Armed drones

Background

“Unmanned” aerial vehicles, also referred to as remotely piloted aircraft or drones, have become an increasingly common military tool for intelligence, surveillance, reconnaissance, and combat missions. Only a small percentage of all drones currently in service by armed forces or intelligence agencies are weaponised, but more states are poised to acquire or develop armed drones. They have become increasingly attractive because they can loiter over areas for long periods without risk to the pilots. Armed drones can also lower the threshold for using armed violence due to their low risk to the deploying force.¹

Armed drones have been used for close-air-support missions in Afghanistan, Iraq, and Libya, providing strike capabilities in armed conflict. They are also used outside of armed conflict in Gaza, Pakistan, Somalia, and Yemen. In the United States, further complications have arisen because in some instances intelligence agencies rather than regular military forces have operated armed drones.² Thus their use poses many legal, ethical, military-strategic, and political challenges.

Current context

An increasing number of armed forces – from regular militaries to covert intelligence services, non-state groups, and terrorists – are seeking to acquire and deploy armed drones. Currently, over 90 states use drones for different purposes. Over the last decade, attacks with armed drones by the United States in Pakistan, Yemen, and Somalia against suspected terrorists and insurgent groups have risen dramatically and generated significant public disquiet and media attention. These attacks have led to a growing number of civilian deaths as well as the extrajudicial killing of insurgents and terrorists. This has spurred debate about how the use of armed drones relates to international humanitarian law and international human rights law. Concerns have been expressed by UN Special Rapporteurs Philip Alston,³ Christopher Heyns,⁴ and Ben Emmerson⁵ in their reports to the Human Rights Council. In many cases, armed drones have been deployed outside of armed conflict to kill people. Such practices run counter to international human rights law, which is the applicable set of rules outside of armed conflict and which requires that suspects be captured and tried before being sentenced.

Some militaries have praised drone strikes for their precision. Yet analyses of these strikes have highlighted that many civilians have been killed,⁶ casting doubt on their claimed surgical nature. The lack of transparency by some states hinders the establishment of a clear picture of the number of civilians killed in these drone operations and the standards used to identify those who constitute a legal target. Increased civilian casualties are likely to occur due to the blurred distinction between civilian and combatant in current and future conflicts. The apparent classification by the US government of “all
military-age males in a strike zone” as combatants seriously erodes the protection of civilians, undermines casualty recording efforts, and fosters problematic gender essentialisms such as violent masculinities. Furthermore, the presence of armed drones over populated areas incites fear and anxiety among civilians living in zones of conflict. This can lead to changes in behaviour that undermine social development (such as not sending children to school), psychological trauma, as well as to an inflammation of feelings of vengeance and the fueling of hatred.

The practice of extrajudicial killing and the problematic uses of armed drones as explained above could seta precedent for other states if it is not strongly condemned by the international community. The growing production and export of armed drones could further exacerbate the problem. Some states have used drones in operations against their own citizens, such as Syria and Sudan. Non-state actors such as Hezbollah, the Islamic State, and Hamas have used drones for surveillance and (so far unsuccessful) armed attacks.

Human rights groups, universities, legal scholars, and think thanks have called for transparency and accountability over the use of armed drones in and outside armed conflict. Some have called for a ban on the technology or a moratorium on their use. The European Parliament has called on states to oppose the practice of extrajudicial killing through use of armed drones outside the framework of international law, and not to facilitate these attacks.
Looking at the number of strikes launched, especially outside of declared situations of armed conflict, scholars, think tanks, and others have argued that armed drones seem to lower the threshold for the use of force. Special Rapporteur Christof Heyns has noted that armed drones provide the opportunity for states to engage “in low-intensity but drawn-out applications of force that know few geographical or temporal boundaries.” He argues, “Peace should be the norm, yet such scenarios risk making its derogation the rule by privileging force over long-term peaceful alternatives.” See A/68/382, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christopher Heyns, 13 September 2013. The American Civil Liberties Union has argued that the US government does not appear to be applying or abiding by international legal standards for determining the threshold for the use of armed drones. See “Statement of the American Civil Liberties Union to the Committee on Human Rights and Humanitarian Aid of the Deutscher Bundestag,” 27 February 2013, https://www.aclu.org/files/assets/adrs._177_oa_steven_watt_stellungnahme_englisch.pdf.

In the United States, the involvement of CIA in lethal counter-terrorism operations in Pakistan and Yemen has created an almost insurmountable obstacle to transparency. This is because, just as all secret services, it operates on the basis of neither confirming nor denying its operations. See A/68/389, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, 18 September 2013. The American Civil Liberties Union has argued that the US government does not appear to be applying or abiding by international legal standards for determining the threshold for the use of armed drones. See “Statement of the American Civil Liberties Union to the Committee on Human Rights and Humanitarian Aid of the Deutscher Bundestag,” 27 February 2013, https://www.aclu.org/files/assets/adrs._177_oa_steven_watt_stellungnahme_englisch.pdf.

A/HRC/14/24/Add.6, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, 28 May 2010.


A/68/389, op. cit.


“Sex, gender, and drone strikes,” Article 36 and Reaching Critical Will, forthcoming.