



# Executive Summary

Strategic Studies Institute and U.S. Army War College Press



## LETHAL AND LEGAL? THE ETHICS OF DRONE STRIKES

Dr. Shima D. Keene

In the last 10 years, the use of drones, or unmanned aerial vehicles (UAVs), has increased exponentially. Drone technologies make warfare cheaper and easier, as well as more efficient, by transcending human limitations. Furthermore, a drone is dispensable and incurs much less political cost when shot down or “killed” than would a conventional aircraft with pilot. But the use of drones for targeted killings has generated significant controversy. While supporters claim that drone warfare is not only legal but ethical and wise, others have suggested that drones are prohibited weapons under International Humanitarian Law (IHL) because they cause, or have the effect of causing indiscriminate killings of civilians, such as those in the vicinity of a targeted person.

The main legal justification made by the Barack Obama administration for the use of armed drones is self-defense. However, there is ambiguity as to the extent to which the law of self-defense can be applied to justify more recent attacks by the United States. In order to determine the legality of armed drone strikes, other factors such as *jus ad bellum* and *jus in bello*, sovereignty, proportionality, the legitimacy of individual targets, and the methods used for the selection of targets must also be considered.

Even then, determining the legal status of drone strikes is far from straightforward, and there is no central legislative body or controlling authority for international law to provide guidance. Furthermore, drone strikes fall into a gray area between law enforcement and warfare. In warfare, drones would be used in the course of battle, and their use would fall under strict *jus in bello* criteria and be governed by IHL. But their current usage by the United States

can often be argued to fall within the category of law enforcement—regardless of whether the agency operating them is traditionally thought of as a law enforcement agency. The war on terror, which was a main driver for the greatly expanded use of drones, is sufficiently dissimilar from traditional conventional warfare that some tactics adopted are very similar to those used by police to tackle criminal gangs.

The ethical framework is also ambiguous. One justification is the reduced amount of collateral damage relative to other forms of strike, as real-time eyes on target allow last-minute decisions and monitoring for unintended victims, and precise tracking of the target through multiple systems, which provide for further refinements of proportionality. However, the definition of “target” often makes it difficult to assess whether the victims were legitimate targets or unrelated civilians. Furthermore, evidence is emerging of a less quantifiable form of collateral damage to the innocent civilian populace: that of psychological terror at the prospect of ubiquitous and unannounced death delivered by drones. Besides the inevitable destruction to property, local populations in areas which have received UAV strikes live in the fear that, due to technical error or faulty intelligence, they may all be targets. These factors combined may do more to fuel terrorism than to counter it.

But a further challenge when attempting to assess the level of collateral damage is a lack of transparency. There can be no informed discussion of whether drone strikes do, in fact, reduce collateral damage, and thus no independent ethical debate, if the detailed assessments and statistics are not publicly available.

Another important factor which feeds in to ethical considerations is that the conflicts in which drone strikes are being used have no endgame and no victory. In these ways and others, the ambiguity between traditional and asymmetric warfare which is a defining feature of the new security environment also extends to the use of drones.

The purpose of this monograph is to explore the answers behind three key questions: First, is drone use legal? Second, is it ethical? Third, is it effective? Each will be examined in turn. The policy recommendations provided aim to assist planners of future operations in weighing the benefits of drone warfare against legal and ethical considerations and medium- and long-term second order effects, in order to ensure that the employment of drones accomplishes the intended goals, as opposed to violating American and international legal and ethical norms or doing more harm than good by encouraging the terrorism that it is attempting to counter.

\*\*\*\*\*

More information about the programs of the Strategic Studies Institute (SSI) and U.S. Army War College (USAWC) Press may be found on the Institute's homepage at [www.StrategicStudiesInstitute.army.mil](http://www.StrategicStudiesInstitute.army.mil).

\*\*\*\*\*

Organizations interested in reprinting this or other SSI and USAWC Press executive summaries should contact the Editor for Production via e-mail at [SSI\\_Publishing@conus.army.mil](mailto:SSI_Publishing@conus.army.mil). All organizations granted this right must include the following statement: "Reprinted with permission of the Strategic Studies Institute and U.S. Army War College Press, U.S. Army War College."



**This Publication**



**SSI Website**



**USAWC Website**