Drones are Justifiable Tools of Warfare

https://www.e-ir.info/2013/06/26/drones-are-justifiable-tools-of-warfare/

BRIAN OREND, JUN 26 2013

Are drones, and the recent policy refinements regarding their use, justifiable in light of just war theory? This article shall define just war theory, consider drones in general, and then the recent presidential guidelines in particular. Argument will be made that there's nothing to drones as such which violates just war theory, though improvements could and should be made regarding drone deployment.

Defining Just War Theory

Just war theory is a coherent set of concepts and values enabling moral judgment in wartime. The baseline proposition of just war theory is that, sometimes, it can be morally permissible for a political community to resort to war, in particular to defend itself from aggressive attack.[i] International law, by contrast, refers generally to treaties freely agreed to by sovereign states, wherein they promise to behave in a way detailed by the treaty. Treaties are like international contracts—solemn promises of behavior—between countries. The concepts and values first originating in the moral philosophy of just war theory have, over the centuries, made their way into binding treaties regulating state conduct during war—treaties we collectively refer to as "the laws of armed conflict." Examples include the Hague and Geneva Conventions.[ii]

Just war theory can be divided into three parts, which the literature refers to, for the sake of convenience, in Latin. These parts are: 1) *jus ad bellum*, which concerns the justice of resorting to war in the first place; 2) *jus in bello*, which concerns the justice of conduct within war, after it has begun; and 3) *jus post bellum*, which concerns the justice of peace agreements and the termination phase of war.[iii] The main part of just war theory relevant to our examination of drones is, of course, the *jus in bello*: are drones a permissible means for executing war in our time?

Drones: Pro and Con

Drones are unmanned small planes which can be flown remotely, often without enemy radar detection, and can be used for espionage and surveillance, or to drop bombs and shoot missiles. The US military has rapidly escalated its use of drone technology over the past 10 years, especially as part of the War on Terror for surveilling rogue regimes and attacking terrorist bases, particularly throughout the MENA region (i.e. Middle East/North Africa).[iv]

International law often plays catch-up to new technology, as states are slow to come to both full understanding and full agreement. So, when we consider drones, we cannot draw on existing international law treaties, as there are none. We are thus squarely within the field of ethics and just war theory. (Some might assert that it's thus quite important to note that drones have not been banned by any part of international law, and thus *are* legally permissible.)

Since their invention, drone use has sky-rocketed, especially as a tool in the War on Terror. It's estimated that, since 2000, the number of drone attacks has gone from zero to over 300, and the amount of spending on drones has risen from $284 million USD to over $3.3 billion.[v] Does this mean that the US military believes that drones pass the principles of just war theory? Presumably so, but what's interesting is how much criticism this program has come in for, since its inception. What are the pros and cons of drones?

Drones are Justifiable Tools of Warfare
Written by Brian Orend

Pros

First, drones clearly save lives on your own side, as they are un-manned systems. If they get shot down, not one of your own soldiers is going to die. B. J. Strawser has argued that, to the extent to which a government possesses such a weapon, yet refuses to use it, it is derelict in its duty to do what it can to protect its own people.[vi]

Second, drones make extensive use of both espionage data and precise satellite- and GPS technology, rendering them perhaps the "smartest," most precise targeting systems yet invented. They are thus, arguably, a tribute to the core *jus in bello* principle of discrimination/non-combatant immunity—wherein one must do everything reasonable to deploy force only against legitimate, military targets and not at non-combatant, civilian targets.[vii]

Third, drones are cost-effective. While they are very expensive on a per-unit basis—since they are such advanced pieces of technology—they are cheap compared to what it would cost to try to land soldiers on the ground, deep in enemy soil, and task them with achieving the same objective.

Fourth, drones excel at achieving surprise, as they can patrol at ultra-high altitudes, far-away from their intended target. It's axiomatic of military strategy that you want to achieve a surprise strike, if you can.

Fifth, drones are being used as tools in an otherwise legitimate War on Terror. The War on Terror, as we know, began on September 11, 2001 ("9/11"), when America was unjustifiably attacked by the terrorist group al-Qaeda. *Jus ad bellum* clearly permits wars of self-defence,[viii] and the vast bulk of drone strikes have been targeted precisely at members of al-Qaeda throughout the MENA. The bottom legal line: drones have not been outlawed, and they are being used as tools in an otherwise lawful struggle.

Finally, drones are an expression of technological advantage and excellence, and thus telegraph strength to the international community and, as such, arguably serve not only as weapons of targeted destruction but also as tools of deterrence. If enemy countries, or terrorists, realize that now, in addition to the threat of soldier invasion, there is the silent-yet-deadly, removed-yet-immediate, threat of suffering a drone strike, then perhaps this may constitute one further tool by way of frustrating their agenda and aims. Shouldn't we encourage such people to feel that they are being surveilled continuously, and that they may suffer a severe price if they keep up their aggressive ways? This ties into a deeper point: as distinguished military historian John Keegan has contended, the tide of warfare and thus (often) of global power itself, has often rested crucially on mastery of the latest military technology. A state government charged with the responsibility of protecting its own people needs to—if it can—be involved in developing the kind of technical expertise which will prevent it from being subjected to the aggressive attacks, and malign designs, of others.[ix]

Cons

First, there have been recorded cases of drones missing their intended targets—or having been fed inaccurate data—resulting in civilian casualties. Verified exact figures are not agreed-upon, but we can predict that this would be true at least to some extent, given that it's been true of every other weapons system. President Obama, in his recent drone policy speech, has admitted to some civilian and innocent casualties resulting from drone strikes.[x] The real question is: are drones especially likely to be sloppy in this regard? Are they uniquely unreliable and indiscriminate? We need a fuller disclosure of information before we can pronounce definitively. However, recent studies have suggested: 1) that rates of civilian casualty by drones are getting smaller through time; and 2) they are actually smaller than rates produced by other weapons systems.[xi] If true, this leads to a morally important conclusion: drone systems are better than conventional, lower-tech alternatives when it comes to avoiding or minimizing civilian casualties.

Another criticism of drone technology, harkening back to Michael Ignatieff's well-expressed concerns in the '90s, connects to the so-called "warrior ethos." There seems to be something weird and distasteful about drones being piloted and guided by computer programmers half-a-world away, isolated from the action and removed from the battlefield. Is such not an act of cowardice? Won't that degree of removal from the situation make targeting errors

Drones are Justifiable Tools of Warfare
Written by Brian Orend

much more likely, resulting in needless and perhaps innocent death? What becomes of the image of the warrior when drone warfare is at play? We now seem to have something more like the figure of the video-gamer, as opposed to the courageous commander-on-the-field, leading his troops into battle.[xii]

Finally, there is the notion that drone warfare makes killing all-too-easy, and thus is a serious temptation in favor of disproportionate violence, or maybe even secret warfare (in violation of *jus ad bellum*'s demands that war only be executed in public, and by a proper authority). Some thinkers are convinced that, the easier we make killing, the more likely we are to resort to it, and thus these weapons are not weapons of peace but, rather, weapons for escalation. And this ties into the claim regarding deterrence: isn't the constant threat of drone strikes more likely to fuel more rage amongst terrorists? They are unlikely to be deterred by this technology—but they *are* likely to be angered by it, and to whip up public anger against it and against the perceived arrogance of those who can unleash such awesome destruction, unseen from the heavens above.[xiii]

Judgment, both General and Particular

Whenever there is new technology, there is a lot of unease about it, and many exaggerated claims both pro and con. It may well be that, in the birth-pangs of this technology, all the above claims—on both side—are true, and efforts are now being made to feed the drones better data, program them with more reliable targeting, and thus lessen concerns with discrimination. As for "creating distance" and making killing easier, this is true of every weapon which has ever been invented, and thus drones don't seem to suffer unduly from it. Indeed, in this regard, what's the difference between, say, an arrow and a drone? As for the notion of the warrior ethos, we do in our culture have a clear commitment to the ideal of the brave soldier, present on the battlefield, risking his or her life for the sake of defending those who can't defend themselves. This is an admirable ideal. However, it seems unlikely that drones will ever replace the need for having soldiers on the ground, certainly when it comes to regime change and post-war reconstruction, when people have to be present and visible, involved and responsible.[xiv] But the use of drones as first-strike weapons within the broader War on Terror can be rendered consistent with that ideal: soldiers need an array of tools to best defend the community whose lives and rights they represent. And drones seem especially cost-effective, and militarily effective at striking targets deep within the territory of a country unable, or unwilling, to do its part in co-operating in the War on Terror. There is also something to be said in favor of being removed from the immediate situation, wherein fear, rage, chaos and confusion can cloud one's judgment, and lead to battlefield mistakes—whereas remote targeting systems can allow one to be more cool and dispassionate.

This leaves the real concern, for me, which is the issue of the feeding of intelligence and the need to do the due diligence required before ordering a drone strike, and ensuring that, ultimately, any drone program is controlled properly by public authorities and that there is a proper chain of command which features, at least amongst its own people, accountability and a public rationale for the use of this kind of long-range weapon wherein denial-of-use, and stealth use, are constantly possible. Obama, in his recent speech, charted out measures precisely to make such things happen—and happen more strongly. He did admit, however, that he wasn't entirely sure of the perfect mechanism for ensuring this, and thus declared this as merely the start of the process for rendering this weapons system more transparent and publicly-controlled.[xv]

Conclusion

Thus, I myself don't think there's anything to the drone weapon-as-such which egregiously violates just war principles. But I do think certain ways in which drones are currently deployed could be improved upon: not having the CIA be completely in charge; being totally transparent about the role this weapon plays; and constantly being vigilant about improving collateral civilian casualty rates. People's unease with change in general, and with high tech in particular, need to give way to a more moderate (and finely grained) analysis aided not only by the facts but by the abiding values of just war theory.[xvi]

—

Brian Orend *is Director of International Studies, and Professor of Philosophy, at the University of Waterloo in*

Drones are Justifiable Tools of Warfare

Written by Brian Orend

Canada. He's the author of six books, including **The Morality of War** *(second edition coming out this Fall 2013).*

Notes

[i] M. Walzer, *Just and Unjust Wars* (New York: Basic, 1977).

[ii] W. Michael Reisman and Chris T. Antoniou, eds. *The Laws of War* (New York: Vintage, 1994); Adam Roberts & Richard Guelff, eds., *Documentation on the Laws of War,* 3rd ed. (Oxford: Oxford University Press, 2000).

[iii] B. Orend, *The Morality of War* (Peterborough: Broadview, 2006).

[iv] Peter W. Singer, *Wired for War* (New York: Penguin, 2009); Matt J. Martin and Charles W. Sasser,*Predator: The Remote-Control Air-War over Iraq and Afghanistan* (New York: Zenith, 2010); Paul J. Springer,*Military Robots and Drones* (New York: ABC-CLIO, 2013).

[v] Jeremiah Gertler, "US Unmanned Aerial Systems," study for the US Congressional Research Office (Jan. 2012): www.state.gov/documents/organization/180677.pdf.

[vi] Bradley Jay Strawser, "Moral Predators," *Journal of Military Ethics* (2010): 342-68.

[vii] Orend, *Morality*, 105-60.

[viii] Orend, *Morality*, 31-104.

[ix] J. Keegan, *A History of Warfare* (New York: Vintage, 1994).

[x] http://www.nytimes.com/2013/05/24/us/politics/transcript-of-obamas-speech-on-drone-policy.html?pagewanted=all&_r=0

[xi] Bill Roggio and Alexander Mayer, "Charting the Data for US Air Strikes in Pakistan, 2004-2012,"*Long War Journal* (October, 2012). www.longwarjournal.org/pakistan-strikes.php

[xii] M. Ignatieff, *Virtual War: Kosovo and Beyond* (New York: Viking, 2000).

[xiii] Medea Benjamin, *Drone Warfare* (New York: Verso, 2013).

[xiv] Bob Martin, of Dalhousie University, has noted how, here, appealing to the warrior ethos doctrine might actually support the absurd conclusion that we ought to go out of our way to make soldiers' lives *more* dangerous.

[xv] *Op. Cit.*, note 10.

[xvi] Christian Enemark, *Armed Drones and The Ethics of War* (London: Routledge, 2013).

About the author:

Brian Orend is Director of International Studies, and Professor of Philosophy, at the University of Waterloo in Canada. He's the author of six books, including The Morality of War (second edition coming out this Fall 2013).