Targeted Killings Are Coming Back to the US

While most international organizations and foreign states have made attempts to explicitly fuse drones and targeted killing to already established norms, ethics, and rules of war, the United States has focused more on drones being something of a semi-covert tool of political means. In other words, drone war is not necessarily the exact same thing as conventional war. Once you blur the line on this basic fundamental categorization then nearly everything else becomes open to interpretation, including civilian versus military, target classifications, proportionality, and necessity.

The point being made here is that this ethical ‘standard,’ purposely blurred and contextual, is potentially dangerous as the rest of the world inevitably begins to catch up with the United States in drone technology. Even if the overall strategy of the U.S. Air Force is maintained, and America remains dominant in terms of drone evolution and innovation, it will not resolve the possible dilemmas when adversarial countries have drone technology capable of being weaponized at American targets. When that development comes to pass, and it will, the U.S. may be facing difficult situations if such countries apply the same kinds of blurred lines to their own internal drone strategies.

Consider International Human Rights Law:

“Under international human rights law two important principles govern all use of force: necessity and proportionality...A state killing is legal only if it is required to protect life (making lethal force proportionate) and there is no other means, such as capture or nonlethal incapacitation, of preventing that threat to life (making lethal force necessary). A further requirement is that the threat to life which the use of lethal force is seeking to forestall must be imminent.”

The United States has often justified its drone attacks under the above legal reasoning: the inaccessibility of the targets and degree of difficulty for human capture operations justify drone warfare. The exact same reasoning above, however, could easily be applied to justify drone attacks against America in the future. The only reason this has not been widely debated is because the U.S. seems to over-rely on the fact that such technological thresholds seem far off in the future. This is not exactly a compelling ethical or legal argument as to why the United States should not expect in its near future to be attacked by foreign drones. As a recent Brookings Institute report mentioned:

“To believe that drones will remain the exclusive province of responsible nations is to disregard a long history of weapons technology. It is only a matter of time before rogue groups or nations hostile to the United States are able to build or acquire their own drones to use them to launch attacks on our soil or on our soldiers abroad.”

While the above is quite prescient, it too contributes to the framing dilemma by automatically granting the U.S. the title of ‘responsible nation.’ It is not really about whether America is or is not a responsible nation with drone technology. The larger point is that it is clearly perceived to be ‘irresponsible’ in the eyes of those states that have fallen victim to American attacks.

The biggest blurred line to date is targeted killing. Initially, most felt targeted killing to be extrajudicial and akin to summary execution or assassination. Israel was the biggest proponent of the practice and even the U.S. took a fairly
critical stance to Israeli strategy. Interestingly, after 9/11, the American position became more liberal on targeted killing as a tactic in fighting terrorism. States like America and Israel were adamant about the pervasiveness, ambiguity, and lethality of terrorism. Consequently, international law needed to accommodate targeted killing as the best modern solution to this new threat that had become so powerful, unforeseeable, and undefined. The U.S. has a diplomatic habit of positioning its interests as something higher than pure foreign-policy and national security priorities. In so doing, it creates a de facto expectation whereby it has exclusive rights to exceptional behavior on the global stage. The obvious risk with such diplomatic calisthenics is that most other countries do not grant such exclusivity or exceptionality to the United States and American actions are therefore seen as potentially precedent-setting and norm-establishing, let alone resentment-generating.

The reformulation of targeted killing so that it is both legal and vague, having targets both included in and excluded from the law simultaneously, is not much of a danger as long as the United States maintains drone technology domination. Cracks in that dominance, however, carry stark consequences. Perhaps most perplexing is how the United States does not seem to consider the impact if the above legal formulation about targeted killing was applied by an adversarial state on American targets. It is politically thin ice if American confidence is based on presumed continued technical dominance and a self-declared ethical normalcy.

This perceived ethical strength is based on a rather tenuous sense of what constitutes ‘legal self-defense’ on the global stage. What is relevant is how blurring the line of legal self-defense to ethically justify drone attacks carries dangerous potential consequences for America: little emphasized is whether or not such loose interpretations of ‘self-defense’ sets problematic precedents for future drone holders, especially ones that were previously attacked by the United States. Is it truly implausible for a previously attacked state to launch an attack against the U.S.? To the best knowledge of this author the only reason this question is not addressed in scholarly and diplomatic circles today is because of two failures: first, they fail to imagine the day when adversarial states that have already been attacked with American drones will have their own drone technology capable of reaching and targeting American objectives and second, they believe there is great operational and reputational distinction across the globe between Bush and Obama. Data on these two factors, however, refutes this idea: Obama’s global reputation is by no means what it was in 2008 and his use of drones has been overwhelming compared to Bush.

As one astute observer recently noted, ‘too often, targeted killings by states look rather like crossing names off a Mafia hit list...In the final analysis, measured by the moral standards common to most societies, even targeted killings carried out within the framework of the present legal order often have traits that are more readily associated with criminal behavior than with acceptable government policy.’ Again, perception matters: the United States clearly does not want the rest of the world to think of its drone technology use as a highly technical Mafia assassin. But if asked, what would states such as Pakistan, Afghanistan, Yemen, and the like consider it? What ethical standards will these states employ if they one day obtain highly capable, weaponized drone technology? What general world-wide drone trends might emerge after an era epitomized by the U.S. being a bit too subjective and lacking in transparency? The literature that has begun to emerge, looking critically at drones, is more focused on technical aspects of the discussion and thereby missing these ominous ethical consequences. America might be wise to fear drone chickens coming home to roost.

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