



The Game of Drones

"If we were to use our technological capabilities carelessly... then we should not be upset when someone responds with their equivalent, which is a suicide bombing in Central Park, because that's what they can respond with"

-Retired Gen. Stanley McChrystal in an interview with Foreign Affairs

1. Introduction

The use of unmanned aerial vehicles (UAVs) for the purpose of surveillance is well established, dating back to the first Gulf War. Yet the arming of these UAVs, or drones as they are more colloquially known, only surfaced in the aftermath of September 11, 2001. Since then there have been passionate debates concerning the ethical, moral, legal and political validity of drones, specifically by the U.S. in Middle Eastern, North African and South Asian countries. Civilians in these regions have testified to the cruel and seemingly random use of drones against innocent people, and have fervently questioned their very presence. Research compiled by NGOs, such as Amnesty International and Human Rights Watch, have cried foul on the U.S.'s usage of drones, calling many of the strikes blatant abuses of human rights, and condemning receiving countries for not doing enough to protect their civilians. In many instances, the U.S.'s use of drones has shown not only signs of human rights abuse, but an abuse of fundamental democratic norms and principles, such as transparency, accountability and rule of law. The manner in which drones are used threatens already weak democratic institutions in countries that are attempting to establish stable democracies; and this, in turn, helps give rise to insurgents and terrorists.

2. Background

After the terrorist attacks on the U.S. in 2001, the Bush administration put a particular emphasis on promoting democracy as a means of combatting terrorism. President Bush insisted that terrorism

could only be defeated and eradicated where democracy prevailed. The U.S. would "...defend the peace by fighting terrorists and tyrants... [and] will extend the peace by encouraging free and open societies on every continent."¹ It is a widely held assumption that democratic nations are less likely to produce terrorists and more inclined towards co-operation with other nations. Thus, the freedom agenda became the driving force of U.S. foreign policy in the age of the Global War on Terror (GWOT) and the democratic peace theory its rationale.² It was argued that in order to win the war on terrorism, it was necessary to address and eliminate the root causes of frustration among Muslims who felt compelled to join extremist factions; and that the socio-economic conditions that produce terrorists had to be transformed and improved. According to Folensbee, a grand strategy of transformation was to be revealed specifically targeting Muslim nations under dictatorial rulers, which were to be converted to democracies.³

Accordingly, programmes were developed to introduce reform into dictatorial administrations in Islamic countries, with a particular focus on Afghanistan, Egypt and Pakistan; the latter two considered essential allies in the war against al-Qaeda. In reality, broader U.S. foreign policy in the wake of the GWOT, had been directed towards strengthening relations with authoritarian regimes, such as Egypt and Pakistan, as well as Saudi Arabia, Uzbekistan and Tajikistan, all considered crucial allies of the U.S. in its fight against the nebulous networks of bin Laden's followers. After declaring that the U.S. would not be interested in partnering with states that would help fight terrorism without regime change in

their own societies, American decision makers defined relations with dictators, such as Pakistan's Musharraf – considered a master of human rights violations and un-democratic practices – as 'necessary alliances'.

Following the United States' exploits in Afghanistan and Iraq, it entered Pakistan with the agreement of then-President Musharraf, who claimed he had been threatened with a U.S.-India alliance if he did not co-operate with U.S. interests⁴. Later, Musharraf was quoted as saying that he condemned Islamic extremism and pledged to fight terrorism and lawlessness in Pakistan. In 2004, the Pakistani army launched a campaign in the country's Federally Administered Tribal Areas (FATA), particularly North and South Waziristan. It was in this period that the United States launched its drone programme to combat terrorism.

Originally, UAVs, or drones, such as the MQ-1 Predator were "...designed to be reconnaissance aircraft that linger over territory for long periods of time and send back...imagery to whoever is controlling them from a remote distance."⁵ However, by the year 2000, the idea arose to arm drones with missiles, particularly Hellfire missiles, so that they could engage and destroy targets as they presented themselves. It was this campaign of targeted killing, set out by the U.S. in its quest for uprooting terrorism, particularly in the Pakistani-Afghan borders, that quickly became a matter of controversy.

Drones present a number of advantages insofar as they are able to fly for longer periods of time than manned aircraft; they are cheaper to operate and largely undetectable by the enemy; they are more precise in their targeting; and there are no pilots vulnerable to harm. However, a great polemic has arisen about their morality, legality and effectiveness in combatting terrorism. Pakistan, particularly, has been witness to mass protests and demonstrations from both ordinary civilians and parliamentarians who stand vehemently opposed to the U.S.'s drones in Pakistani air space, labelling it not just an affront to their sovereignty, but a threat to their democracy.

3. The Situation in FATA

Pakistan's Federally Administered Tribal Areas (FATA), which are situated at the Pakistani-Afghan border, are considered a hotbed for terrorism and it is in this area that U.S. drones

have been concentrated. Presently, FATA do not form part of Pakistan's normal political structures; they are governed as a special tribal region under separate constitutional arrangements. Economic and political exclusion, and inadequate education, fosters resentment, and a generally poor local justice system leaves a vacuum easily filled by militant groups. Rehman says that almost all of the seven tribal agencies, most notably North and South Waziristan that comprise FATA, have been overrun by militancy.⁶ For terrorists, the attraction of FATA, and particularly Waziristan, lies in their fierce independence.

4. U.S. Drones in Pakistan

In near-perfect democracies (if Freedom House is to be taken seriously), there exists a deep bond between the public and its wars. Singer says that citizens have traditionally participated in resolutions to take military action, through their elected representatives, helping to ensure broad support for wars and a preparedness to share the costs⁷. The U.S. Constitution explicitly divides the President's role as commander-in-chief during war from Congress's role of declaring war, but these links and divisions of labour have blurred somewhat as a result of momentous improvements in military technology. Twenty years ago, armed robots would have been the stuff of a Terminator movie, but the fantasy has become reality as the U.S. alone has approximately 7 000 drones in its arsenal. These drones have carried out numerous strikes, both covert and overt, and have killed thousands of combatants and non-combatants, re-shaping the way in which American democracy deliberates about and engages in what is considered a war. Singer says that drones remove the last political barriers to war; their strongest appeal being that no American lives need be lost in combat⁸.

A particularly troubling issue is that Congress's debate on the drone operation in Pakistan, as well as elsewhere in the world, has yet to be made public; such a step would promote transparency and accountability. As far as the public knows, however, there has not been a vote for or against armed drone operations in Pakistan or elsewhere, apart from who manages the operations between the CIA and the Department of Defence. This demonstrates how the use of this new technology circumvents the decision-making process around what used to be the most important decision a country could make; and how activities that would previously have been regarded as signifying a

state of war are no longer seen as such. America's GWOT can be largely described according to Mary Kaldor's hypothesis of 'new war theory', in terms of goals, methods and source(s) of finance.

The U.S.'s use of drones to attack high value targets (HVTs) in Pakistan began in 2004 and rapidly became highly controversial. A series of objections was raised from various groups and individuals to the idea of using targeted killings, with a fairly high probability of collateral damage, instead of using law enforcement techniques. Those who were in favour of drone operations justified their stance by citing how sensitive Pakistanis were to hosting U.S. troops on their soil; drones left behind a less salient footprint than 'boots on the ground' entering Pakistan and capturing and killing targeted militants. The diplomatic tensions that emerged after bin Laden's death were enough to convince many that drones were a better alternative. The problem with drones, however, remains centred around who the targets are and what qualifies them as such; who is held accountable in the event of extra-judicial killings; the possibility that drone strikes contribute towards terrorism; and the use of armed drones by private individuals and organisations.⁹

4.1. Collateral damage

In October 2012, in Ghundi Kala village, Mamana Bibi, a 68-year old woman, was killed in a drone strike that seemed to have been directly aimed at her. Bibi's grandchildren were nearby when their grandmother was struck with a Hellfire missile, and nearly three years later the family has yet to receive any compensation for her death, let alone an acknowledgement that it was the U.S. that killed her. Prior to the death of Bibi and in Zowi Sidgi village, eighteen male labourers, including at least one boy, were struck by a U.S. drone strike. Missiles first struck the tent in which the workers had gathered for an evening meal and then struck again when first responders rushed to help the injured. These two cases – euphemistically referred to a 'collateral damage', as if the death of innocent people was a mere side-issue – pose a series of questions pertaining to signature strikes, double taps, accountability and the rule of law.

4.2. Signature strikes

Boyle describes signature strikes as those in which the targeting criterion is not the combatant status of an individual but rather their pattern of behaviour. In these cases, strikes are authorized without knowledge of the identity of the target,

solely on the basis of 'suspicious' behaviour; for example, gathering at a known al-Qaeda compound, loading a truck with what appears to be bomb-making material, or even crossing a border multiple times in a short period. The obvious risk is that more innocent civilians will be killed on the basis of a misreading of their behaviour by drone operators, or that the standards by which a 'pattern of life' is identified might be too lax. Boyle quotes a senior State Department official saying that when Central Intelligence Agency (C.I.A.) officials see a small group of men doing jumping jacks on an open field, they assume it must be a terrorist camp. The adoption of signature strikes makes indiscriminate killing – a violation of the principle of *jus in bello*, or just conduct within a war – a policy. A report compiled by Amnesty International says that President Obama and other officials have stated that the U.S. does not conduct a strike unless there is near-certainty that no civilians will be killed or injured. However, the government has never described what post-strike investigation standards, protocols and mechanisms exist to systematically verify compliance with this policy standard, and Pakistan simply follows suit.

4.3. Double taps

Double tap strikes refer to drone attacks that occur within a short time of each other, such as when, after a Hellfire missile from a drone has been fired, those who rush to the scene are fired at again. It is based on the assumption that those who rush to the scene are associated with the individuals who were targeted, even if they are there only to help rescue the injured. Amnesty International reports that in July 2012, in the region of Zowi Sidgi, drones appeared to have deliberately fired missiles at people who came to assist victims of the initial strike, resulting in an additional six deaths and several more injuries. Such strikes are in all circumstances unlawful, constituting arbitrary deprivation of life and extra-judicial executions. International humanitarian law clearly prohibits attacks on the injured and others who are *hors de combat*. Medical employees and first responders attempting to rescue the wounded must be respected. A core issue concerning double taps within this context is that they violate another key principle of democracy, one that pertains to human rights and privileges and which without protection, weakens a country's democracy.

4.4. Accountability

Amnesty International reports that the Pakistani authorities have done very little to provide remedies and other assistance to drone strike victims and their communities.¹⁰ Victims are expected to contact the authorities through their local elders and representatives of the Political Agent, but such efforts usually prove fruitless, as the case of Mamana Bibi shows. There is no compensation for the families of victims of unlawful death, since no one within the tribal communities has accessible means for seeking redress from the U.S. Amnesty International was told by Pakistani government officials that arrangements to compensate victims had been made, but in none of the cases investigated for the report did victims receive assistance or compensation from the Pakistani government that was sufficient¹¹. Within Pakistan, the authorities have done very little to assist victims.

4.5. The rule of law

According to the website 'Living under Drones', with policymakers making critical decisions about U.S. drone policy outside the public's view (in both the U.S. and Pakistan), and an utter lack of any real transparency and accountability, the rule of law is undermined and a democratic deficit created.¹² Both governments have refused to explain sufficiently the legal basis for the strikes. In calling for greater transparency concerning the legal basis for the programme, former C.I.A. director, Michael V. Hayden, stated that "Democracies do not make war on the basis of legal memos locked in a D.O.J. safe."¹³ The opaque position of the U.S. government on civilian casualties, particularly, and the Pakistani government's compliance with this lack of transparency, is emblematic of an accountability and democratic vacuum.

5. Conclusion

Hedley Bull in his '*Anarchical Society*' defines war as "organised violence waged between sovereign states." Von Clausewitz – a Prussian general and military theorist – described war and warfare as

not just an act, but a social institution for obtaining ulterior objectives (e.g. political) and strategic lines of command within and between states. Without a doubt, the nature of war and warfare has changed dramatically since the time of von Clausewitz. The emergence of non-state actors, technological advancements, changing geopolitical boundaries, and globalisation of ideas and culture have affected how we define warfare in terms of its actors, methods of combat, and causes. All this adds to the difficulty of distinguishing between acts of war and criminal acts, which consequently confuses matters concerning how the state should respond. However, despite the abovementioned developments and changes, war is still internationally recognised as an act between sovereign states. Aggression – the use or imminent threat of force which leads to war – is defined by the United Nations as specifically occurring "...by a state against the sovereignty, territorial integrity and/or political independence of another state". While al-Qaeda has declared war against the U.S., and in the case of 9/11 carried out its threat of war, it remains a non-state actor (like the Taliban, ISIL, Boko Haram, and the Haqqani Network) and so the U.S.'s response should be different from what it would be if it were at war with Pakistan itself. Undoubtedly, drones offer numerous advantages to the country that employs them, but if used without moral and ethical considerations they will produce negative consequences insofar as indiscriminate attacks fuel resentment and act as a recruitment tool for terrorist groups. Perhaps it is time that governments and military strategists consider the advantages of dialogue and development, not only in terms of economics, but also relating to respect for human rights, as a tool to mitigate and ultimately eradicate terrorist activity. Additionally, there is a need to respect democratic principles of transparency and accountability when carrying out the fight against terrorism; the effects of 'war' are not covert, therefore its methods and actors should not be either.

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