.html?pagewanted=all>
- Farrell, S. (2010, January 9). Video links Taliban in Pakistan to C.I.A. attack. *The New York Times*. Retrieved from <http://www.nytimes.com/2010/01/10/world/middleeast/10balawi.html?pagewanted=all>
- Johnson, D. (2011, August 29). U.S. drone attacks on suspected terrorists stir controversy. *Public Broadcasting Service*. Retrieved

from <http://www.pbs.org/newshour/rundown/2011/08/drone-strikes.html>

Kilcullen, D., & Exum, A. (2009, May 16). Death from above, outrage down below. *The New York Times*. Retrieved from <http://www.nytimes.com/2009/05/17/opinion/17exum.html?pagewanted=all>

Koh, H. H. (2010, March 25). The Obama administration and international law. *Annual Meeting of the American Society of International Law*. Washington, DC .Retrieved from <http://www.state.gov/s/l/releases/remarks/139119.htm>

Liptak, A. (2013, January 2). Secrecy of memo in drone killing is upheld. *The New York Times*. Retrieved from http://www.nytimes.com/2013/01/03/us/judge-rules-memo-on-targeted-killing-can-remain-secret.html?_r=0

Mayer, J. (2009, October 26). The predator war. *The New Yorker*. Retrieved from http://www.newyorker.com/reporting/2009/10/26/091026fa_fact_mayer

O'Connell, M. E. (2009, November). Unlawful killing with combat drones (Legal studies research paper No. 09-43). Retrieved from University of Notre Dame website: <https://webpace.utexas.edu/rmc2289/LT/Mary%20Ellen%20OConnell%20on%20Drones.pdf>

Savage, C. (2010, June 2). U.N. report highly critical of U.S. drone attacks. *The New York Times*. Retrieved from <http://www.nytimes.com/2010/06/03/world/03drones.html>

Shane, S. (2011, August 11). C.I.A. is disputed on civilian toll in drone strikes. *The New York Times*. Retrieved from <http://www.nytimes.com/2011/08/12/world/asia/12drones.html?pagewanted=all>

Singer, P. W. (2009). Ethical implications of military robotics. Lecture presented at The United States Naval Academy, Annapolis, MD.

Swarthmore College (Producer), & Russell, S. (Writer). (2011,

August 2). Are Drone Strikes Legal. [Radio broadcast]. 500 College Avenue Swarthmore, PA 19081. *War News Radio*. Retrieved from <http://warnewsradio.org/2011/07/18/are-drone-strikes-legal/>

Unmanned aerial vehicle. (2007). In U.S. Department of Defense, Joint Doctrine Division (Ed.), *Dictionary of Military and Associated Terms*. Retrieved from http://www.military-dictionary.org/DOD-Military-Terms/unmanned_aerial_vehicle

Warrick, J. (2011). *The triple agent*. NY: Doubleday.

Yenne, B. (2010). *Birds of prey*. North Branch, MN: Specialty Pr Pub & Wholesalers.