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Arguments against Drone Warfare with a Focus on the Immorality of Remote Control Killing and “Deadly Surveillance”

Harry van der Linden

Abstract: Drone warfare, particularly in the form of targeted killing, has serious legal, moral, and political costs so that a case can be made for an international treaty prohibiting this type of warfare. However, the case would be stronger if it could be shown that killing by drones is inherently immoral. From this angle I explore the moral significance of two features of this technology of killing: the killing is done by remote control with the operators geographically far away from the target zone and the killing is typically the outcome of a long process of surveillance. I argue that remote control killing as such might not be inherently wrong but poses the risks of globalizing conflict and prioritizing troop protection above civilian safety, while the “deadly surveillance” aspect of drone killing makes it most clearly intrinsically wrong.

Weaponized unmanned (or uninhabited) vehicles (UAVs) or drones, such as the Predator and the later Reaper with its greater payload, have been used by the United States in conventional war situations in Afghanistan, Iraq, and Libya, but their most controversial purpose has been their use in the targeted killing of suspected militants (“terrorists”) outside declared or legally recognized war zones, such as in Pakistan and Yemen.¹ I will initially focus on the CIA-led drone campaign in the Federally Administered Tribal Areas (FATA) in Pakistan, as it was stepped up by the Obama administration in 2009, peaked in 2010 with 128 confirmed strikes and 755 to 1,108 humans killed, including 89–197 civilians, and as it continued in 2015 with thirteen strikes

¹ I draw in this introductory section as well as in the next two sections some material from my “Drone Warfare and Just War Theory.”

(through September 1) and sixty-two to eighty-five humans killed, including two to five civilians (after a reprieve during most of 2014).² I will show in somewhat synoptic manner that this drone campaign points to a variety of political, moral, and legal costs so that a case can be made for an international ban on weaponized drones, including their development into autonomous lethal UAVs or killer robots.

The case for an international treaty banning all weaponized UAVs, however, would gain in strength if it could be shown that this technology of killing is inherently immoral. To address this issue, we must ask what sets this technology of killing apart from other broadly accepted means of long-range killing. Compared to pilots with conventional aircrafts striking targets, drone pilots fly their airplane by remote control via satellite link and are typically thousands of miles away from the flying and target zone, enabling them to kill in a completely risk-free manner (i.e., the “fighting” is one-directional). The UAV name “Reaper” captures this aspect of drone killing since the reaper as the symbol and agent of death cannot be killed.³ Even the teams that launch and recover UAVs run few risks since their work can be done hundreds of miles from the strike zone. Compared to operators of cruise missiles (say, launched from sea platforms), drone pilots, and their supporting sensor operators who control the drone cameras, as well as their supporting data analysts, are able to watch their targets in detail over long stretches of time, are able to kill with a much shorter strike time so that a last moment assessment of the intended targets is possible, and are able to watch in detail the results of their strikes. The name of the UAV “Predator” captures quite well this particular blending of surveillance and killing. The “Predator” began its life in the mid-1990s as a surveillance plane in the Balkan wars; it had superior capabilities to eye its “prey” for many hours at a time, but the “kill” had to come from ground forces, conventional planes, or ship-launched missiles. It was not until after 9/11 that the Predator became retrofitted with Hellfire missiles and truly began to live up to its name and became a superior “man hunter.”⁴

² All of my drone strike figures are obtained from The Bureau of Investigative Journalism, “Get the Data.” The Bush administration executed fifty-one drone strikes in Pakistan, the Obama administration 370, as of September 1, 2015. The ranges in the number of total deaths and the number of civilian deaths reflect variations in the casualty counts in credible reports of individual strikes and imprecise language of characterizing the casualties used in these reports.

³ The image of the (grim) reaper has been popular with military forces from the United States and other countries, appearing, for example, frequently on military badges, but the agent of death was intimidating and merciless, not invincible. Cf. Chamayou, *A Theory of the Drone*, 91ff. Chamayou is one of the very few critics of drone warfare who emphasizes the deadly surveillance dimension of weaponized UAVs, and I have profited from his work in writing the final version of this paper.

⁴ See Singer, *Wired For War*, 34–35.

My discussion of the inherent immorality of drone killing will first examine several arguments to the effect that remote-control killing as risk-free killing is inherently wrong. I find these arguments to be largely inadequate and maintain that the more important issue is that drone operators live in a “separate world” from their targets. Killing from outside the geographical zone of one’s adversaries may not be intrinsically wrong, but, among other problems, it tends to turn the whole world into a conflict zone and involves a wrong prioritizing of troop protection above civilian protection. Next, I will argue that the “deadly surveillance” aspect of drone killing, which has received much less attention than the remote control aspect, is inherently immoral. More specifically, I will argue that the detailed observation of the targeted individual as a person rather than as a threat, as is typical in the process leading up to drone killing, makes this killing immoral. Looking toward the future, it seems that the drone as a “deadly surveillance” system will become a fearful instrument of control. In conclusion, I will discuss the significance of the “deadly surveillance” dimension of drone warfare in making the case for an international ban on weaponized UAVs and lethal robots.

War Made Easy

Jeff McMahan has recently argued that the targeted killing by drones of militants who are planning terrorist attacks is *morally* similar to the killing of combatants (soldiers in uniform) who participate in a war of aggression but are asleep.⁵ The aggressor combatants have a legal right to kill just combatants, while terrorists lack the legal right to kill their intended targets. But both of them lack a *moral* right to kill their adversaries since they both wrongly intend to be instrumental in killing persons who have done nothing to warrant this fate.⁶ We may therefore kill both types of aggressors in order to prevent wrongful harm from being inflicted.

I will later contest some aspects of McMahan’s moral equivalency argument. Now it suffices to note that his argument gives credibility to the view that terrorists may pose the *type* of threat that may morally warrant lethal force. Just resort to military force, however, requires also that the threat has a *magnitude* large enough to warrant all the (often unexpected) costs of war and to

⁵ McMahan, “Targeted Killing,” 137–41. McMahan speaks of unjust combatants, but aggression is the main reason that wars are unjust. He argues that targeted killing is typically illegal in terms of the war convention and that anti-terrorist action as law enforcement is bound to be ineffective. He concludes tentatively that anti-terrorism action should be based on a new body of law intermediate between the rules of law enforcement and the law of armed conflict. I will later briefly criticize this type of solution.

⁶ In the context of criticizing the so-called “moral equality” of combatants I will later in this paper briefly return to the claim that aggressor combatants have no moral right to kill. The claim is defended in detail in McMahan’s work. See also my “Questioning Combatant’s Privilege.”

justify that non-hostile civilians die in the pursuit of military targets. Typically, the threats posed by terrorists remain under the threshold of just resort to military force, and the most common approach to terrorism has been to see it as a problem of law enforcement. To be sure, the horrific events of 9/11 gave some credibility to the idea that al-Qaeda posed a threat that was above the threshold necessary for war; however, by the time that the Obama administration in 2009 greatly stepped up the drone campaign in Pakistan this idea was much less credible since al-Qaeda had significantly weakened and no new terrorist attacks against the United States had occurred or been plotted of such a scope so as to view law-enforcement methods as largely inadequate. In fact, most drone strikes under Obama have not been launched against al-Qaeda and identified terrorist leaders (“high-value targets”) but against suspected low-level militants with local aims, often in “signature strikes” in which all men fitting the profile of militant are targeted.⁷ Thus, the drone campaign in Pakistan has less to do with protecting the American people from terrorism, as Obama has maintained, and more with winning the war in Afghanistan by weakening support coming from the FATA for the Afghanistan Taliban, assisting Pakistan in its conflict with local militant groups, and maintaining U.S. military hegemony. The deceptive justification is “good” politics since no administration wants to appear weak on terrorism, and what has enabled this kind of deception is that the drone campaign, as a limited form of warfare with “no boots on the ground,” has been largely executed in secrecy and without much democratic oversight.

Drone warfare is a considerable facilitator of what Cheyney Ryan has called “alienated war,” that is, war as a collective activity that no longer requires public sacrifice and moral commitment.⁸ The volunteer army, the use of private military contractors, the technology of cruise missiles, and, now, drone warfare, are all steps toward normalizing war for U.S. citizens: war no longer feels like war, it no longer disrupts everyday life, and, so, war becomes acceptable, even when it is not fought for “liberty” or “protecting the American people” or when these aims no longer appear as convincing to many. Long-term “boots on the ground” with growing numbers of American casualties, though more easily accepted in the case of a volunteer army than with conscription, threatens the normalization of war, as the wars in Afghanistan and Iraq have illustrated, but there is no such casualty problem in drone warfare. Weaponized drones also assist in making conventional wars less risky and costly, as illustrated by the NATO intervention in Libya. No troops on the ground were necessary for “success” in this military intervention, and this played a role in Obama simply announcing the intervention, rather than

⁷ Signature strikes also occurred under the Bush administration. In “Only 4% of drone victims,” Serle reports that as of October 2014 only one-third of those killed have been named (703 out of 2,379), and that of this named group, 295 have been identified as members of some armed group, including 84 al-Qaeda members (4% of the total killed) and 111 senior commanders (5% of the total killed).

⁸ See Ryan, *The Chickenhawk Syndrome*, 5ff.

seeking public approval and congressional authorization. For the same reason, not much public attention has been given to continued drone (and air) strikes in Afghanistan in 2015 after the official end of the NATO combat mission in this country.⁹ Drone warfare, then, as almost risk-free war for U.S. soldiers, reduces the number of occasions in which the public is left wondering, in light of the sacrifices of its soldiers, whether war and playing “global cop” should be the hallmark of U.S. foreign policy. And it enables politicians to resort to military force even when the threat threshold for justified war has not been met since the costs of war are mostly borne by the other side.

What adds to the public acceptance of drone warfare in the United States is that government officials repeatedly have made statements to the effect that drones are very precise weapons, causing few or even no civilian deaths. Thus public concerns with civilian casualties in targeted killing campaigns—concerns that generally are weak or even nonexistent in the first place—are put to rest.¹⁰ Former Defense Secretary Leon Panetta, for example, claimed in 2011 that drones “are probably the most precise weapons in the history of warfare.”¹¹ However, the very fact that drone technology has accurate capabilities in terms of identifying its target and then striking the target with a limited blast area does not mean that due care is taken to avoid civilian casualties. Sharp reductions in recent years in the estimated percentage of civilians killed in the Pakistan drone campaign—from a high of around 22% in 2009 to a low of 4% or less in 2013, 2% or less in 2014, and 8% or less in 2015 (as of September 1)—suggest that this care was at least initially absent.¹² Relatedly, precision in finding and hitting the target does not imply that there is precision in the *selection* of the target.¹³ The Obama administration’s process of the naming of

⁹ The Bureau of Investigative Journalism reports 177 drone and air strikes between January 1 and December 2, 2015, with up to 1145 humans killed, including up to 103 civilians.

¹⁰ See Tirman, *The Death of Others*.

¹¹ See Rose, “PBS Interview.”

¹² The Bureau of Investigative Journalism reports between 2,476 and 3,989 casualties in the Pakistan drone campaign (2004–September 1, 2015); the non-hostile civilian casualties are between 423 and 965, including as many as 207 children. Another 1,158 to 1,738 people have been injured. During the Obama years, the percentage of civilians killed was approximately 22% in 2009, 11% in 2010, 14% in 2011, 7% in 2012, as low as 0% in 2013 and 2014, and 3% in 2015. These figures are derived from comparing the minimum estimated number of civilian deaths each year to the minimum estimated number of total deaths. The percentage of civilian deaths for each year would be much lower (in most years) if one compares the minimum number of civilian deaths to the maximum of total deaths and much higher if one compares the maximum number of civilian deaths to the minimum of total deaths. Thus the range of percentages is 14–45% for 2009, 8–26% for 2010, 8–42% for 2011, 3–32% for 2012, 0–4% for 2013, 0–2% in 2014, and 3–8% in 2015. The numbers are much higher for the Bush drone campaign (51 strikes during 2004–08): 40%, with a range of 28–81%.

¹³ My comments here have profited from Kreps and Kaag, “The Use of Unmanned Aerial Vehicles.”

militants put on its killing lists (in “personality strikes”) is shrouded in secrecy and mischaracterization might occur. Moreover, misidentification might occur when local informants for financial or political gain provide inaccurate intelligence.¹⁴ The frequent occurrences of “signature strikes” add greatly to the problem that many of those killed are mischaracterized by the Obama administration as militants. What the public at large also ignores in its comfortable belief that drones only harm “terrorists” is that the frequent presence of drones in the sky terrifies the local population and interferes with their daily activities.

The Dangers of Proliferation and Future Drone Developments

The drone campaign in Pakistan is not only beset with moral and political pitfalls but is also in violation of international law: notably, the unilateral right to self-defense, as stated in Article 51 of the U.N. Charter, does not apply, and the United States is not at war with Pakistan; the United States is not a party in a non-international armed conflict in Pakistan (and it is doubtful that the conflict between Pakistan and its militants is an armed conflict under international law); and, even if one would grant that the drone campaign itself is consistent with international law, its execution still violates international law because many drone targets, such as in the “signature strikes,” are not lawful targets (i.e., combatants, members of organized armed groups, or civilians actively engaged in hostile action.)¹⁵ Now, defenders of targeted killing by drones may grant the illegality of the Pakistan drone campaign as well as its questionable moral and political execution, but argue that targeted killing by drones is nonetheless the right response to the threat of global terrorism, provided that proper moral and new legal constraints are placed on its implementation. In short, these defenders seek to legalize targeted killing by drones on basis of a new paradigm of resort to force, intermediate between the current war and law-enforcement models of resort to force.¹⁶

The Obama administration in its defense (but not in its practice) of targeted killing by drones is moving in the direction of this new paradigm, as is clear from Obama’s speech in 2013 at the National Defense University. Here Obama called for the end of the “global war on terror,” reminding his audience of James Madison’s warning that “no nation could preserve its freedom

¹⁴ See Mayer, “The Predator War,” 73ff.

¹⁵ The illegality of the Pakistan drone campaign has been confirmed by numerous human rights NGOs, special UN reports, and the European Parliament. For a more detailed discussion, see Mirer, “US Policy of Targeted Killing.” For the most recent understanding of which noncombatants are lawful targets, see ICRC, *Interpretative Guidance*.

¹⁶ Several contributors to *Targeted Killing*, including Jeff McMahan, seem to support such a new paradigm of using military force short of armed conflict (war). See also note 5, above.

in the midst of continual warfare.”¹⁷ Obama proposed that U.S. counterterrorism instead continue “as a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America.” These “targeted efforts” foremost refer to drone strikes, and so, apparently, Obama seems to think that the continuation of targeted killing strikes, at a reduced rate, thanks to “the progress we’ve made against core al-Qaeda,” is no longer really war. What further underlines that Obama does not seem to think of targeted killing by drones as acts of war is that he said in the same speech that he would like Congress and the American people to engage “in efforts to refine, and ultimately repeal” the 2001 Authorization to Use Military Force (AUMF) against al-Qaeda and “associated forces.” Moreover, the White House, on the day of Obama’s speech, released a fact sheet with standards for how to use lethal force against terrorists in non-war zones that seem to push the rules governing drone killing closer to law-enforcement rules.¹⁸ The standards permit a drone attack against a terrorist only if capture is not feasible, local authorities will not or cannot take effective measures to deal with the “imminent threat to U.S. persons,” and there is “near certainty that the terrorist target is present” and “near certainty that non-combatants will not be injured or killed.”

The Obama administration has mostly ignored these standards and, if literally interpreted—for example, when “imminent” is really taken to mean “imminent”—they seem to preclude almost all current targeted drone killing. Still, the issue at stake remains whether articulation of new legal rules for targeted killing (intermediate between the war and law-enforcement models of using force) might not be a promising way of addressing the threat of terrorism. One concern with this approach is that it will actually further contribute to the normalization of war in that it allows for killing on a scale typically associated with war, and no longer calling it war would reduce moral scrutiny of targeted killing by drones. Another clear cost of the approach is that it would hasten what the United States is already affecting: the proliferation of weaponized drones and their increased future use for targeted killing. The United Kingdom has used weaponized drones in Afghanistan, as has Israel in the Gaza Strip and the Sinai Peninsula. China and Iran have long-range weaponized drones; at least a handful of other countries, including India, Russia, and Turkey are actively developing them; and many more countries are developing short-range sophisticated surveillance drones that could be eventually armed.¹⁹ Recently, the Obama administration has approved selling weaponized drones to allies.²⁰ Pakistan has tested laser-

¹⁷ Obama, “Remarks by the President.”

¹⁸ White House, “Press Release, Fact Sheet.”

¹⁹ See Kreps and Zenko, “The Next Drone Wars.” See also Davis et al., *Armed and Dangerous?* This Rand report is informative but understates the risks of proliferation.

²⁰ See Ryan, “Obama Administration to Allow Sales.”

guided missiles for its own drones, as a step toward “eradicating militant groups.”²¹ So, soon we might be living in a world where many countries would be engaged in targeted killing by drones of terrorists in contested regions of their country or of terrorists operating from other (often neighboring) countries. How carefully would these strikes be conducted in terms of minimizing civilian casualties? And how carefully would the targets be selected? The track record of the United States with regard to these issues is such that we should have little confidence in other countries coming to embrace a strict legal regime of targeted killing by drones. Granted, some international court could oversee counterterrorist actions across the globe and then punish those states that engage in targeted killing of persons who do not plan terrorist acts or execute targeted killing with a high proportion of civilians killed, but how likely is it that such an agency would be implemented and function effectively? In short, the cost of trying to normalize and legalize targeted killing by drones seems to outweigh any additional gain this might have in terms of reducing terrorist threats as compared to treating terrorist activity as a criminal activity to be dealt with by (international) law enforcement. And it should be noted that the comparative benefits are contested in the first place, at least with regard to current targeted killing. Due to its strong local public disapproval, targeted killing, such as in the FATA in Pakistan, may create new terrorist recruits. It may also lead to attacks on the American mainland, as I will later discuss.

Nonstate actors (Hezbollah and Hamas) have already used weaponized drones, and the proliferation of drones, even if guided by some new legal paradigm, will likely mean that nonstate actors will increasingly use more sophisticated weaponized drones. Further, the United States is developing stealth drones and drones with air-to-air attack capabilities (the X-47B), and Europe is following suit with its combat drone the “Neuron” (nEUROn). Other developments in the U.S. military pipeline include the miniaturization of UAVs (micro killer drones), drones operating in swarms, and weaponized underwater uninhabited vehicles (UUVs). Human operators of lethal drones have limits of concentration, duration, and processing data, and so with the continuous spread and development of drones there will be growing pressure to taking humans out of the loop or severely restricting their role.²² The resulting autonomous lethal systems will add to the problems of “war made easy” and the destabilization of international relations. Robotic killers have no allegiance and will kill at the command of all those who can afford them. Even if they somehow could be so programmed to uphold the rules of war, they have no interest in doing so, and unscrupulous owners of killer robots will unleash them

²¹ The test was reported by the Pakistani military on March 13, 2015. See World Bulletin, “Pakistan Test-Fires Indigenously-Made Armed Drone.”

²² The fact that drone operators have been difficult to recruit and keep might add to this pressure. See note 57, below.

notwithstanding their “moral” failings. Also, fighting robotic killers is a losing proposition, and, so, in a world in which there will be fewer human combatants to fight, civilians will increasingly become intentional targets.

All in all, the logic of current drone warfare is a logic that sets the world on a path toward intensified and globalized warfare. Huge investments in drone warfare and robotic warfare will also have great opportunity costs, especially for countries with weak or emerging economies. An international treaty banning weaponized drone warfare, including a prohibition of their development into lethal autonomous systems, is, therefore, imperative. However, since predictions of future costs and adverse developments are uncertain, while the seeming benefits of drone warfare for countries presently in possession of drones are immediate, the case for such a treaty would be strengthened if it could be shown that drone killing is as such morally suspect or even plainly inherently immoral as a technology of killing.

On the Immorality of Killing by Drones (A): Remote Control Killing

The point of McMahan’s claim that targeted killing by drones and killing a sleeping soldier are morally similar is that the war convention allows the killing of combatants who are not immediate threats to those who do the killing. The sleeping soldier is a future threat, and so is the terrorist who is killed by the drone operator. The two cases, however, are dissimilar in that terrorists, unlike sleeping soldiers, are difficult to identify as agents who pose a future threat. More importantly (for my present purpose), the cases are dissimilar in that only the drone operator is in a risk-free environment, while the typical scenario of killing sleeping soldiers, say, a nighttime surprise attack on enemy soldiers, cannot be so described. In a recent article on warrior virtues and drone killing, Robert Sparrow notes that “there is something inherently dishonorable about killing people one is observing on a video screen from thousands of kilometers away and who have no opportunity to return fire. The absence of danger to the operator, as well as the power of the sensors and weapons they command, seems to make killing too easy to be called honorable.” He adds: “This is, I think, a widespread and powerful intuition, but it turns out remarkably hard to unpack.”²³

What might be behind the intuition? In *Killing without Heart*, M. Shane Riza, a pilot in the U.S. Air Force, argues that on several grounds killing without risk in war as exemplified by

²³ Sparrow, “War without Virtue?,” 98–99. Even Bradley Jay Strawser, who argues that in some situations drones ought to be employed precisely because they are risk-free, expresses sympathy with the notion that drone killing is ignoble and dishonorable. He adds, however, that a sentiment does not amount to a moral argument and so the sentiment can be safely ignored. See his “Moral Predators,” 357.

drone strikes, is as such morally wrong. One of his arguments is that “for the warrior there can be no sense of accomplishment, no growth, without the mortal test of danger. Without it what he experiences is not war but simply a game.” In his view, the steadfast pursuit of military goals at great personal risk makes war “achingly beautiful,” and the willingness of soldiers to sacrifice “for something larger than themselves . . . approaches the sublime.”²⁴

This is a curious argument coming from an American fighter pilot, for even though we should grant Riza that some American fighters have been shot down during the past few decades, it is a rare occurrence. Mechanical failure also poses a risk (including subsequent capture), as do the take-off and landing on aircraft carriers, but this is a far cry from the “mortal test of danger.” Similarly, the attack on the U.S.S. Cole hardly shows that “Tomahawk shooters . . . are vulnerable to attack.”²⁵ More broadly, what are we to make on Riza’s account of the fact that only 5% of Air Force personnel are functioning in combat positions and run any risk at all?²⁶ Is their contribution to war “only a game”? At any rate, danger and sacrifice may make war (for some or perhaps even many people) patriotically compelling, psychologically addictive, religiously important, and personally rewarding, but all these “meanings” of war have no moral justificatory force with regard to resort to war. And, surely, it is wrong to insist that the just combatant somehow must increase risk to self in order to gain in terms of the various “meanings” of war.

Riza also maintains that “the horrible individual act of ordering young men and women to risk all is part of a far larger scheme that communicates what really matters to a nation.” He continues: “The willingness to drive them into battle . . . says that for which we fight is important enough that we are willing to risk the future lives of our budding youth in order to achieve it. . . . Without the willingness to risk greatly, we have no business making decisions about others’ mortality.”²⁷ In my view, Riza is correct in claiming that risk to soldiers is, or at least should be, a barrier to fighting for unworthy goals, but we have already discussed the problem that risk-free war may result in resort to force for purposes below the threshold for just war. This problem does not show that risk-free war as such is morally wrong. However, Riza also seems to suggest in the passage just cited that willingness to die is a necessary condition for having the right to kill others. He hints at an explanation for this claim elsewhere in his book when he approvingly cites Michael Walzer arguing with regard to the Kosovo air campaign that the decision at the outset by the Clinton administration not to use ground forces was wrong because “You can’t kill unless

²⁴ Riza, *Killing Without Heart*, 90, 91, and 173.

²⁵ *Ibid.*, 59.

²⁶ See Stiehm, *The U.S. Military*, 8. The Navy has seen little combat since World War II and even only one-third of the Army functions in combat roles.

²⁷ Riza, *Killing without Heart*, 173.

you are prepared to die.”²⁸ What Walzer seems to have in mind is that since war may end up killing enemy noncombatants, or lead to the killing of civilians whom just combatants seek to protect in a humanitarian intervention, just combatants must be prepared to risk their lives for the sake of reducing the risk to these vulnerable groups. In other words, troop protection is morally imperative, but it becomes wrong when it is clearly gained at the cost of harming and killing civilians. A moral danger of drones is that it makes this kind of wrong prioritizing an option difficult to resist since killing by drones is optimal in terms of troop protection. Still, drone killing could be limited to situations where it would lead to fewer civilian casualties than would the use of ground troops, and so the moral danger does not show that drone killing as such is wrong. In fact, defenders of drone killing have a point in claiming that the use of ground troops in Pakistan to engage in targeted killing would have led to greater civilian casualties than the ongoing drone campaign.²⁹ My disagreement with them is that I think that in neither form American military force in Pakistan is justified.

A third argument by Riza is that risk-free killing undermines that combatants on both sides of a conflict view each other as moral equals. On his account, the mutual imposition of risk to be killed gives combatants on each side the moral right to kill and so not to be viewed as criminal for killing their opponents. The drone operator kills from outside the battlefield of risk. Riza continues: “If he is unwilling to occupy the same world as his opponent, he has no right to expect to be judged as innocent for the killing he does. . . . At the same time, one who does not consent to the risk of war has no reason to see his opponent as innocent of the killing he does either. Neither sees the need to judge each other apart from their cause. They are likely to see each other as fighting an unjust cause while acting in a criminal manner.”³⁰ In other words, since drone operators are not under attack they cannot view their killing as self-defense, and thus they must assume that their enemies are guilty and fighting a wrong war. And since the operators do not subject themselves to risks and kill in self-defense, their opponent also view them as criminal and as pursuing an unjust cause.³¹

There are good reasons to uphold in our present political world the *legal* right to kill of combatants on both sides in a conflict, but it is implausible to maintain that mutual threat gives each party a *moral* right to kill. The aggressor combatants wrong their opponents and do not acquire a moral right to kill their opponents because the opponents shoot back in just self-defense. If a drone operator would be wrong to kill a certain person by way of a drone strike

²⁸ Ibid., 53. For Walzer’s view, see his *Arguing about War*, 17–18.

²⁹ See Plaw, “Counting the Dead,” 147ff.

³⁰ Riza, *Killing without Heart*, 57, 58.

³¹ For an elaboration of this argument more generally (rather than limited to drone warfare), see Kahn, “The Paradox of Riskless Warfare.”

because the killing is part of an unjust military campaign, then this killing would not become morally right when done by the same drone operator in, say, a shooting match. Moreover, it is doubtful that most combatants in conventional modern wars view their adversaries as having the moral right to kill, and the best antidote to the dehumanization (and related abuses) of the enemy is not to promote this questionable belief of moral equality but proper military training and discipline.³²

Still, Riza is correct to be concerned with the fact that drone operators do not want to occupy the world of their opponents. The stark separation of operators and their targets makes drone killing as such risk-free, but the ramifications go clearly beyond this. One consequence of the separation is that the opponents will sooner or later try to attack the world of the drone operators. Riza writes: “Unmanned warfare makes it possible for the first time for noncombatants on *all* sides to experience greater risk than technologically superior combatants.”³³ To clarify, the noncombatants in the targeted countries are subject to greater risks than the drone operators, and the same can be said of the noncombatants in the country of the drone operators. Specifically, terrorist attacks against the United States are to be expected as a blowback of its targeted killing campaigns, either done by the armed groups under attack or their sympathizers (and one failed attempt has already been recorded).³⁴ Even if the attacks would be against the drone operators themselves, this might lead to a significant number of civilian deaths since the drone operators, for example, at Creech Air Force Base outside of Las Vegas, blend into the civilian world before and after work, ironically mirroring in this regard the suspected militants they seek to kill.³⁵ Drone operators work and train at many other American bases. Other potential targets are CIA analysts at Langley who are involved in drone operations, as well as the launching and recovery teams for the drones who also operate outside the target zones. Accordingly, drone warfare not only turns the world into a battlefield because of the targeted killing of terrorists wherever they

³² The moral equality of combatants, if it is at all a defensible doctrine, must be interpreted to mean that aggressor combatants are non-culpably ignorant of their wrongdoing or are excused because they are coerced to kill (under the threat of the capital offense of desertion). See further my “Questioning Combatant’s Privilege.”

³³ Riza, *Killing without Heart*, 49. See also 96–98.

³⁴ Faisal Shahzad, a Pakistani-American, was arrested in 2010 for planning to set off explosives in an SUV parked in Times Square. He justified his attempt at indiscriminate killing by reference to the indiscriminate killing done by drones in Pakistan. See Quigley, “Drone Strike Blowback,” 221.

³⁵ Richard A. Clark, who as National Coordinator for Security and Counterterrorism was a supporter of the weaponization of drones prior to 9/11, describes a fictional scenario of attacks on drone operators in Nevada by conventional means as well as “hobby” drones in his novel *Sting of the Drone*. Of course, the perpetrators succeed only in causing limited casualties (including some “collateral damage”) and are soon apprehended or killed by the FBI and SWAT teams. All in all, the novel is an obvious attempt to make the American people accept that the drone war will have some “blowback.”

may be found, but also because of the possibility of counterattacks against the operators, analysts, supporting crews, etc., who are far from the target zones of drones. These counterattacks may disproportionately harm civilians or even only harm civilians once they turn into terrorist attacks.

This is a significant potential cost of drone warfare (and, more broadly, of remote control and robotic warfare), and policy makers and the U.S. military should be blamed for seemingly ignoring it. The cost, however, does not show that the technology of drone killing is intrinsically immoral since the cost can be significantly mitigated by moving drone operators (ground control stations) far away from civilian centers or, more effectively, by placing them much closer to their targets. Indeed, drone operators involved in targeted killing have been stationed, for example, in Iraq. Still, what makes drones effective is that the movements of the enemy can be observed from a safe point for long periods of time and then be disrupted at an opportune moment. So both the imperative of troop protection and the optimal functioning of drones point to the moral danger that civilians are not protected in a manner due to them.

The separation of drone operators from conflict zones has several other negative ramifications.³⁶ Since drone soldiers, unlike traditional soldiers, do not interact with enemy soldiers or local civilians, they are less likely to come to question misguided military campaigns, reinforcing how the absence of immediate personal risk reduces the incentive of drone soldiers to question their cause. The separation also impacts matters of war conduct. Remote control killers, like killers on the physical battlefield, see the harm they have caused, but it is also the case that the drone killers are only watching a monitor, that they watch without being seen, that they do not hear the sounds of suffering, and that they watch with others, and all these features seem to create emotional distance and with it moral distance and greater risk of moral indifference.³⁷ Moreover, the killing is a result of team work, including the operators, numerous data analysts, and people higher up in the chain of command authorizing the killing, and so it is a type of “bureaucratic killing” that dilutes a sense of responsibility. What enhances the unreality of the

³⁶ Sparrow convincingly shows that the separation prevents that drone operators acquire or exercise the warrior virtues of courage, honor, mercy, and loyalty. His concluding argument, however, is weak that this development is worrisome because these virtues are needed as a barrier to atrocity when sooner or later the U.S. will fight with “boots on the ground.” See Sparrow, “War without Virtue?,” 105. His questionable assumption is that the morality of remote control killing will come to prevail throughout the U.S. military even when it is still preparing for fighting ground battles. Riza expresses a somewhat similar, and perhaps more convincing, worry concerning how true military leaders can emerge from a growing pool of operationally deskilled cubicle and lab-coat warriors. See Riza, *Killing without Heart*, 98–106.

³⁷ Cf. Gregory, “Drone Geographies,” 9–10.

harm is that the virtual battlefield experience is an interruption of everyday life with family, driving to and from work, and so on.

The people living under drones view drone killings as “cruel,” “cowardly,” and as “not fighting with honor.”³⁸ Thus drone killings might lead people under attack to support the armed groups among them and also cause resentment toward the United States. War must lead to just peace, and the perception that a war is wrongly executed is an obstacle toward long-term reconciliation. Also, the fact that the opponents do not meet in a shared geographical space seems an obstacle to dialogue and understanding, again obscuring the prospects of peace. What adds to the problem is that drone warfare is an extreme form of asymmetric warfare. Or, more accurately, it is unidirectional “fighting,” for even if the militants under attack could jam the signals to the drone or shoot it down, the operators themselves at that moment are still beyond reach. This one-sided “fighting” currently practiced by the United States cannot be separated from the colonialist, racist, and imperialist asymmetric killing of the recent past (say, machine guns killing en masse people resisting colonialization). Uwe Steinhoff writes: “Those black, yellow, or brown people might therefore have a somewhat different perspective on the alleged advantages by drones. They might think that it is bad enough to be treated like the barbarian enemies but, still worse, to be treated like cockroaches on the receiving side of pest control.”³⁹ Or, as another critic succinctly puts it, “the drone is the weapon of an amnesiac postcolonial violence.”⁴⁰ Thus Steinhoff proposes for the United States not to use drones, affording the enemy the minimal respect needed for future reconciliation.

Steinhoff does not explain why he describes drone killing as treating suspected militants as cockroaches terminated by pest control, but the insurmountable separation of the drone operators from their targets sheds light on his word choice. It may seem that the drone operators are saying that their lives are of such an absolute worth as compared to the lives of their opponents that they should not risk their lives in attacking them. Humans of equal dignity fight one another, but lesser forms of life should simply be extinguished.⁴¹

On the Immorality of Drone Killing (B): Deadly Surveillance

In sum, the remote control nature of drone killing poses a variety of costs and moral dangers, but this does not mean that such killing is inherently immoral. Perhaps the unidirectional and extreme asymmetrical nature of drone killing might help to explain the intuition that this killing

³⁸Riza, *Killing without Heart*, 119.

³⁹ Steinhoff, “Killing Them Safely,” 206–07.

⁴⁰ Chamayou, *A Theory of the Drone*, 95.

⁴¹ Cf. *ibid.*, 155

is ignoble and morally suspect, but, in my view, the better explanation is to be found in the fact that drones are deadly *surveillance* platforms. What undermines the view that it is the risk-free, unidirectional, and extreme asymmetric nature of drone killing that makes it especially morally reprehensible is that killing by cruise missiles launched from a ship shares these characteristics and, yet, this is not generally perceived as equally morally disconcerting.⁴² Only drone killing involves detailed surveillance of the target, including post-strike observation, and so let me now address what the moral significance is of this surveillance.

We have noted that a drone attack is not similar to killing a sleeping soldier (say in a surprise attack) because, typically, only the former is done in a risk-free environment. Now it should be noted that targeted killing by drones is in some ways similar to the following rather unusual way of a soldier killing an enemy combatant: a soldier is behind louvered closet doors in the room of a sleeping high-ranked enemy soldier (or he might be behind a one-way mirror), watching him tossing and turning, going to the bathroom, getting a smoke, falling back to sleep, and then after many hours he steps outside the closet (or enters the room from behind the one-way mirror) and pulls the trigger. And the enemy soldier had some sense of being watched (the sound of drones may be heard overhead), adding to his restless sleep, but he never fully knew what hit him (by the time that the hissing sounds of missiles are heard by their victims, the deadly impact is only seconds away).

The surveillance aspects of drones are foregrounded in *Predator: The Remote-Control Air War over Iraq and Afghanistan* (2011), a personal account of Matt J. Martin's experiences as one of the first drone pilots operating in combat zones. His first anticipated strike in 2004 concerns a pick-up truck in Fallujah that had been used a few days earlier to fire at a U.S. marine post. After a positive identification of the truck, Martin was ready to pull the trigger (the "pickle") in his "cockpit" at Nellis Air Force Base outside of Las Vegas. Then a man walked toward the truck. Martin thought, "Call him a bonus. Truck and driver. Blue light special, Kmart shoppers. Two for the price of one." He continues: "I was concentrating entirely on the shot and its technical aspects. . . . The man wasn't really a human being. He was so far away and only a high-tech image on a computer screen. The moral aspects of it—that I was about to assassinate a fellow human being from ambush—didn't factor in. Not at the moment. Not yet."⁴³ Technology can fail; Martin's screen froze due to a short power outage in the European satellite uplink, and another Predator crew destroyed the truck a few days later. Looking back, Martin wrote: "The ability to kill people from such a distance, playing God, widened the gap between the reality of

⁴² This might be putting the matter too strongly and I am surely sympathetic to the view that to speak of gradations or nuances of moral horror is a contradiction in terms. Still, it seems important to delve deeper into the morality of drone killing for the sake of all those impacted by this new technology of killing.

⁴³ Martin, *Predator*, 43–44.

war and our perception of it. It was almost like watching an NFL game on TV with its tiny figures on the screen compared to being down there on the field in the mud and the blood in the rain getting your socks knocked off.”⁴⁴ Martin continues to write that the ease of killing by drone, which even might turn out to be “mildly entertaining,” left him somewhat unhinged, reinforced by the fact that after eight hours of war he drove home in a rather different reality. His wife, however, put him at ease, telling him that he was “saving lives” because killing on the ground would leave more people dead, both Americans and Iraqis.

Martin’s observations underline some earlier points about the unreality and ease of drone killings, but what needs to be emphasized for my present purpose is his metaphor of playing God. The metaphor is first stated in the Prologue: “Sometimes I felt like God hurtling thunderbolts from afar.”⁴⁵ Now one aspect of this metaphor is God as the one who takes life away at unexpected moments, but another aspect is that God watches us from above when he decides the moment of death. Martin has mixed feelings about his God-like vision. At one point, he writes: “I remained a voyeur in the sky snooping on peoples’ lives. Increasingly cynical, I was suspicious of everyone.” He goes on to give an example of his hyper-suspicion. He sees a group of men hunching in a circle in a park in Sadr City, smoking cigarettes. “The burning cigarettes became spectacular balls of radiation when viewed through an infrared camera.” Toying with the idea that a terrorist cell was meeting here, Martin observed them holding hands and joking around. He writes: “I kept hoping somebody would pull out a rocket launcher. At least it would mean I was making good use of Predator’s time and resources. Besides, blowing up things was much more interesting than watching men sit around in the dark smoking cigarettes, dancing, and holding hands.”⁴⁶ But in the context of observing American soldiers and supporting them, Martin is more positive about his vision from above:

Each day through my cameras I snooped around and came to recognize the faces and figures of our soldiers and marines, unbeknownst to most of them. I sometimes chuckled over their youthful pranks. . . . I cried with them as well whenever they lost a comrade and they huddled together with their arms over one another’s shoulders. Looking down on all this, seeing the foibles and courage and decency, and all the various behavior, emotions, and ways of mankind at its best and at its worst, I truly felt a bit like an omnipotent god with a god’s seat above it all.”⁴⁷

⁴⁴ Ibid., 46–47.

⁴⁵ Ibid., 3.

⁴⁶ Ibid., 111.

⁴⁷ Ibid., 121.

Strikingly, Martin uses his “god-like” position to mock the god of his enemies. Noting that the insurgents in Iraq seemed to have been unaware of the drones watching them, he writes: “It was almost as if they were ants down there, predictable in their behavior [and] no more aware of the Predator’s presence than they were of the Almighty watching them. In fact, they may have been more cognizant of Allah than of Predator. Allahu Akbar!”⁴⁸

Martin’s personal drone pilot account illustrates that killing by drones involves detailed and long observation of those who will be killed, at times stretched out over days or even weeks. This aspect of intense surveillance is even more manifest in “man hunting,” or targeted killing, in non-combat zones, especially, it would seem, in the case of so-called “high-valued targets.” Consider the targeted killing of Baitullah Mehsud, leader of the Pakistani Taliban, on August 5, 2009.⁴⁹ He was killed on the rooftop of his father-in-law’s home in South Waziristan (in the FATA). At the moment of the drone strike, Mehsud, who suffered from kidney problems, was seen receiving an intravenous drip under the guidance of his uncle, and he was in the company of his father in-law, his mother-in-law, and his second wife. They were all killed, as well as seven bodyguards. Several other drone strikes were aimed at Mehsud in the preceding months, including an attack that killed one of his commanders, followed by an attack on the funeral of this commander presumably attended by Mehsud. The latter attack on June 23, 2009, killed dozens of militants and as many as fifty civilians. We may assume that the drone search for Mehsud began in March 2009 when the United States put up a bounty of up to \$5 million for information leading to his arrest, perhaps in response to his threat to avenge drone strikes.

There is no doubt that Mehsud as a militant was responsible for many wrongful deaths and indiscriminate attacks, but what makes his killing by drones nonetheless morally wrong in my view is that Mehsud was killed as a medical patient under the care of his family. It was similarly wrong to try to kill him at a funeral. The drone operator saw Mehsud as a medical patient and then pulled the trigger. And the drone operator saw Mehsud (or so he assumed) and other militants in the process of mourning and then pulled the trigger. Of course, even if one were to assume that in these situations Mehsud was an appropriate target, both drone strikes were also in violation of the idea that due care should be taken to avoid unintended civilian deaths and that the number of civilian deaths should somehow be proportionate to the value of the target. More

⁴⁸ Ibid., 247. Even though Martin repeatedly dehumanizes Iraqi and Afghani insurgents, he is concerned with civilian victims, expressing, for example, a feeling of horror when two boys on a bike approach a truck after a pilot of his unit had launched a missile strike directed against the truck. “Knowing that we are right . . . did not lighten the darkness that crept through our souls. . . . What happened would never vanish from my soul.” Ibid., 213.

⁴⁹ See the Bureau of Investigative Journalism, “Naming the Death, Baitullah Mehsud.” See also Mayer, “The Predator War.”

broadly, what seems to make drone killings morally deeply problematic is that the operators often become familiar with the target as a person, watch his everyday life, his home, even his family, and then the kill occurs.⁵⁰ Thus it seems that a person is killed rather than a combatant or an individual in the process of engaging in hostile action. In “War and Massacre,” Thomas Nagel argues that from an absolutist (Kantian) perspective, one is only permitted to go after the threat and not the person.⁵¹ Drone operators who kill in full view mourning militants, militants under medical care, militants (with family members) in the courtyard of their home, or militants driving a car to visit family or friends go after the person; they eliminate humanity in the other rather than go after the other as a threat and engaged in hostile action or planning.

My analysis here finds some support in the so-called “naked soldier” cases discussed in the just war tradition. In *Just and Unjust Wars*, Walzer gives some examples of these cases, including the three following ones: During the Second World War a sniper sees through his telescope a German soldier taking a bath and decides not to shoot him; during the Spanish Civil War George Orwell refrained from shooting an enemy soldier running while trying to hold up his pants; and during the First World War an Italian soldier refrained from shooting Austrian soldiers enjoying their morning coffee and a smoke.⁵² On Walzer’s account, enemy combatants are beings who have alienated themselves from us and our common humanity when they try to kill us. But in these moments of vulnerability, rest, and peace, the alienation disappears and the common humanity is recognized. Thus it becomes difficult to kill. Walzer argues that the refusals to kill here are not morally required; rather, they are “acts of kindness” and “involve doing less than is permitted.”⁵³

Perhaps Walzer is correct that the refusals to kill here are acts of kindness rather than strictly morally required since the recognition of a common humanity is a fleeting one in the examples: the coffee break and the smoke soon end and the combatants return to being combatants; the pants are pulled up, the bath is finished, and the soldiers return to the trenches.⁵⁴ Perhaps one may set aside here the glance of humanity without deeply violating humanity in oneself. But the drone killings of militants showing their humanity are hardly fleeting moments; to the contrary,

⁵⁰ Accordingly, drone killing is rather different from killing performed by snipers. Even when snipers operate in non-battlefield zones, their ability to track a person is comparatively very limited. Moreover, sniper killing is not unidirectional. Still, the killing performed by snipers has a personal and intimate component that is not uncommonly felt as morally disconcerting as compared to the more “at random” killing in most battlefield situations.

⁵¹ See Nagel, “War and Massacre.”

⁵² See Walzer, *Just and Unjust Wars*, 139–42.

⁵³ *Ibid.*, 143.

⁵⁴ For an argument to the effect that Walzer is wrong in claiming that it is permissible to kill “naked soldiers,” see May, *War Crimes and Just War*, 108–12 and 176–180.

humanity may be observed for a considerable amount of time before identification of the target is verified, links are observed with fellow militants (networks), the surroundings are deemed acceptable for a killing strike in terms of collateral damage, and the like. In the words of Colonel William Tart, an experienced drone pilot who now fulfills a leadership role in the U.S. drone program: “We watch people for months. We see them playing with their dogs or doing their laundry. We know their patterns like we know our neighbors’ patterns. We even go to their funerals.”⁵⁵

In my view, drone operators should experience many of their killings as morally wrong, but, of course, I am not claiming that in fact they have this experience. Surely, some drone operators have felt moral trauma and some former drone operators have publicly protested targeted killing.⁵⁶ PTSD also has been reported, but many operators are stressed and recently quitting, not so much because of moral injury and PTSD but because they are feeling overworked and underappreciated (as compared to regular pilots).⁵⁷ As noted previously, the virtual nature of viewing the killing, the bureaucratic mode of operation, and the rupture between life in the ground control station and daily civilian life might contribute to the unreality of the killing and moral indifference. Dehumanization as a way of coping also occurs. Such considerations are important for assessing moral blame, but they do not negate the wrongness of killing suspected militants as persons. And, ultimately, it is “we, the people,” in whose name the targeted killing takes place, who should look with the drone operators at how the killings unfold and come to condemn them morally and insist that this immorality stops.

Not all drone killing necessarily involves going after the person instead of the suspected militant as threat. The killing by drone of Mehsud would not have been inherently immoral if he

⁵⁵ Abé, “The Woes of an American Drone Operator.” See also Rothenberg, “Interview with a Drone Pilot,” 115. The very fact that the majority of drone strikes are directed against homes should in itself raise red flags both in terms of “collateral damage” and “going after persons rather than threats.” See Ross and Serle, “Most US Drone Strikes in Pakistan Attack Houses.”

⁵⁶ Four former drone operators wrote in November 2015 an open letter to President Obama, Defense Secretary Carter, and CIA Director Brennan, decrying the killing of innocents and noting that these killings are a terrorist recruitment tool. See Bryant et al., “Letter to Obama, Carter, and Brennan.” Bryant has frequently reported on how his work left him morally injured. Strikingly, he wrote in his diary during one of his long days in the ground control station: “I wish that my eyes would rot.” See Abé, “The Woes of An American Drone Operator.”

⁵⁷ See Chatterjee, “American Drone Operators are Quitting.” Chatterjee speculates that drone operators may also feel a new type of mental injury due to viewing their fighting as dishonorable. Obviously, more psychological research is necessary to come to more definite conclusions. In “Undermanned aircraft,” Hennigan reports that there is a shortage of drone pilots, leading to stress due to long working days, and that the Air Force may have to reduce the number of daily drone flights from sixty-five to sixty in October 2015.

would have been killed while actively engaged in hostile action, such as directing a meeting with his top lieutenants or visiting a bomb lab. The caveat must be added, though, that drone killing in general by the United States, as was noted previously, reflects a “post-colonial amnesia,” and the attack on human dignity embedded in this extreme unidirectional and asymmetric fighting seems to be deepened, or even finds its core, in the defeated knowing that the victor watches their demise from an untouchable distance. And, of course, the killing of Mehsud would remain wrong as an act done by the United States lacking authority to fight in Pakistan.

More generally, drones can be used to take out clear threats in conventional war zones, say, a strike against militants placing an improvised explosive device (IED) on a road under drone surveillance. Surely, drones may greatly assist ground troops in counterinsurgency, but here it seems that surveillance rather than *deadly* surveillance is their main benefit; for example, the IED and those responsible for planting it can be taken out by conventional military means. In fact, it often happens in war zones that platforms other than drones take out the targets identified by drones.⁵⁸ Accordingly, what makes *weaponizing* drones so “attractive” is that it greatly enables the killing of suspected militants at the moment that they are not in active combat against the United States. But it is precisely in those situations (which may occur in war zones and characterize non-war zones) that frequently militants will be killed by drones as persons rather than as threats.

The scope, but perhaps not the intensity, of this immoral form of killing will likely increase with the further development of drones as deadly surveillance systems, including such capabilities as the permanent surveillance of large areas with increased visual sharpness and detail, the recording of all activities within these areas, the constant analysis of these records, and the tracking of past conduct of those who are caught in the analysis as suspect. Improved listening devices will further increase the capability to control. Ironically, the greater the control through total surveillance, the fewer the occasions might be that killing is judged necessary to maintain control. Accordingly, repressive governments might come to use police drones with lethal capabilities for the sake of control of their own population. Even democratic states might be tempted to move in this direction for the sake of combatting terrorism in the “home land.” The ongoing militarization of U.S. police forces adds to this danger, and it is likely that soon police drones with at least nonlethal weapons will patrol the American skies.⁵⁹

These observations point to a final immorality of deadly surveillance: drones are in their psychological impact indiscriminate weapons. The population living under drones in the FATA

⁵⁸ See Blanchard, “This Is Not War by Machine,” 119. According to the Air Force, of the 3300 drone flights in Iraq and Syria, only 875 involved strikes. See Hennigan, “Unmanned Aircraft.”

⁵⁹ North Dakota has legalized the use of police drones with nonlethal weapons, such as Tasers and rubber bullets. See Cohn, “One Day Soon.”

of Pakistan can hear or see the drones and generally suspects their presence. Everyone is swept up in the surveillance, and living under drones is living under constant fear since, even as a civilian, one may at given moment be wounded or killed: one may be struck on basis of flawed intelligence, a misidentification may occur, or one may become “collateral damage.” Thus the “God hurtling thunderbolts from afar” is terrorizing local people because they may be struck by lightning at any moment and they do not know how to appease this god.⁶⁰

Drone Warfare: Restrictions or Abolition?

Drones set the stage for UAVs that fly without a remote control pilot and autonomously make the decision to kill. Some events in recent years suggest that a treaty banning such autonomous drones or, more broadly, a ban on lethal autonomous systems as such (including killer robots on land or at sea), might be politically feasible. In 2012, Human Rights Watch and the International Human Rights Clinic at Harvard Law School called for such a ban. In the same year, the Department of Defense issued a directive on “Autonomy in Weapon Systems,” prohibiting the development of fully autonomous systems for five years.⁶¹ In April 2013, Christof Heyns, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, wrote a comprehensive report on “lethal autonomous robotics” (LARs), noting that “there is widespread concern that allowing LARs to kill people may denigrate the value of life itself.” Heyns called on all countries “to declare and implement national moratoria on at least the testing, production, assembly, transfer, acquisition, deployment and use of LARs until such time as an internationally agreed upon framework on the future of LARs has been established.”⁶² And also in April 2013, a broad international coalition of nongovernmental organizations (NGOs) launched the Campaign to Stop Killer Robots. Finally, a conference on LARs or LAWS (legal autonomous weapons systems) organized by states party to the Convention on Conventional Weapons (CCW) took place in Geneva in May 2014. Cuba, Ecuador, Egypt, Pakistan, and the Vatican called for a ban, which U.S. officials (predictably) called “premature.”⁶³ A second CCW on LAWS took place in April, 2015, and a ban is still a topic of discussion and a viable option.⁶⁴

⁶⁰ For a detailed discussion, see Cavallaro, Sonnenberg, and Knuckey, *Living Under Drones*.

⁶¹ Department of Defense, Directive No. 3000.09. However, the restriction can be waived by top officials. Another negative point is that “semi-autonomous weapon systems” with lethal capabilities are fully embraced. The dividing line between semi- and full autonomy is that humans in semi-autonomous systems must select the target that the systems pursue and destroy, and this line can be easily crossed once the R&D for semi-autonomous weapons systems has been completed. Cf. Gubrud, “US Killer Robot Policy.”

⁶² Heyns, *Report of Special Rapporteur*.

⁶³ See Morley, “Autonomous Weapons Stir Geneva Debate.”

⁶⁴ See Campaign to Stop Killer Robots, “The Need for Human Control.”

We have seen that a good case can be made that the targeted killing by drones in non-battlefield zones violates international law. Thus we may seek to curtail drone warfare by insisting on a stricter adherence to international law and also by seeking a ban on fully autonomous drones. Would this not be more tenable than seeking a ban on all weaponized drones? It is to be granted that the restrictions would be significant steps forward in seeking a less violent world. Still, I also hold for several reasons that the arduous and more uphill battle of seeking a ban of all weaponized drones should not be set aside. First, it remains a problem that drones make *conventional* war easier. What will greatly add to this problem is the proliferation of drones, including the global spread of many different types of remote control weapons in development (combat UAVs, UUVs, etc.). Eventually, there will be a thin line between advanced remote control war and war with LAWS, and this line may be crossed, notwithstanding an international ban on LAWS, in the name of “military necessity.” In fact, some AI scientists and weapons specialists argue that we are already crossing into the territory of full autonomy.⁶⁵ A ban on weaponized drones avoids these proliferation dangers and risks. Second, the insistence that targeted killing by drones outside legally recognized war zones violates the legal rules of legitimate initiation and execution of military force will be ineffective if a gradual understanding emerges that such targeted killing is subject to a new set of rules intermediate between the war and law-enforcement models of using lethal force. Finally, a ban on weaponized drones is needed because lethal surveillance is an affront to humanity, and this surveillance is not limited to targeted killing in non-battlefield zones, but also might occur in war zones and in the context of controlling domestic space. In *Losing Humanity: The Case Against Killer Robots*, the International Human Rights Clinic at Harvard Law School and Human Rights Watch argue that the Martens Clause, first stated in the 1899 Hague Conventions, provides a legal ground for prohibiting “killer robots.”⁶⁶ The Clause demands that the means of warfare are evaluated in terms of the “principles of humanity” and the “dictates of public conscience.” Drone warfare as deadly surveillance violates the principles of humanity and, perhaps, an indication of the fact that drone killings violate the “dictates of public conscience” is that U.S. drone strikes find majority approval in only two countries, the U.S. and Israel, with about one-third of the countries surveyed having a rate of disapproval of over 75%.⁶⁷ The challenge is to turn the disapproval of

⁶⁵ See Markoff, “Fearing Bombs.”

⁶⁶ See International Human Rights Clinic, *Losing Humanity*.

⁶⁷ Not surprisingly, opposition is the highest in several Muslim countries, such as Jordan, Egypt, and Pakistan, but it is also high in countries more aligned with the United States, such as Brazil, Japan, and Greece. See Kaag and Kreps, *Drone Warfare*, 48.

U.S. drone strikes into collective action toward a much-needed international ban on drone warfare.⁶⁸

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⁶⁸ Some hopeful steps in this direction have been taken. As of December 1, 2015, close to 100,000 people have signed a petition calling for a ban of weaponized drones. The petition is coordinated by Roots Action. See http://act.rootsaction.org/p/dia/action/public/?action_KEY=6180. A variety of peace organizations, including CODEPINK, Veterans for Peace, and the Global Network Against Weapons and Nuclear Power in Space, have actively supported a ban. The organization KnowDrones, which provides educational material about drones with the aim to promote action toward an international ban on all weaponized drones, has paid for TV ads (in the U.S.) against drones and published in various news media a letter signed by over fifty retired and former U.S. military personnel calling on drone operators to refuse to fly missions. See <http://www.knowdrones.com>.

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