

# Inquiring Minds topic for 8 February 2013

**Albert E. Myers, Moderator**

**Note: Topic proposed by Colleen Curry:**

## **Morality and Modern Technology in Warfare**

**Colleen writes: “I watched ‘Drones’ on NOVA. There are hobbyists who are making small (7-8” across) helicopter drones with cameras to do neighborhood watch or spy on neighbors, etc. There are large drones which are hard to detect and intercept that can be flown to Afganistan and be controlled by very young military men at the push of a button here in the U.S. They say it is like a game, but the precision of the kill is not perfect and may also take out innocent bystanders in ‘the wrong place at the wrong time.’ It all sounds futuristic but it is in real time. So will Inquiring Minds participants with a modern scientific point of view discuss with us the moral and ethical implications – also the need to care for the kids who push the button and see the reality. Since I was young I have hated that we send the best and the brightest out to be killed – thinking ‘Can’t we send robots?’ I guess I should be gratified now. . .”**

**Colleen suggests these pieces as background for our discussion:**

### **Game of Drones - by Gene Healy**

This article appeared in [\*The Washington Examiner\*](#) on June 12, 2012.

Last week, in its report on the 2013 Defense Authorization bill, the Senate Armed Services Committee called for allowing drones to operate “freely and routinely” in U.S. airspace.

“Large numbers of [UAVs] now deployed overseas may be returned to the United States as the conflict in Afghanistan and operations elsewhere wind down in coming years,” the Committee Report read.

24 Drones “have clearly demonstrated their immense value to DOD military capabilities in  
25 the global war on terrorism,” and they’re increasingly “contributing to missions of  
26 agencies and departments within the United States. ... The pace of development must be  
27 accelerated,” the report concluded.

28 Technology forged for gathering battlefield intelligence and waging war against  
29 terrorists is coming home — and the powers that be seem pretty blithe about it.

30 “It’s great!” Virginia Gov. Bob McDonnell said on WTOP’s *Ask the Governor* program  
31 last month: “That’s why we use [UAVs] on the battlefield .... If you’re keeping police  
32 officers safe, making it more productive and saving money... it’s absolutely the right  
33 thing to do.”

34 “Drones are a legitimate form of law enforcement,” Rep. Peter King, R-N.Y., told  
35 CNN’s Candy Crowley Sunday: “You don’t have an expectation of privacy if you’re in  
36 the open.”

37 True enough: as Stanford Law’s Ryan Calo notes, under current law, “citizens do not  
38 enjoy a reasonable expectation of privacy in public, nor even on the portions of their  
39 property visible from a public vantage.”

40 That’s a problem. Drone technology dramatically enhances the government’s ability to  
41 monitor citizens in public places and on their own property — and privacy law hasn’t  
42 kept pace with technological change.

43 Law enforcement agencies already have access to some 146 commercial drones — and  
44 that may be just the beginning as drones get smaller and more capable.

45 Defense contractor AeroVironment is perfecting the “Nano Hummingbird,” a drone that  
46 weighs less than an AA battery and is capable of alighting on a window ledge to record  
47 video.

48 The “Gorgon Stare” system, under development by the Air Force, features a drone-  
49 mounted, Argus-eyed camera array designed for full-spectrum surveillance.

50 “Gorgon Stare will be looking at a whole city, so there will be no way for the adversary  
51 to know what we’re looking at, and we can see everything,” an Air Force officer  
52 bragged to the Washington Post. “The Department of Homeland Security is exploring  
53 the technology’s potential, an industry official said.”

54 Creepy? Sure. But the dystopian fears these metal sentinels provoke might force us to  
55 get serious about new legal protections. Privacy violations in the form of massive data  
56 mining and the like “tend to be hard to visualize,” Stanford’s Professor Calo observes.

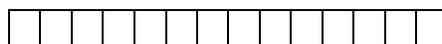
57 The specter of domestic drones “could be just the visceral jolt society needs to drag  
58 privacy law into the 21st century.”

59 Indeed, Americans are becoming increasingly unsettled by this sort of military “mission  
60 creep.” In February, a Rasmussen poll found voters opposed to the use of drones for  
61 domestic surveillance, 52 to 30.

62 Some legislators are taking note. Last week, Rep. Austin Scott, R-Ga., introduced a bill  
63 to restrict domestic use of drones. His “Preserving Freedom From Unwarranted  
64 Surveillance Act” leaves space for legitimate public safety uses of UAVs in “exigent  
65 circumstances” like hostage situations or missing person hunts. But it provides that “a  
66 person or entity acting under the authority of the United States shall not use a drone to  
67 gather evidence or other information except to the extent authorized in a warrant.”

68 That’s a start — but we’ll need continual vigilance to ensure that technologies  
69 developed for foreign wars aren’t turned into tools of domestic social control. As James  
70 Madison warned at the Constitutional Convention, “The means of defense against  
71 foreign danger have always been the instruments of tyranny at home.”

72 Gene Healy is a vice president at the Cato Institute and the author of *The Cult of the*  
73 *Presidency: America’s Dangerous Devotion to Executive Power.*



74 **Point counterpoint: debating the morality of drone warfare – by Michael Desch**

75 The United States currently employs armed unmanned aerial vehicles (UAVs), commonly known as  
76 drones, in targeted killing military operations. The flight path of UAVs is either controlled  
77 autonomously by computer systems in the drone itself, via the remote control of a navigator, or by a  
78 pilot on the ground or in another vehicle. Here, two professors debate the question: **Is the use of**  
79 **drones for targeted killings ethical?**

80 **The right to life in war and peace: A legal and moral critique of targeted killing**

81  
82 Since 2002, the United States has conducted a relentless campaign of killing persons using military  
83 force outside of zones of armed conflict. President Obama has since increased the pace of killing  
84 dramatically and has expanded the authorized targets to persons or groups, including Americans,  
85 acting suspiciously in certain countries. To distinguish such killing from assassination, the term  
86 “targeted killing” is often used.

87 At the time of writing, as many as 4,400 people have been killed by the United States intentionally or  
88 unintentionally in targeted killing operations, many of which operations are executed by armed  
89 unmanned aerial vehicles (UAVs).

90 How should we assess this killing and the growing capacity and interest in killing far from armed  
91 conflict zones? Neither law nor morality condones killing people suspected of involvement in  
92 terrorism. It may seem to the president that using force in such a situation is justified morally despite

93 the law but such an assumption ignores the fact that the law restricting the use of force is derived from  
94 fundamental moral and ethical considerations.

95 Contemporary rules on the use of force may be traced to the Just War Theories of Saints Augustine and  
96 Aquinas. Augustine drew on Aristotle and Cicero for the conception that peace is the normal state and  
97 that violence is justified only to restore peace. Moral philosophers continue to teach that the taking of  
98 human life may only be justified to protect human life. In other words, the exceptional right to resort to  
99 force rests squarely on a justification of necessity. Law and philosophy guide us in understanding what  
100 *necessity* means in the context of justifiable force.

101 To support these statements, I need to begin with the fundamental, legal and moral principle of the  
102 human right to life. This is a fundamental, if not *the* most fundamental legal and moral principle. It is  
103 reflected in the Decalogue in the commandment not to kill and throughout the Gospel in Christ's  
104 teaching to love one's neighbor, to turn the other cheek, to put away swords, and to seek peace.

105 In current international law, the right to life is affirmed in all human rights treaties, including, most  
106 importantly, the International Covenant on Civil and Political Rights, Article 6: "Every human being  
107 has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived  
108 of his right to life."

109 The affirmative right to life is where we begin. The justification for any intentional taking of life is  
110 found in exceptions to the basic right. And, as is appropriate, the justifications are narrow.

111 In peace, a state may only take a human life when, according to the European Court of Human Rights  
112 in the case of *McCann v United Kingdom*, it is: "absolutely necessary in the defence of persons from  
113 unlawful violence."

114 Only when the violence amounted to an armed conflict could the use of missiles, bombs, tanks,  
115 grenades, and the like become permissible. When excessive use of force outside of armed conflict  
116 zones is significant it also violates *jus cogens* norms. Widespread killing not justified by absolute  
117 necessity in peace or reasonable necessity in armed conflict would qualify as murder according to *jus*  
118 *cogens* norms. This is the type of killing associated with death squads, but could also be the taking of  
119 4,400 lives over ten years far from armed conflict zones.

120 Within the teaching of the Roman Catholic Church, there is no room for expanding the justifications to  
121 kill. My Church has supported with passion and eloquence the establishment of a peace order through  
122 international law and institutions against war. In 1963, Pope John XXIII issued his powerful  
123 encyclical, *Pacem in Terris*, in which he extolled the United Nations and its Charter rules against resort  
124 to military force. In 1965, Pope Paul VI pleaded at the United Nations for "[n]o more war, war never  
125 again! Peace, it is peace which must guide the destinies of people and of all mankind."

126 The moral and religious case against expanding the right to kill seems unassailable, but if it were,  
127 would counter-terrorism experts be able to make the case that such killing is effective in preventing  
128 terrorism? In law, ethics and effectiveness are integral in assessing legality. A large number of dead is  
129 not, of course, a criterion of success. Both President Bush and Obama have indicated that this killing is  
130 being carried out to suppress terrorism. For this goal, however, independent counter-terrorism experts  
131 provide evidence that killing of this kind does not have longer-term positive effects.

132 Words – “propaganda” in the terminology of the major public – have led to the popularity in the  
133 United States of killing terrorism suspects. This is sad to acknowledge given President Obama’s public  
134 commitment to Christianity, his years as a law professor, his elite education, his experience in  
135 international relations, and, of course, his receipt of the Nobel Peace Prize. But it is the reality.

136 *Mary Ellen O’Connell is the Robert and Marion Short Professor of Law and Research Professor of*  
137 *International Dispute Resolution at the University of Notre Dame. The statements above are excerpts*  
138 *from an address given to the Institute for Theology and Peace. They are reprinted here with the*  
139 *author’s permission.*

#### 140 **Two cheers for drones: The ethics of UAVs in the war on terror**

141 I have been critical of many facets of President Obama’s national security policy during his first term.  
142 But on the question of the use of drones as the weapon of choice against the international terrorist  
143 organization al Qaeda, I am happy to offer, if not a full throated endorsement of the Administration’s  
144 strategy, at least two hearty cheers for it on ethical grounds.

145 In the Catholic tradition, the use of military force is ethical if it meets the criteria of both *Jus ad Bellum*  
146 (going to war for the right reasons) and *Jus in Bello* (once in war, fighting it “justly”). The Obama  
147 Administration’s drone war against al Qaeda satisfies both criteria in my view.

148 Given that al Qaeda declared war on us on February 1998 and launched a series of escalating attacks  
149 on our embassies, warships, and finally our territory itself on September 11, 2001, our military  
150 response fits the requirements of a just decision to go to war, which include that it be conducted by the  
151 proper authority (the U.S. government), with right intention (to destroy al Qaeda), that it have a  
152 reasonable chance of success, that the end be proportional to means employed, and that it be the last  
153 resort.

154 Indeed, on these last three counts, Obama’s drone war has been ethically superior to the Bush  
155 Administration’s strategy of waging a global war on terror (a decidedly indiscriminate target) by  
156 toppling unfriendly regimes in the Middle East (whether they were in cahoots with al Qaeda or not)  
157 and trying to plant democracy there as an antidote to terrorism (hardly a goal we can expect to  
158 achieve).

159 As events in Iraq and Afghanistan have confirmed, this approach never had much chance of success,  
160 the huge loss of civilian lives in both countries (110,000 to 120,000 in Iraq, about 14,000 of which  
161 were attributable to coalition forces; and 13,000 in Afghanistan, over 3,000 of which were caused by  
162 coalition forces) made the objective in each case well out of proportion of the costs, and was clearly  
163 never the last resort, especially in the war of choice in Iraq.

164 In terms of conducting the war justly through discriminate and proportional operations, Obama’s  
165 approach has also been more in accord with the Tradition’s requirements. Indeed, armed Unmanned  
166 Aerial Vehicles (UAVs) are among the most discriminate of all weapons. By arming the Predator  
167 drone – a highly discriminate surveillance UAV — with AGM-114 Hellfire air-to-ground missiles,  
168 which are both highly accurate (they are so accurate that they reportedly can be guided into a building  
169 through a window), and have a relatively small (20lb. high explosive) warhead, the system facilitates  
170 proportional counter-terrorism operations as much as is possible in a shooting war.

171 Consider the alternatives: the Air Force and Navy also have highly accurate laser-guided bombs that  
172 they have used to target al Qaeda figures, but the smallest of these has over 10 times the explosive  
173 power of the Hellfire Missile, raising significant chances for collateral damage and the harming of non-  
174 combatants.

175 The United States also has very capable Special Operations Forces, such as the Army's Delta Force  
176 and the Navy's SEAL Team Six which can operate surgically against terrorist figures. But the failed  
177 Ranger/Delta operation in Mogadishu in 1993 makes clear that such operations can easily go very  
178 wrong, not only in terms of friendly casualties (19 U.S. soldiers were killed and almost 100 were  
179 wounded) but also in terms of collateral damage (estimates of Somali casualty figures range from  
180 1,500 to 3,000 dead and wounded, many of whom were noncombatants).

181 To be sure, whether through negligence or bad intelligence, even the most discriminate weapons  
182 systems may injure or kill noncombatants. But relative to almost every other military option, drones  
183 are by far the most discriminant weapons we have in our arsenal to use against al Qaeda.

184 Also, the ease and apparent success of drone strikes could lull us into the false belief that the war  
185 against al Qaeda is one we can kill our way out of. A better way to think about it is to treat it like a  
186 global counter-insurgency operation in which we have to conduct kinetic operations against a small  
187 number of incorrigible terrorists while simultaneously winning the hearts and minds of the rest of the  
188 Islamic world.

189 If we conclude, as I do, that the war against al Qaeda is just, and we keep in mind the real limitations  
190 of drone warfare, then they clearly represent the most just (and effective) means of waging war  
191 because they have achieved more against al Qaeda with fewer civilian casualties than any other  
192 weapon in our arsenal.

193 *Michael C. Desch is Professor and Chair of the Department of Political Science and a Fellow of the*  
194 *Notre Dame Institute for Advanced Study at University of Notre Dame.*

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196 **Also see [www.infowars.com/the-flawed-strategy-of-drone-strikes](http://www.infowars.com/the-flawed-strategy-of-drone-strikes) for**  
197 **another piece and responses.**



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199 **The drone concern illustrates the issue, but is only one of many concerns**  
200 **with respect to ethics and morality. Cyber-attacks, new methods of**  
201 **torture to extract information, rendition of captured persons, etc. may**  
202 **be discussed as well.**