Drones and the Future of Armed Conflict: Ethical, Legal and Strategic Implications

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Book Review

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Drones and the Future of Armed Conflict: Ethical, Legal and Strategic Implications, David Cortright, Rachel Fairhurst, and Kristen Wall, eds. (Chicago: University of Chicago Press, 2015).

At the time of this writing, data from the New America Foundation report that the United States has reportedly conducted 11 drone strikes in Pakistan and 23 in Yemen in 2015. Of these strikes, only 2 of them killed civilians. The data indicate 150 militants have been killed, along with only 3 civilians or unknowns (http://securitydata.newamerica.net). Add to this the controversy stemming from recent conventional airstrikes—in Yemen, when a wedding party was hit, and in Afghanistan, when a Doctors Without Borders hospital was destroyed—and one might be persuaded that drones are a rather good military option. This evidence offers support to the claims of drone proponents, who consistently argue that drones are the best game in town because they provide a discriminate and proportionate response (to employ the just war theory language used by the U.S. government) to threats from terrorist groups. And if one compares these numbers to the strikes and casualty figures at the height of the drone campaign in Pakistan in 2009–10, when there was a drone strike every three days, and civilian/unknown casualties reportedly in the hundreds, then even the staunchest of drone critics might be inclined to admit that the United States is making progress when it comes to its targeting practices. Even assuming, however, that all this is true—the government does not publicly disclose its rules or engagement or data on strikes—reading *Drones and the Future of Armed Conflict* casts a deeply critical light on the myth that drones are what the U.S government claims them to be. The book is a must-read for those who want to delve deeper than the moral and legal gloss that characterizes the speeches in support of drones by governmental officials, while avoiding the hyperbole that often accompanies the writings of the staunchest critics of the U.S. drone programs.

This volume examines the ethical, legal, strategic, and human rights concerns that drones pose. It brings together a multidisciplinary set of experts

from legal, military, ethical, and political science backgrounds to provide insight into the "creation of common standards that respect ethical and legal principles while enhancing security and human rights" (23). As Christoph Heynes—the UN Special Rapporteur on extrajudicial, summary, and arbitrary execution—makes clear in the preface, the scope of the book is not about "whether drones are part of the future ... but, rather, about how their use is to be regulated to secure the values at the core of the international system, such as the protection of life and the containment of the use of force" (viii). To accomplish this task, the vast majority of the contributors offer well-researched critiques of U.S. drone use, while the few who are more sympathetic to their benefits proffer cautionary assessments of the long-term strategic benefits.

The edited volume is arranged into three broad sections: ethics and legality, security, and human rights. Each of these sections explores the key issues of the drone debate, offering critical insight into why the public should be concerned about U.S. drone use. In the first chapter, the editors offer a comprehensive overview of the principle issues that have shaped the scholarly debates and policy developments regarding armed drone use by the United States since 2002. They emphasize time and again that their purpose is to take stock of the major issues surrounding the use of armed drones, and provide a diverse, but mostly critical, scholarly contribution that helps to identify the standards that should guide future use.

Regarding ethics, Jennifer Welsh argues that drones significantly and problematically impact the decision to use military force (*jus ad bellum*) and the legitimacy of acts undertaken in war (*jus in bello*). The ethical concerns of such low-cost warfare, she concludes, lead to problematic implications for both the societies targeted and those that undertake the strikes. Offering an alternative viewpoint, Martin Cook explores drones from a military perspective, paying particular attention to their tactical, operational, and strategic differences compared to other weapons. While recognizing many advantages that drones bring to the table, Cook concludes with a cautionary outlook—regardless of whether drones offer an attractive military means under some conditions, if they undermine long-term strategic goals they may be counterproductive.

Taken together, these chapters recognize some of the moral advantages drones have over other weapons platforms, but remind us that these advantages come with costs that may sometimes undermine domestic values, international human rights, and strategic goals.

T he legal dilemmas posed by drones have been the subject of considerable debate both in the United States and internationally. Despite the U.S. claim that it is at war with Al Qaeda and affiliated groups, something that would make drone strikes a legal use of force according to international law,

the chapters in this section cast serious doubt on the viability of this claim. Mary Ellen O'Connell's chapter recapitulates the standards of international law when it comes to the use of armed force, and debunks all the legal justifications (eight in total) proffered by the United States to justify its drone campaigns outside the hot battlefield of Afghanistan. Karen Greenberg takes issue with the Obama administration's commitment to the rule of law, arguing that his drone programs have preserved some of the most problematic intellectual and legal underpinnings of the Bush-era national security. As with Bush's policy of detention, Obama has, she concludes, used legal channels to expand the notion of the enemy and lower the constitutional barriers to using force. Pardiss Kebriaei gives a critical assessment of the legal rationale of U.S. drone use, before raising concerns about the lack of transparency and accountability. She argues that bringing the targeted killing program in conformity with the law would require urgent changes to current policy, including limiting targeted killing to actual war zones (except in very rare circumstances). In addition, significant governmental checks and balances, as well as greater transparency to allow for public scrutiny, would be needed to ensure compliance with the law.

These chapters highlight the problematic nature of the legal justifications put forth by the U.S. government to justify drone use outside declared war zones. While not rejecting drones outright, the contributors call for foreign policy reforms that would curb their use and bring the United States into conformity with the international laws it claims to uphold. The obvious question is, whether doing so would be strategically wise.

One of the main arguments in favor of drones is that they achieve the paramount strategic goal of providing for U.S. security. Patrick Johnson's chapter offers the most strident support of drones in the volume. He argues that drones play a leading role in achieving three counterterrorist goals: degrading terrorist leadership, disrupting the planning and execution of attacks, and denying safe havens. Despite potential fallout from drone use—including stoking the flames of anti-Americanism—he concludes that drones may be the best of a litany of bad choices, at least when it comes to military options, because they are more precise and discriminate compared to other weapons platforms. This conclusion brings the reader back to the ethical concerns raised by Welsh and Cook earlier in the volume, illustrating how strategy and military ethics are interwoven.

Audrey Kurth Cronin offers a counterargument to the purported strategic success of drones, painting a much murkier picture. Drawing on empirical evidence from other counterterrorism campaigns, she argues that a counterterrorism strategy dominated by drones is not likely to defeat Al Qaeda and like-minded groups in the long run. Moreover, while drones may provide a short-term fix for American security from some of these threats, she warns their prolonged use may undermine support from Muslim-majority states and European allies, and thus split the counterterrorism coalition formed in the

wake of 9/11. Cortright and Fairhurst challenge the default assumption that the military option is the only effective means of countering the threat from terrorism. Drawing on empirical evidence that shows military means do not succeed in ending terrorist groups, they criticize the reliance on drones to defeat violent extremism. Instead, they outline an alternative strategy that focuses on conflict transformation, which includes building more effective and accountable governance and addressing the root causes of terrorism. Drones, they conclude, may temporarily disrupt militant operations, but cannot be part of any long-term political solution. Mary Dudziak explores the impact of the drone campaign on presidential power, arguing greater transparency is not a threat to security. Comparing the drone discourse to the secrecy that cloaked Nixon's secret bombing of Cambodia, Dudziak cautions us to be wary of how drones undermine democratic engagement, erode political restraints on presidential power, and institutionalize secret legal infrastructures. Her chapter reminds us that secrecy and security are problematic bedfellows, and highlights the importance of the democratic public in gauging the scope and limits of U.S. foreign policy.

These chapters serve to muddy the waters when it comes to understanding the ways in which drones impact security. They invite the reader to ask critical questions about whether drones really are the best (or least worse) option, how believing they are impacts U.S. relations with its allies and U.S. domestic society, and what other viable alternatives exist. The final two chapters on drones and human rights cast a similar critical gaze.

Chris Woods explores the contradictory narratives regarding drones and civilian casualties articulated by the U.S. government and the key nongovernmental organizations that track drone strikes. This chapter engages a deep human rights issue —namely, the right to life. Woods focuses on how the lack of governmental transparency makes accurate reporting difficult, and warns the reader against being persuaded by U.S. claims of minimal-to-none casualties. Even though trends in casualties are decreasing, Woods argues that the United States still needs to be more forthcoming with data to restore accountability. Rafia Zakaria's chapter forces the reader to consider more than just the numbers of dead by painting a disturbing portrait of how human rights are negatively impacted by living under drones. Her case study of Pakistan challenges the claim that drones are discriminate and proportionate weapons. Zakaria's arguments guide the reader to look at the long-term consequences of a sustained drone campaign, including: expanding the intensity and geographic area of terrorist attacks in Pakistan, internal population displacement, and how drones affect not simply the right to life, but also the "right to home." This chapter, in particular, offers a stark reminder of the real human costs that are implicit in the discussions about the ethical and strategic dilemmas and legal shortcomings.

To conclude, while there are many books written about drones, what sets this book apart is not simply the quality of the contributions, but its critical and constructive agenda. By identifying the major concerns drones raise and offering viable avenues of reform, *Drones and the Future of Armed Conflict* is an essential resource for researchers, activists, students and policy makers.

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