

Drones, Robots and the Ethics of War

By Daniel Statman

The nature of war is changing before our eyes. With the rapid development of unmanned measures – drones and robots of various types – we seem to be moving towards a state of affairs in which fighting no longer takes place between human beings but between machines which currently are still operated by humans, but which are becoming increasingly autonomous.

Some people believe that, from a moral point of view, the trend toward weapons that are increasingly autonomous is very worrisome. The Human Rights Watch organization has gone so far as to refer to the use of such weapons as a case of "losing humanity". This paper takes an opposite view. I seek to show that, in spite of some drawbacks, overall, the new technologies mark significant moral progress in the history of warfare. In what follows, I focus mainly on drones because it is their use that has drawn the most attention in discussions about the changing practice of warfare, but what holds true for drones applies, *mutatis mutandis*, to other potentially unmanned platforms, be they airplanes, submarines, or armored vehicles.

The advantages of drones

Drones are just a tool of war, one among many: There are tanks, cannons, aircrafts, submarines, and now there are also drones. The question concerning their moral legitimacy belongs, therefore, to the level of *jus in bello*. If the use of drones raises any special difficulties beyond those raised by other tools of

war, this can only be because they pose some special threat to the central goal of *jus in bello* which is the protection of civilians. Recall that *jus in bello* incorporates two main constraints on the conduct of war: (a) non-combatants should never be attacked directly and (b) when non-combatants are attacked indirectly, they should not suffer disproportionate harm. How does the use of drones fare with respect to these constraints?

There is obviously no reason to think that drones are more dangerous than other tools of war insofar as the intentional killing of non-combatants is concerned. To be sure, drones can be used to attack non-combatants directly, but so can tanks and aircrafts. Moreover, if some country decides to attack enemy civilians directly, maybe because it sees itself in what Walzer famously termed "a supreme emergency", drones seem the least successful tool to select out of the possible range in its arsenal.

What about collateral damage – are civilians put at higher risk by the use of drones than they would be if drones were not used? The crucial point to remember here is that the alternative to the use of drones is not the avoidance of violence altogether, which would entail zero-risk to civilians, but the use of other, more conventional, lower-tech measures, such as tanks, helicopters, and so on. But such imprecise measures would almost certainly lead to more civilian casualties rather than to fewer.

In response, one might argue that while the use of drones in "old" wars would indeed pose no special problem in terms of *jus in bello*, "new" – asymmetric – wars are different. In asymmetric wars, it is sometimes argued, the use of drones puts civilians at special risk. But I see no reason to think this is true. The real alternative to the use of drones in fighting against Hamas and Al-Qaeda is not peaceful negotiation, but other, far less discriminate measures. So if lethal measures (under the rubric of war, rather than under that of law-enforcement) are permitted in these conflicts, it is hard to see why drones should be seen as especially worrisome. (And needless to say, if such measures are not permitted then old-fashioned weapons would be ruled out as well.)

To be sure drones might be abused, but so could other tools of war. At any rate, the danger of abuse should not make us lose sight of the great moral promise at hand. Other things being equal, the more precise a weapon is, the better its use can comply with the requirements of discrimination and proportionality.

However, this is not the only moral advantage of drones. Another is the reduced risk to a country's own soldiers. Thanks to the availability of drones and other unmanned measures, countries can, and hence should, expose their soldiers to the lowest possible risk when they seek defense from their enemies. Reducing casualties among the soldiers of one's own side is not only a moral issue, but a prudential one too, not only because the loss of an additional number of soldiers undermines the army's ability to withstand its enemy, but also because sensitivity to military

losses is increasingly limiting the ability of states to deploy their forces for military missions.

Furthermore, lowering the risk to soldiers by using unmanned weapons may make states more willing to get involved in humanitarian interventions and would make such interventions less problematic in terms of the risks to the soldiers sent to fight. It is not easy to justify forced participation in wars aimed at the protection of some other nation from an oppressive regime or from some form of genocide, but if the risk to soldiers is reduced thanks to the use of drones, this problem is very much alleviated.

The option of carrying out effective attacks by drones might also have the advantage of delaying the need for a full-scale war, or helping to avoid it altogether. This is so because targeted attacks by drones might be sufficient to convince the enemy to withdraw from its aggressive plans without the need to mobilize troops and get involved in bloody battles on the ground. Finally, drones are cheaper to produce and to deploy than manned planes, which could enable the re-routing of money saved to worthy concerns like education, social justice, etc.

Drones, thus, seem to have significant moral advantages:

- Other things being equal, they comply better than other tools of war with the requirements of discrimination and proportionality.
- They enable states to reduce the risk to their own soldiers.

- They weaken moral arguments against involvement in wars of humanitarian intervention.
- They make it possible to respond effectively against perceived aggression without the need to engage in full-scale war.
- They are cheaper in comparison to man-operated tools of war and thus leave more public money available for other causes.

Arguments against the use of drones: A critical assessment

(a) Disrespectful death

Imagine a person walking in his neighborhood when, suddenly, literally out of the blue, he is shot and killed by a drone which he cannot even see. Now compare this to the death of a soldier on the battlefield. Arguably, there seems to be something disturbing about the former kind of death, something particularly disrespectful or humiliating.

But what exactly is disrespectful in being killed by a robot in comparison to being killed by a tank or by a helicopter? Maybe when a human being does the killing, that human being acknowledges, albeit in a paradoxical manner, the humanity of his victim. He identifies the victim as a fellow human being, though one posing a threat to him. For a very short time, they meet on the same plain, so to say, thus mutually affirming each other's existence and humanity. In contrast, when a drone shoots and kills a person, no such meeting takes place; hence, the humanity of the victim is denied or, at any rate, does not receive the acknowledgment it merits.

There is something appealing about this argument, though on reflection I don't find it convincing. First, it is unclear in what sense a helicopter pilot "affirms the humanity" of her victim when she targets and kills her from afar. Second, the argument sounds most appealing when one thinks of a physical, close confrontation between combatants, in which they see the faces of one other and, in some sense, thereby acknowledge their humanity. But most fighting has long lost this feature. Operators of cruise missiles don't see the faces of their victims, neither do pilots, nor tank operators. The victims of such weapons are no less "faceless" than those of drones.

The assumption underlying my objection was that arguments against drones must be powerful enough to explain why they are morally wrong without implying that conventional weapons, the legitimacy of which is universally accepted, are also morally wrong. Since the denial of such legitimacy would lead to a position close to pacifism, let's call the assumption in question the 'Non-Pacifist Assumption,' or 'NP'. I believe that most objections to drones fail because they contradict this assumption.

(b) Unfair or "dirty" killing

Maybe the sense of disrespect grows out of a sense of unfairness. Back to the person walking in his neighborhood and killed by a drone: one might see such killing as a case of "fighting dirty", probably because the victim stands no chance against the drone. But that would be in clear contradiction to NP because soldiers are similarly defenseless against F16s or long range artillery.

There seem to be two separate arguments here: One against unfairness in the sense of asymmetric military force, and one against unfairness in the sense of visiting death upon the enemy by using "dirty" measures and tactics. But both fail in terms of NP. To realize just how weak and unstable the argument from unfairness is, one should note its resemblance to the arguments raised a century or so ago against submarines and military aviation, or, much earlier, against the use of crossbows. Unless one wants to rule out machine guns (the modern version of crossbows), submarines, and jets, one cannot rule out drones on the basis of their being unfair or dishonorable means of warfare.

(c) Riskless killing as undermining the license to kill in war

In Paul Kahn's view, the morality of law is caught in a paradox. On the one hand, countries have a moral obligation to minimize the risk to their soldiers and to create what he calls an "asymmetrical situation" in which they totally overpower their enemies. On the other hand, beyond a certain threshold, such asymmetry undermines the very license to kill in war. Why is that so? Kahn contends that due to their young age and to the indoctrination and pressures from peers and superiors, most combatants are not morally guilty for their participation in war and, insofar as such guilt is concerned, they are no worse than non-combatants. If the mutual killing of combatants in war is permissible, it must have a different ground, which, in Kahn's view, is mutual self-defense; each side is defending itself from the threat posed by the other. But to say that each side poses a threat to the other is just a different way of saying that they impose a risk

on each other, or that both sides are exposed to some non-trivial risk when in combat. What follows is that when such mutual exposure to risk does not exist because the power relation between the warring parties is manifestly asymmetrical, the paradigm of war is inapplicable, together with the mutual license it entails to kill enemy combatants. "Without reciprocal imposition of risk," asks Kahn, "what is the moral basis for injuring the morally innocent"?

Kahn's argument for the mutual license to kill in war reflects a widespread intuition, according to which it is the willingness to die that creates the license to kill. Since the drone operator kills but does not live with the risk of sacrifice, she doesn't have the above license to kill enemy soldiers. Thus, the more warfare consists of drones and killer robots, the less justified these operators are in bringing death and destruction on their enemies.

This is a sophisticated argument against the use of drones, though I remain unconvinced. First, the tension with NP remains. Drone operators are not the only combatants whose risk is close to zero. The same is true for those who fire artillery or cruise missiles far away from their targets. Second, if incurring risk were a condition for engaging in warfare, then humanitarian intervention by third parties would hardly ever be justified. Kahn's view would entail that the only way to deal with humanitarian crises would be to turn to law-enforcement bodies, not to use military force.

Conclusion

There are other arguments against the use of drones which will have to wait for some other

day. I believe that the above discussion is sufficient to establish the moral advantage of drones over other more traditional tools of war. Although one must be cautious in making evaluations about the future, drone-centered campaigns seem much more humane when compared with the grand battles of the past. Judged against bombers, cruise missiles, and obviously against weapons of mass destruction, the drone may well be remembered in the annals of warfare as offering real promise for moral progress.



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