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978-1-107-66338-1 — Drone Wars
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Introduction

PETER L. BERGEN AND DANIEL ROTHENBERG

Drones are the iconic military technology of the current conflicts in Afghanistan, Pakistan, and Yemen. They have become a lens through which US foreign policy is understood, as well as a means for discussing key issues regarding the laws of war and the changing nature of global politics. In part, this is because drones involve new ways of projecting lethal force that challenge accepted rules, norms, and moral understandings. They enable strikes both within and outside of established war zones, highlighting divisions between the activities of military and intelligence services. They are controlled by pilots located half way around the world, which raises questions about the implications and possibilities of remote warfare. They engage in precision strikes yet harm civilians, opening discussions on the legitimacy, ethics, and legality of targeted killing.

Drones have also captured the public imagination. Stories about drones draw in viewers and readers interested in current affairs and foreign policy. They play a central role in defining conflicts that have continued for well over a decade, minimizing the risks of those that deploy them and expanding the reach of counterterrorism operations. Increasingly, drones appear in movies, television, and multiple forms of popular culture. Their sleek, stark appearance is visually striking. Their lack of an on-board pilot touches on deep-seated fears regarding the rapid advance of technology and a possible future of autonomous killing machines. These and other issues stimulate debates on drones that appear to reveal and heighten political divisions. Polls show that the American public largely supports the US deployment of armed drones abroad, even as significant majorities in other countries strongly object to these policies. Yet when Americans consider the possibility of domestic drone deployment, especially by the state, profound anxieties emerge.

This book addresses many of the issues raised by armed drones through a series of essays by legal scholars, journalists, government officials, social

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scientists, foreign policy experts, and others. It is premised on the idea that today's drone wars provide an important opportunity for reflecting on global politics, technological innovation, and conflict within our rapidly changing world. The book is divided into four thematic sections that cover distinct though interrelated elements of drone use, policy, history, meaning, and impact. Each section begins with a personal narrative describing direct experiences with drones. This grounds larger policy discussions with a recognition that, in the end, drone deployment affects individuals and their communities on all sides of the conflict in significant and often transformative ways.

The first section reviews the impact of drones on the ground, with a focus on Afghanistan, Pakistan, and Yemen. It opens with an account by journalist David Rohde (formerly of the *New York Times*, now with Reuters) of a seven-month period when he was held by members of the Haqqani Network in Pakistan. He recounts his captors' fear of drones as well as their suspicions that local residents were spies secretly guiding attacks. This is followed by a chapter by Peter L. Bergen and Jennifer Rowland of New America, which discusses CIA drone strikes in Pakistan and Yemen from 2002 through 2013. The information they analyze has been gathered and cross-referenced from multiple news sources, revealing significant conclusions on drone strikes, civilian casualties, and the impact of these attacks on al-Qaeda and the Taliban. Next, Sarah Holewinski, former executive director of the Center for Civilians in Conflict, examines the impact of drone strikes on civilian populations, suggesting that current policies have serious and often poorly addressed consequences for local communities. She considers the secretive and often ambiguous process of targeting and highlights the need for greater transparency and accountability. Christopher Swift, a lawyer and fellow at the University of Virginia Law School's Center for National Security Law, writes about the drone campaign in Yemen based on fieldwork and interviews with tribal leaders, Islamist politicians, Salafi clerics, and others. He argues that understanding the impact of drone strikes in the country requires a contextually sensitive review of how al-Qaeda and its allies operate, using popular resentment as a key means of local recruiting. This approach reveals the political and operational limits of drone warfare in Yemen, with implications for drone use in other parts of the world. Finally, Saba Imtiaz, a Pakistani journalist, reviews what people in her country think about drones, outlining the history of local discussions and media reporting on US drone policy. She argues that the debate is more complicated than opinion polls suggest and is deeply entwined with local party politics, domestic divisions, and Pakistan's struggles to assert its sovereignty and define an inclusive national identity.

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The second section considers how drone deployment engages the efficacy and value of the laws of war for regulating current conflicts. It begins with a narrative from a drone pilot operating out of Nellis Air Force Base in Las Vegas, Nevada. He describes the intimacy of drone warfare in which he surveils targets for long periods of time, following the lives of those he may later attack. He also discusses the complexity of modern warfare, in which just after completing a combat mission he might drive home to his family, shop at a mall, or attend a party or baseball game. Next, Charles Blanchard, former General Counsel for the US Air Force, critiques a series of common misunderstandings of drones, which he terms "remotely piloted aircraft," or RPA. He explains that drones are not unmanned in that they require large teams of professionals to perform their various functions, that they are deployed by the military in full accordance with domestic and international laws, and that their value comes from their role as one tool among many within a complex, integrated military strategy. In the next chapter, William C. Banks, of Syracuse University College of Law, uses the case of a drone strike in Yemen against Anwar al-Awlaki, a US citizen, to examine the legal basis for targeted killings. He reviews who can be targeted outside of traditional battle spaces and when, if ever, American citizens may be killed. Next, human rights expert Naureen Shah considers the role of the US military's Joint Special Operations Command (JSOC) in conducting drone strikes, arguing that there is no longer a marked separation between the military's actions in clearly defined war zones and the CIA's covert strikes in Pakistan, Yemen, and elsewhere. She suggests that JSOC's highly secretive nature raises questions as to the legality of the US military's drone operations and may signal a dangerous trend of blurring the traditional divisions between the military and intelligence services. Then journalist Tara McKelvey of the BBC profiles Harold Koh, a fierce opponent of George W. Bush administration's terrorism policies and the former Dean of the Yale Law School, who shifted his position from criticizing US drone strikes and counterinsurgency policies to affirming their legality during his time as the Legal Advisor at the US Department of State.

The third section reviews the implications of today's drone wars for larger policy debates. It opens with a narrative from Michael Waltz, a Special Forces officer who led missions in Afghanistan at a time when drone deployment there was expanding. He outlines the benefits of drones in providing real-time intelligence during combat while also suggesting that an overreliance on new technologies creates a more risk-averse military and may present obstacles to working with local populations. In the next chapter, P. W. Singer, an expert on national security based at New America, describes the "five deadly flaws" of addressing new military technologies. He argues that the transformative nature

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of drones and other emerging technologies, coupled with the extraordinary pace of their innovation, require that we openly confront the key legal, ethical, and policy issues they raise. Rosa Brooks, a Georgetown University law professor and former Pentagon official, questions the current fixation on drones over an assessment of the policies governing their use. She argues that current debates mask important questions regarding the ethics and efficacy of drone deployment and calls for a more open and honest policy discussion. Next, Rhodes Scholar Megan Braun writes that drones are not revolutionary but rather represent a particular technology that appeared at a unique moment when their capacities matched the needs of the US government, particularly the CIA. She sees the development of a program of targeted killing as more significant than the drones themselves and wonders about the nature of their future impact. David True, a professor of religion at Wilson College, argues that while drones provide new capabilities and powers, they also raise important ethical questions. He explores these issues by reviewing US drone policy in relation to just war theory and the realism of Reinhold Niebuhr. He argues that there has been inadequate clarity and care in developing an ethically engaged approach to drone deployment, suggesting that the costs of this failure are significant. Then, Peter L. Bergen and Jennifer Rowland consider the growing prevalence of drones around the world. Their chapter includes a detailed table, based on hundreds of news reports and government documents, which reveals that more than eighty countries currently operate drones. The chapter suggests that while the United States enjoys a relative monopoly on armed drones at present, this situation will not last long.

The fourth and final section considers what drone deployment teaches us about the future of war. It begins with the words of "Adam Khan," a pseudonym for a resident of Pakistan's tribal areas along the border with Afghanistan, who was interviewed by former *New York Times* reporter Pir Zubair Shah. Khan reflects on both the accuracy of drone attacks and the fear and uncertainty of living under their constant threat. In the next chapter, Werner J. A. Dahm, former Chief Scientist of the US Air Force, reviews the current and emerging technology of drones. He focuses on how drones present significant new capabilities for intelligence, surveillance, and reconnaissance; how there are no near-term plans to remove people from the "kill chain"; and why within a decade drones are likely to become many times more powerful with greater capacities, longer flight durations, and significantly expanded capabilities. Then Konstantin Kakaes, a journalist and former Fellow at New America, reviews the little-known history of drone development, from the early twentieth century through the present. He traces the testing and use

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of drones in the First and Second World Wars, multiple secret drone programs during the Cold War, their extensive use in the Vietnam War, and more recent deployment by Israel and the United States. By reflecting on past drone programs, those that failed and those that succeeded, he argues that significant future advances are inevitable, although they are likely to proceed at a slower pace and in a different manner than what is promised by many drone advocates. Samuel Issacharoff and Richard Pildes, both professors at New York University School of Law, describe how drone deployment reveals a fundamental transformation in the practice of war. They suggest that while traditional understandings of the laws of war define enemies based on status, emerging forms of war target opponents as individuals through a determination of personal responsibility within complex conflicts involving non-state actors operating in multiple locations. They argue that current understandings of the laws of war are inadequate for addressing these challenges and that we need to acknowledge this shift in order to design new and more appropriate military and legal regimes. Brad Allenby, a lawyer and engineering professor at Arizona State University, explores the degree to which drones represent a transformative technology that challenges established understandings of policy, strategy, and the laws of war. He argues that a deeper discussion of drones requires focusing attention away from the technology itself and toward an engagement with how innovations interact and co-evolve with society and its institutions. In the final chapter, Daniel Rothenberg, a professor at Arizona State University, argues that drones signal a shift in the nature of conflict toward "data-driven warfare." He suggests that this is seen most clearly in the use of signature strikes, which illustrate a newly invasive form of projecting lethal force linking substantive advances in information collection and analysis with remote killing. Facing these challenges requires rethinking the laws of war and developing, sooner rather than later, new rules for regulating conflict.

Taken together, the personal narratives and chapters presented here provide an overview of key legal, policy, and ethical issues associated with today's drone wars. The goal of this book is to encourage and enable an in-depth discussion of drone deployment and its broad implications for the changing nature of war and politics within a shifting global landscape. Some of the chapters provide insight into the current use of drones and their role within today's conflicts. Others focus on drone history, broad policy considerations, and the impact and legality of targeted killing. Still others suggest that drones are a useful way for understanding larger issues associated with the inadequacies of existing laws and norms and the profound challenges of facing a dangerous and rapidly changing world.

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One thing is certain: the period during which the United States and a handful of other countries control the use of militarized drones is coming to an end. With increasing frequency and impact, drones will be deployed by an ever-larger number of states and may also be used by various non-state actors. In addition, the types of drones deployed will expand considerably, along with significant advances in their capabilities. For these reasons, it is important to reflect critically on today's drone wars as a means of preparing ourselves for the future. This is true as regards possible revisions to the laws of war, as well as serious reflections on the social and political impact of emerging technologies and changes in global policy and strategy. For these reasons, there is a pressing need to reflect critically on today's drone wars. This book is an effort to contribute to this process.

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PART I

DRONES ON THE GROUND

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1

My Guards Absolutely Feared Drones

Reflections on Being Held Captive for Seven Months by the Taliban

DAVID ROHDE

I was kidnapped by the Haqqani Network and held captive for seven months, from November 2008 to June 2009, in North and South Waziristan.

My guards absolutely feared drones.

They would watch very closely whenever a drone was overhead and tracked how many drones appeared. They thought that when several drones gathered overhead, a strike was about to happen.

They avoided gathering in groups because they feared drone strikes. We were told not to hang our clothes on the walls to dry because they were afraid that it would appear as if a large number of people were there and this would attract the attention of the drones, which would lead to an attack.

However, in Miranshah, North Waziristan, they still managed to carry out trainings. Two of my guards would stay with me and two would go off and learn how to make roadside bombs. So, despite the fact that the drone strikes were being carried out, they did the trainings, just in much smaller numbers.

I would say that during the time I was in captivity there were two dozen drone strikes in North and South Waziristan. In February 2009 there was an attack in South Waziristan that reportedly killed thirty people. Among them were Uzbeks, who my guards said were known for teaching Afghani and Pakistani Taliban how to make bombs. In that case the strikes seemed accurate in terms of those targeted and killed. In general, the strikes angered my guards and the Taliban.

The closest drone strike to me was on March 25, 2009, in Makeen, South Waziristan, a stronghold of Biatullah Mehsud, the Pakistani Taliban leader. Two missiles struck two vehicles that were driving by the house where we were being held captive. The strikes were so close that pieces of shrapnel landed in the yard where we were and the explosion blew out the plastic sheeting over the windows. The attack killed seven militants, both Pakistani and foreign.

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The guards were absolutely furious.

I saw on the ground what a terrifying situation the drones created among the Taliban. They were paranoid that all local people were spies and that they were secretly guiding the drone strikes. Once they blamed a local farmer for being an American spy. They thought that he somehow guided the strike on the two vehicles in Makeen and detained him. There were all these wild theories about secret GPS devices that enabled the attacks. They believed this farmer hid a GPS in the spare tire of his car.

He said he was innocent, but a group of foreign and Pakistani militants tortured him. First, they chopped off his leg and then disemboweled him, at which point he "confessed" to being a spy. I was told that they then decapitated him and hung his body in the market in Makeen as a warning to other villagers.

When we were held in Miranshah, North Waziristan, we were in the house of a local intelligence chief for the Haqqanis. He would come home at night and talk about how that day they had hung local people who were spies. They had the cell phones and other personal possessions of the people that they killed.

They were convinced that everyone who was not with them was against them.

I felt terrible for the locals because of what they were going through as a result of the drone strikes.

My captors complained about civilian casualties. Yet I had a general sense that the drone strikes were accurate. While at times there were civilians killed, they successfully targeted militants.

Nevertheless, I did not hear of senior militants being hit.

My main captor was Badruddin Haqqani, who is the younger brother of Siraj Haqqani. I met with Badruddin many times. He was very careful. He would often move around Miranshah on foot or sometimes drive around in his own vehicle. For some reason it took years for the Americans to target him. So, from my anecdotal evidence, it appears that the drones mainly target lower-level militants.

What also struck me was the level of hatred I found in North Waziristan toward President Obama, because the locals linked the increase in drone strikes to his administration. I watched one Taliban commander spit at a picture in the Pakistani newspaper of Barack and Michelle Obama dancing at an inaugural ball.

Overall, the Taliban saw the drones as a cowardly way to fight. They said, "Why don't the Americans come fight us on the ground?"

As someone who has done many embeds on the Afghan side of the border, I know that every member of the American military would love to cross the

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border into Pakistan. I understand how frustrating it must be for the American soldiers. Still, the Taliban interpreted the use of drones as a way to avoid a face-to-face fight.

As a result, my Afghani Taliban guards vowed to carry out revenge attacks in the United States. They could have been just talking. These could have been bluffs or idle threats. Still, they were very angry about the drone strikes and were eager to get back at the United States.

Overall, the drone strikes seemed to create a stalemate. They limited operations and killed some senior militants. However, they certainly did not stop these groups from being active in the tribal areas.

I was left with the impression that drone strikes are not a long-term solution. The only answer is to get the Pakistani military on the ground in North Waziristan and in key areas of South Waziristan. Drones alone will not solve the problem.

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