Drone warfare and regulation

Introduction

Unmanned Aerial Vehicles (UAVs), commonly referred to as drones, are aircrafts with no human pilots aboard. In this case, however, we will specifically discuss UAVs used for military purposes, for example drone strikes and surveillance. In recent years, UAVs have redefined expeditionary warfare, and with technology in place, are used more than ever before. Drones have many benefits. Notably, they allow countries to conduct surveillance and attack groups that may be in remote locations without stepping on enemy territory. Supporters of drones emphasize that this technology reduces costs, keeps troops at home, and is more efficient and effective than any other. On the other hand, UAVs have also received a lot of criticism with critics questioning the moral implications associated with the use of drones. There have been many accounts from both children and adults bringing into light the psychological trauma associated with drone strikes, not to mention the countless reports of innocent civilians and children dying in these strikes. Despite the technological advances made, nations aren’t always sure of the identities of the drone strike targets. These kinds of drone strikes are called signature strikes, and have been used by agencies such as the CIA. In most cases, innocent lives are put at risk for having traits that are similar to those of a terrorist.

UAV Production & Development

The concept of an unmanned aerial vehicle can be traced as far back as 1849, when the Austrians strapped explosives to balloons and used them to attack the city of Venice. It wasn’t until World War I that UAV research took place. Despite the development and testing that took place, none of these prototypes made it past the testing phase. It wasn’t until World War II that these early UAVs were actively used. Both the Axis and the Allies used early remote piloted vehicles for aerial practice and small scale attacks. Nearly fifteen thousand drones were manufactured for the army during World War II.

By the 1960s, the United States had started developing more sophisticated drones. Surveillance UAVs were produced for the Vietnam War, and by the late 1970s, the US had conducted over 3400 surveillance flights. These drones were still very limited, the biggest problem being its short range which was hindered due to the UAVs’ operator needing to be in a plane near the drone. By the 1980s, Israel started to develop its own UAVs. The production of surveillance drones allowed the Israeli government to keep close tabs on neighboring countries. The two new drones designed added big improvements and made the drone much lighter than previous models. As a result, they were quickly adopted by many other countries. The two Israeli drones were called Scout and Pioneer, and were sold to many countries, allowing Israel to become the largest exporter of UAVs. The most well-known drone in the sky since 1995 is the
United States MQ-1 Predator drone, designed and manufactured by General Atomic, a defense contractor in California. Since then, the Predator has conducted successful drone strikes in numerous countries, and is still being used today.

**Current Situation**

To this day, there remains a lack of legislation that clearly sets international boundaries for drone usage, mainly because of its ambiguous place in Humanitarian Law. Many people against UAVs continue to argue for the lives of civilians. Critics claim that UAVs pose risks on civilians' lives and wellbeing, while advocates of the program argue that war isn’t meant to be easy. Although DISEC does not have the power to impose rules on unwilling countries, we must set a standard for which countries can strive towards in terms of balancing civilian safety and military interest.

Drone strikes continue to occur, and more countries are attempting to develop their own drone arsenals. Many countries are not willing to invest in a UAV program; instead they choose to purchase them from another country. The trading of drones has allowed countries like Israel, the largest exporter of drones, to continue investing in its drone programs, allowing for more sophisticated weapons. This scramble for better drones has led to the question of whether this could possibly lead to another modern arms race. In May of 2015, China declared it would manufacture 42,000 new UAVs, leaving some countries scrambling to acquire their own collection.

With the use of drones becoming increasingly popular, the question of whether drones should become an active part of UN peacekeeping efforts have also been raised. Though armed UAVs may link the negative stigma of “drones” to the United Nations, advocates for surveillance drones such as Jane Holl Lute, a former UN secretariat member and former Deputy Secretary of Homeland Security, believe that they can be helpful in tracking down militants in a certain area. Indeed, in the Democratic Republic of Congo, surveillance drones helped track down Tutsi rebels in the air, and are expected to be used more frequently in future peacekeeping efforts.

Legislation has, for the most part, been unchanged. Rules are vague, and at times contradict each other. Recently, however, more questions have been raised on the topic of drones, their usage, and their lack of transparency. The risk of illegal drone usage, along with the possibility of drones being sold to terrorist groups, has forced nations to start asking themselves tough questions. Part of the solution would be to enact a drone quota, limiting the production of drones to a level that all parties can approve of. It is also important that groundwork is laid down in order to help drone manufacturers verify buyers to be trustworthy, preventing drones from
reaching the black market or terrorist groups. It is just as important to clarify the definition and the intent of Article 51 in the UN Charter.

Civilian lives must be kept as a priority when conducting any kind of attack or strike. Minimizing drone collateral damage may seem like an obvious priority, but the lives of the innocent are often overlooked. Statistical data regarding the death count and number of injuries caused by a drone strike are often inaccurate or broad estimations; identities of those killed by UAVs often go unaccounted for as well. Creating accurate records and making them accessible to the international community is a must in order to lower future collateral damage.

Recent drone strikes, and personal accounts from those living in areas where drones are constantly hovering overhead, have prompted the eruption of many ethical questions about whether drone strikes are humane ways to combat militant groups. For the country using them, drones are very convenient. To begin with, UAVs are very cost-effective; according to reports from the American Security Project, a typical reaper drone costs around $6.48 million per unit and around $3250 per hour of flight, whereas a fighter jet, like the F-35 Joint Strike Fighter, costs around $91 million per unit and around $16,500 per hour of flight. Additionally, each soldier deployed in Afghanistan in 2012 cost the US $2.1 million each. Drones can also replace soldiers, preventing issues such as PTSD, loss of life or injury. Furthermore, in 2008, Pakistan’s government estimated that only three percent of people killed in drone strikes were civilians.

Unfortunately, the same benefits cannot be claimed for the people who live in the areas often targeted, where locals constantly live in fear of “death machines”. Mohammed Saleh Tauiman is a 13-year-old boy living in Yemen, who was interviewed by the Guardian in September of 2014. When Mohammed was 10, his father, Saleh Tauiman, along with his teenaged brother Jalil were killed in a drone strike. “They tell us that these drones come from bases in Saudi Arabia and also from bases in the Yemeni seas and America send them to kill terrorists,” said Mohammed, speaking of anger towards the US, “but they always kill innocent people. But we don’t know why they are killing us.” On January 26, Mohammed was killed by a drone strike in Hareeb. The UAV hit the car that Mohammed and his brother-in-law were in.

Unfortunately, this is just one of many cases. According to the Huffington Post, “Europe's politicians have voted by a landslide to propose a ban on US drone strikes that have killed thousands in Yemen and Pakistan, calling the killings ‘unlawful’.” Barbara Lochbihler, a Green MEP and chair of the Parliament's sub-committee on human rights, pointed out that "The resolution also stresses that EU member states should strictly refrain from participating in or facilitating extrajudicial targeted killings, for instance by sharing relevant information with countries such as the US.” Director Kat Craig of Reprieve Legal, a company that provides free legal and investigative support to those who have experienced extreme human rights abuses at the hands of the world's most powerful governments, told the Huffington Post that "this should
be a wake-up call to countries like the UK and Germany; they need to clean up their act not only by ensuring that they stop cooperating with extrajudicial killings, but also by pressuring the US for greater transparency and accountability.”

**Past UN/International Involvement**

Because of a lack of clear, direct international legislation on the topic of drone usage, interpretations tend to give room for argumentation on both sides. Despite this, indirect yet relevant laws do exist that lay the legal foundation for the argument over drones. It is through measures like these that the UN has involved itself in the issue, and will likely continue to make its mark.

A key element of this discussion is Article 51, an article often used to prove that drone usage in other countries is acceptable under international law. A part of the Chapter VII of the UN Charter, it was reaffirmed by the International Court of Justice (ICJ) in 1986 through its decision on the Nicaragua v. United States of America Case, concerning American mining and support of rebels. It was also used by the United States to prove the legality of the Vietnam War. Article 51 states “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.” Basically it provides a nation with the right to self-defense when it has been attacked. It only applies if one of the following conditions is true, (1) the state agrees to the use of force within its borders, or (2) the targeted group was responsible for an act of aggression against the targeting group and the state in which the targeted group is currently in is unwilling or unable to control the threat themselves. Some interpretations of Article 51 also believe that the article allows for anticipatory self-defense (self-defense in response to an act of aggression that has not yet occurred). This interpretation allows a nation to attack a targeted group with only suspicion that the group may commit an act of aggression in the future.

Under humanitarian law, however, the targeted individual must either be directly participating in hostilities with the nation conducting the drone strikes or posing an imminent threat that only lethal force can prevent. Being suspected of a connection to a militant organization is not sufficient evidence for lethal force; therefore valid evidence must exist before any attack may be executed. The CIA’s “signature” drone strikes, where the suspect need only to fit the profile of a terrorist (i.e. height) in an area where terrorists are known to operate, is not legally adequate to make someone an acceptable target for death.
Article 6(1) of the International Covenant on Civil and Political Rights states that no one shall be arbitrarily deprived of his life, even in times of armed conflict. Although this article has the same exceptions as Article 51, Article 6(1) does not apply if (1) the state agrees to the use of force within its borders, or (2) the use of force is used in self-defense in response to an armed attack or an imminent threat, where the host state is unwilling or unable to take appropriate action. Subsequently, militant group members that the United States is not involved in armed conflict with are therefore not lawful targets.

Possible Solutions and Controversies

Whether or not the UN should assert a firm stance on military drone usage is a major controversy that needs to be addressed; consequently, should a firm stance be beneficial, the next question is what that stance should be. There are many possible courses of action, ranging from complete support and incorporation of drones to UN efforts to a total ban, as well as continued silence on the issue. Any direction within this spectrum will support some countries and hinder others, and it is therefore a balancing act of a number of key issues including, but not limited to military development, technological development, and humanitarian responsibilities.

Militarily, drones are obviously beneficial, performing strikes without endangering troops. Ethically, the separation of killing from killer is rather questionable, although no more disconcerting than the idea of killing itself. If a terrorist would be killed anyway, why not use a simpler and safer weapon? Moreover, the area still has great room for development, and innovations in drone technology could continue to revolutionize not just warfare, but other aspects of the world. Drones can only be beneficial as a military technology, and to hinder their use would also be to hinder the development of technology and the furthering of human creativity.

However, drones are clearly to the detriment of those in high-traffic areas. Although cleaner killings are arguably more ethical, the Post Traumatic Stress Disorder too often associated with exposed to drone usage cannot be ignored. Additionally, errors in drone use, although possibly fixable through further development, can result in unintended death; the direct assassination of an innocent bystander seems somewhat different from unpreventable deaths in an uncontrollable strategic bombing.

Questions to consider

1. Are drones lawful? Do they comply with the obligation to take care of civilians?

2. Should drone use be restricted by the international community?
3. What could the UN do to restrict the use of UAVs? May they only be employed during UN mandated operations?

4. What can be done to prevent accidental deaths of civilians?

5. How can the country operating a drone strike be made legally responsible?

6. How to cope with drone strikes outside of legally declared warzones?

7. How can the use of drones be made more accountable and transparent?

8. How can the peaceful uses of drone be protected while at the same time the unlawful use needs to be limited?

Additional Sources

- A comprehensive database with statistics regarding known and documented drone strikes https://www.thebureauinvestigates.com/category/projects/drones/drones-graphs/
- An interactive map that maps out recent U.S. drone strikes in Pakistan along with reports of said strikes http://www.theguardian.com/news/datablog/interactive/2012/aug/02/drone-attacks-pakistan-map
- A quick YouTube video that summarizes the pros and cons of drone warfare https://www.youtube.com/watch?v=ORrkkq8M0I

References: