

# Conceptual and Ethical Dilemmas in Employment of Armed UAVs in Counter Terrorism / Counter Insurgency Operations in Indian Context

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## Introduction

The military use of unmanned combat aerial vehicles (UCAVs)/ unmanned aerial vehicles (UAVs), commonly known as drones, has grown exponentially in recent years. While mostly drones are being used for intelligence, surveillance and reconnaissance purposes, increasingly militaries are using drones in offensive roles to launch missiles and bombs. Armed drones have been used by the US military in Afghanistan (since 2001), Iraq (since 2002), and Yemen (since 2002), by the CIA in Pakistan (since 2004), by the UK military in Afghanistan (since 2007) and by Israel in Gaza (since 2008).<sup>1</sup>

It is estimated that drones are being used or developed by over forty countries. In its latest report on the worldwide drone market, market analyses firm Visiongain has stated that the US dominates the UAV market as it integrates these systems into all its armed services and at different levels while Israel is both a leading exporter of UAVs and a key market. Although not as big as the US market, there is robust demand worldwide from countries in Europe, particularly the UK, France and Germany. There are also comprehensive plans for UAV purchases by a number of countries in the Asia-Pacific such as China, India, Japan and South Korea".<sup>2</sup>

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## The Seductive Appeal of Killer Drones

It has been reported that one out of every three aircraft in the US military is an UAV.<sup>3</sup> The fact that since 2004, the US Military, which has over 10,000 unmanned aerial systems has conducted over 300 drone strikes from Afghanistan to Yemen to Pakistan<sup>4</sup> clearly signifies the pivotal role that drones play in execution of the US counter-terrorism and counter-insurgency strategy. Their low material cost, zero human cost and expendability makes them a weapon of choice of many counterterrorism (CT) strategists. *For some analysts, drones signify a transformation in warfare similar in scale to the gun powder revolution.*<sup>5</sup> Compared with traditionally piloted aircraft, they are cheaper to make and carry an array of sensors and cameras that can keep watch both by day and night. Without a pilot, drones can fly at altitudes beyond to 30,000 feet without needing pressurisation and temperature control. It has been reported that there are some UAVs that can fly air continuously for up to 40 hours.<sup>6</sup> Unlike a pilot, a drone is not prone to battle fatigue, and can record on video all that is happening on the ground below and transmit it live to the ground station. New generation armed drones are likely to be bestowed with stealth capability, so that the attack is carried out totally undetected. *Such capabilities offer new opportunities in achieving politico-military objectives by bringing down vital politico-military targets at zero human, negligible politico-economic costs.* Accordingly, the demand of militaries across the globe for armed UAVs is growing.

*Some analysts even hypothesise that killer drones might one day not only replace manned aircraft in combat and logistics role but may even make the classic cordon and search operations (CASO)/search and destroy operations (SADO) look irrelevant. Notwithstanding, the tremendous force multiplier effect of UCAVs/armed UAVs, there are certain issues that need to be deliberated upon while contemplating employment of UCAVs for strike missions in CT/CI Operations in our context.*

## Conceptual Challenges and Tactical Dilemmas

**Drone Operations and Human Rights.** *Employment of armed UAVs for strike missions in populated built-up areas is fraught with risks of extensive collateral damage and civilian casualties. Indian Army has an envious record of conducting CT/CI operations (ops) while upholding human dignity and human rights, by abiding to the*

*dictums of "Josh, Tezi, Sidhai aur Tehzeeb", "Heart is My Weapon" and "Jawan Aur Awaam, Aman hai Muqam"*

*The basic tactics adopted by Indian Armed Forces deployed in CT Ops, has been always to "Evacuate civilians from target areas", "Isolate holed up terrorists", "Challenge", "Draw Fire", "Fix", "Engage" and "Neutralise". This remains the time tested highly successful approach rather than "Bomb and Berries" approach involving a drone operator enjoying berries while bombing militants along with civilians!! It has been reported that since 2004 between 1,717 and 2,680 people have been killed in Af-Pak region because of drone attacks.<sup>7</sup> The Bureau of Investigation Journalism (TBIJ) has reported that since 2004 to mid-September 2012 about 474-881 civilian including 176 children were killed in drone attacks in Af-Pak.<sup>8</sup> It is actually difficult to ascertain what proportion of persons killed were militants, terrorists or civilian. However in our context, even if a quarter of such fatalities were to occur in J&K/NE states where our armed forces remain embattled in fighting insurgents/terrorists the repercussions would have a strategically adverse impact on gains made over the years in these areas.*

**Drone Operations and Precise Targeting.** *The second issue is: will the ability to strike a target precisely with negligible risk to own troops make classic CASO/SADO ops in CT redundant? Another related issue that stares at a military decision maker while taking a call on ordering a UCAV strike mission is that whether such systems provide a capability of absolutely precise targeting? The answer is, No!! Despite the much hyped technological advances in the field of UAV domain which proclaims that UAVs of future will take off, navigate to a destination, strike return and land without human intervention, the crucial issue that remains unanswered is under what circumstances we might trust a machine to correctly identify a target and fire a weapon without human involvement. The drones rely on multiple intelligence sources to accurately identify targets. This limitation further gets compounded because of lack of dependability of local HUMINT sources that are notoriously unreliable and often give wrong information to settle personal scores. Additionally, while the drone camera can provide crystal clear images, it is difficult for drone operators to accurately identify individuals when looking at them directly from above. For example, just months after the September 11 attacks, a Predator pilot spotted a tall man in flowing white robes walking near the eastern border*

*of Afghanistan. Intelligence officials incorrectly believed the man to be Osama bin Laden and fired the Predator's missile, killing the innocent villager and his two companions.<sup>9</sup>*

**Kill Versus Capture Debate.** Then is the issue of loss of invaluable intelligence due to a 'Hunter-Killer' type strike missions executed by an armed UAV leading to on spot neutralisation of the terrorist and thus loss of potential intelligence that could be gained through capture/ surrender. Dead have no stories to tell !!

**Expendability of Drones.** Last but not the least is the often hyped issue of the 'Expendability of Drones'. It has been reported that even when not facing enemy fire, the famed US drone Predator crashes due to mechanical error was 43 times per 100,000 flying hours, whereas typical manned aircraft crash was 2 per 100,000 hours.<sup>10</sup> A 2010 media study reported that "Thirty-eight Predator and Reaper drones have crashed during combat missions in Afghanistan and Iraq, and nine more during training on bases in the US — with each crash costing between \$3.7 million and \$5 million.<sup>11</sup> Altogether, the US Air Force has reported that there have been 79 drone accidents costing at least \$1 million each."<sup>12</sup> When compared to other aircraft, the cost of an individual remotely piloted vehicle can be misleading.<sup>13</sup> UAVs operate as part of a system, which generally consists of a ground control station, a ground crew including remote pilots and sensor operators, communication links, and often multiple air vehicles. *As an example, a Predator air vehicle costs \$4.5 million, while the Predator system, including four air vehicles and control equipment, costs over \$20 million.<sup>14</sup>* Besides this the rising sensor costs have prompted some observers to recommend equipping UAVs with self protection devices, implying that those UAVs are no longer considered expendable.

### **The Legal and Ethical Dilemma**

Another major issue to ponder about is: Can neutralisation / targeted killings of suspected individuals be justified legally or ethically? In the wake of the 9/11 atrocity the US government passed a legislation enabling the President to use military force to pursue those responsible.<sup>15</sup> It is on this basis that the CIA has operated drones in a persistent campaign of targeted and killing in northern Pakistan. How does this fit into the legal domain?

In our context: Can the Indian Armed Forces execute drone attacks in insurgency prone areas in hinterland under Armed Forces Special Powers Act (AFSPA) or we will need a special act of parliament? *Who will authorise such attacks – Brigade Commander/ General Officer Commanding/Corps Commander or the Commander-in-Chief / or clearance from Political bosses would be mandatory?* Should a drone attack go haywire leading to civilian fatalities, who would be held accountable!! Will it be the operator or the Commanding Officer of the UCAV fleet or the person who gave the orders? Will it be the Company Commander under whose area of responsibility this strike has taken place based on his intelligence input while his company was tasked to lay stops to neutralise fleeing militants? Can a UAV pilot be held accountable for something that has been executed by a high tech gizmo due to a technical snag?

How does this pre-emptive killing without prior warning, without challenge and without drawing fire from the holed up militant, based merely on suspicion / a visual sighting of an individual carrying something that resembles a weapon, fit into international laws / Indian laws governing use of deadly force? It is pertinent here to mention that the law of armed conflict accepts the targeting and killing of combatants based solely on their status as members of armed forces or party to conflict who might engage in hostilities to make themselves lawful targets. In the Indian context, while opening of fire in self defence/ to protect government property and innocent civilians is covered under provisions IPC/AFSPA, how would a killer drone strike, merely on suspicion/ communication intercept, be covered legally? These are certain disturbing issues that commanders on ground would have to resolve before the UCAVs are operationalised in our context.

### **Just War Theory and Drone Attacks**

*There are some analysts who defend use of drone attacks in insurgency areas under the shield of 'Concept of Just War'.* Let us now analyse: What is the Just War Concept in relation to use of drone attacks? The Just War provides moral criteria or a moral calculus, for determining whether such action is morally justifiable. These criteria comprise what is traditionally referred to as '*jus ad bellum*'. Historically '*jus ad bellum*' criteria have included the following principles: just cause, right authority, right intention, proportionality, reasonable hope of success, and last resort.<sup>16</sup> Just

cause is defined in terms of a response to the crime of aggression. *Therefore, do pre-emptive drone strikes particularly in our context, as a means of security against a possible act of terrorism meet the criterion of just cause? This is a debatable issue.*

Further, according to the principles of '*jus in bello*', in particular the principle of discrimination is designed to provide non combatant immunity, and thus the intentional killing of innocents as a military and/or political strategy is never justifiable<sup>17</sup>. Similarly the Just War theory propounds that use of force be the last resort, that sufficient non-violent attempts to resolve the conflict have been made and failed. In the Indian context, opening of fire has to be preceded by a warning. The pamphlet on Aid to Civil Authority and the provisions of AFSPA clearly mandate this. Drone strikes being entirely pre-emptive in nature, thus violate the spirit of 'Laws of the Land', as often these strikes are made without challenge/warning to the holed up militants. Therefore, a universally agreed legal frame work for employment of drones for combating terrorism and insurgency operations has to be evolved. Meanwhile, acting with restraint and in accordance with laws of land while upholding the human rights in the finest traditions of the Indian Armed Forces, is a far surer path to stability and peace than acting with disregard to human life/dignity, without legal justification and ethical prudence that can only breed anger and resentment amongst population in the affected areas.

### **Miscellaneous Issues**

**The Aspect of Air Space Management.** For UAVs to take an active role in internal security, law enforcement, and other proposed civilian uses, airspace management has to be well coordinated. Collision avoidance capabilities need to be developed and a nodal agency at tri-service level has to be evolved to allocate the already crowded air space for UAV operations.

**Manpower Requirements.** The most striking and talked about characteristic of UAVs is that they are "unmanned". However, this is a myth. *"There's nothing unmanned about them. It can take as many as 170 persons to launch, fly, and maintain such an aircraft as well as to process and disseminate its ISR products."*<sup>18</sup> Thus besides the capital costs involved in the in-house development/acquisition of modern Armed UAVs, the recurring revenue costs relating to recruitment, training and retention of associated manpower have also to be factored in.

**Psychological Impact on UCAV Pilots.** The issue of psychological impact on soldiers or operators based at locations far away from Tactical Battle Area (TBA) executing UCAV strikes leading to killing of militants and civilians has to be considered. It has been brought out that a play station mentality surrounds drone killings.<sup>19</sup> Young military personnel raised on a diet of video games now kill real people remotely using joysticks. Far removed from the human consequences of their actions, how will this generation of fighters value the right to life? How will commanders and policymakers keep themselves immune from the deceptively antiseptic nature of drone killings?<sup>20</sup> While studies are underway to examine physical, emotional and psychological impact involved in the operation of killer drones, only the passing of time will reveal if the drone crews will develop symptoms associated with combat stress or Post Traumatic Stress Disorder.

**Psychological Impact on Civilians.** In its report titled '*Living Under Drones*',<sup>21</sup> the International Human Rights and Conflict Resolution Clinic has brought out that US drone strike policies cause considerable and under-accounted harm to the daily lives of ordinary civilians, beyond death and physical injury. Drones hover twenty-four hours a day over communities in North West Pakistan, striking homes, vehicles, and public spaces without warning. Their presence terrorises the people, giving rise to anxiety and psychological trauma among civilian communities. Those living under drones have to face a constant worry that a deadly strike may be fired at any moment, and the knowledge that they are powerless to protect themselves. These fears have affected behaviour. *Some parents choose to keep their children home, and children injured or traumatised by strikes have dropped out of school.* The US practice of striking one area multiple times, and evidence that it has killed rescuers, makes both community members and humanitarian workers afraid or unwilling to assist injured victims.<sup>22</sup>

*In contrast, in our context, the Indian military history is replete with examples of our troops demonstrating extreme compassion and empathy to civilians entrapped in the conflict zones.* Such is the resilience and ethical standing of Indian soldiers that our troops are today in greatest demand internationally for peace keeping operations. Therefore this issue too merits to be factored in before we formulate a policy to operationalise killer drones.

## Geographical Boundaries: Drone Operations

Finally the issue of geographical boundaries is perhaps the most intriguing one. Moving beyond the issue of civilian collateral damage, the most salient issue that comes to forefront is that these emerging technologies redefine the geography of war. The laws of war have inchoate boundaries for where they apply, *lex specialis*, and where the Law of Everyday Life applies. Redefining those boundaries through changes in war's technologies, and the ordinary law of everyday life, including criminal law, constitutional protections, and more, suddenly might not apply.<sup>23</sup>

Terrorists move across the length and breadth of the world. Hijackers of IC 814 took shelter in Afghanistan, the Hizbul Mujahidin Chief, Syed Salahuddin, the Lashkar ideologue Hafiz Saeed etc are all known to be based in Pakistan. Can, in pursuit of National Security Objectives, the Government of India order a drone strike? *Conversely if a top Al-Qaeda/Pakistan Taliban leader shifts to a hideout in Sopore in North Kashmir, can the US Govt/Pakistan launch a drone strike under garb of Global War on Terror? What will be our response? Terrorists might be located anywhere in our country, does it mean the AFSPA or a specially enacted law is to be applied across the length/breadth of the country to authorise a drone attack.* There are no satisfying/reassuring answers to this question. *Terrorism thus creates conceptual tensions and moral dilemmas.* To conduct war according to ethical principles is not only moral, it is sensible.<sup>24</sup> Any advances in technology in the battle space should therefore be weighed against accepted ethical practices to ensure we are at least maintaining, if not elevating, the existing ethical standards by deploying this technology. Lowering the standards, however great the capability the technology may provide, would be self-defeating.

## Conclusion

Despite their immense appeal, UCAV operations are thus not "costless", as contrary to the popular belief. In light of the above described conceptual dilemmas, the high cost of armed UAVs vis a vis the resultant limited pay offs in terms of elimination of few terrorists, it may not be prudent to rush in with operationalising of armed UAVs in CI/CT situations in our context as yet. 'There is simply no point in using a hammer to kill a fly'. Using armed drones may yield short-term gains but is not a substitute for a long-term strategy.

Thus , in our context, while the employment of UCAVs in a conventional war to shape the battle space through battlefield degradation, to facilitate break-in operations by precise targeting of enemy defences in obstacle ridden terrain/built up areas/in desert/ semi-desert terrain, enemy bunkers in mountainous terrain and in support of special force operations shall yield significant operational advantages by reducing human costs and enhancing operational tempo, the employment of armed UAVs in CI/CT operations in our context needs an informed debate in order to arrive at an appropriate policy .

### Endnotes

1. **Chris Cole, Mary Dobbing and Amy Hailwood,** 'Convenient Killing -Armed Drones and the 'Playstation' Mentality', accessed at <http://www.for.org.uk>, (accessed on 08 Nov, 2012).
2. **Visiongain** 'The Unmanned Aerial Vehicles (UAV) Market 2010-2020: Technologies for ISR and Counter-Insurgency' Visiongain, accessed at <http://www.visiongain.com>, (accessed on 08 Nov, 2012).
3. **Jeremiah Gertler**, *U.S. Unmanned Aerial Systems*, CRS Report for Congress, Congressional Research Service, accessed at <http://www.crs.gov>, (accessed on 08 Nov, 2012).
4. **Peter W. Singer**, *Do Drones Undermine Democracy?*, N Y Times, January 21, 2012.
5. **Prem Mahadevan**, 'The Military Utility Of Drones', Center for Security Studies (CSS), Analysis In Security Policy, July 2010.
6. *Airforce-technology.com* 'Hermes 900 Unmanned Air Vehicle (UAV), Israel' accessed at <http://www.airforcetechnology.com>, (accessed on 08 Nov, 2012).
7. **Steve Hucklesby**, *Drones: Ethical Dilemmas in the Application of Military Force*, Conference Agenda 2012, accessed at <http://www.methodistchurch.org.uk>.
8. 'Covert War on Terror', The Bureau Of Investigative Journalism, accessed at <http://www.thebureauinvestigates.com> (accessed on 08 Nov, 2012).
9. **Andrew Callam**, Ibid.
10. Ibid.
11. **Jeremiah Gertler**, 'U.S. Unmanned Aerial Systems', CRS Report for Congress, Congressional Research Service, accessed at <http://www.crs.gov> (last visited Nov. 08, 2012).

12. **David Zucchini**, "War zone drone crashes add up," *Los Angeles Times*, July 6, 2010
13. **Jeremiah Gertler**, *Ibid.*
14. *Ibid.*
15. Authorisation for the use of military force-passed by US Congress on 14 Sep 2011.
16. **Joseph L. Allen**, *War: A Primer for Christians* (Dallas: First Maguire Center/Southern Methodist University Press, [1991] 2001), **Joseph Boyle**, "Just War Thinking in Catholic Natural Law," in *The Ethics of War and Peace: Religious and Secular Perspectives*, ed. *The Ethics of War and Peace: Religious and Secular Perspectives* (Princeton, NJ: Princeton University Press, 1996), **Paul Ramsey**, *The Just War: Force and Political Responsibility* (New York: University Press of America, [1968] 1983), **Paul Ramsey**, *War and the Christian Conscience: How Shall Modern War Be Conducted Justly?* (Durham, NC: Duke University Press, 1961), *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1997).
17. **Dale T. Snauwaert**, 'The Bush Doctrine and Just War Theory', *OJPCR: The Online Journal of Peace and Conflict Resolution* 6.1 Fall: 121-135 (2004)
18. **John A. Tirpak**, "The RPA Boom," *Air Force*, August 2010.
19. **Phillip Alston and Hina Shamsi**, 'A Killer Above The Law', *The Guardian*, 2nd Aug 2010.
20. *Ibid.*
21. **International Human Rights And Conflict Resolution Clinic** (Stanford Law School) And **Global Justice Clinic** (Nyu School Of Law), 'Living Under Drones: Death, Injury, And Trauma To Civilians From US Drone Practices In Pakistan' accessed at <http://livingunderdrones.org>, (accessed on 08 Nov, 2012).
22. *Ibid.*
23. **Kenneth Anderson**, *Targeted Killing and Drone Warfare*, accessed at <http://www.hoover.org/taskforces/national-security/challenges>, (accessed Nov. 08, 2012).
24. **Elizabeth Quintana**, *The Ethics and Legal Implications of Military Unmanned Vehicles*, accessed at [http://www.rusi.org/downloads/assets/RUSI\\_ethics.pdf](http://www.rusi.org/downloads/assets/RUSI_ethics.pdf), (accessed on 08 Nov, 2012).ver.org/taskforces/national-security/challenges