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The Ethics of Drone Warfare

Abstract The paper investigates the compatibility of the modern technologies of warfare, specifically the use of offensive drones, with traditional military ethics and suggests that the new technologies radically change the value system of the military in ways which make large parts of the traditional military ethics inapplicable. The author suggests that Agamben's concept of 'effectivity' through 'special actions' which mark one's belonging to a particular community or profession is a useful conceptual strategy to explore the compatibility of drone warfare with traditional military ethics; this strategy shows mixed results at best.

Keywords: effectivity, warfare, drones, technology, military ethics.

Traditional military ethics has been responsible for the shaping of an entire culture and identity of the military, largely regardless of the political system or ideology where a military operates. Since the ancient philosophical accounts of social stratification and virtue the 'lords of war' or 'generals' have been considered examples of a particular type of coherent values and ethics which have placed the military apart from most other parts of society. A strong sense of identity among soldiers, which is based on such values, is practically unparalleled in any other social group except the 'organic' religious communities.

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The technological reconceptualization of warfare, which is perhaps most starkly exemplified in the exceedingly common use of drones to conduct practically risk-less and victim-less missions as far as one's own forces are concerned, has not only tremendously increased the capacity of the military to aid politics with little regard for democratic legitimacy and a need to bear losses and account for them at home; it has also changed the nature of military ethics.

Giorgio Agamben has written about the traditional way of understanding the acceptance of common values and norms through the concept of 'effectivity': one leads a group by effectively participating in the group's life and all the situations in which the group's members find themselves; one leads an army by fighting the war and placing one's life at stake for what one considers worthy of the taking of others' lives (Agamben, 2013). The use of drones has changed this basic structure of effectivity which had marked traditional military ethics since the battles of Achilles.

Military ethics from a disciplinary point of view

To understand the implications of military ethics generally, and that of the use of military force 'short of war' in particular, it is helpful to first locate military ethics within the general discipline of ethics. This simple and standard philosophical classification sheds considerable light on what to expect from military ethics and what likely ways of moral reasoning might most pertain to it.

350 Ethics is typically and most generally classified into normative ethics, which deals with what one ought to do from a moral point of view, and metaethics, which is concerned with the clarification of moral concepts, such as 'justice', 'fairness', 'equality', etc. The practical nature of military ethics places it firmly within the realm of normative ethics. This type of ethics includes, generally, the so-called theoretical ethics, which is preoccupied with issues of what is generally morally justified or desirable, and applied ethics, which addresses special moral challenges as they manifest themselves in particular practical situations. The difference between theoretical normative ethics and applied ethics, however, is not as straightforward as it might seem at first glance. Applied ethics does not simply 'apply' moral concepts articulated in theoretical ethics to concrete practical situations; it is more often concerned with the principled discussion of ways in which general moral norms might *deviate* or *differ* in special situations from what they would be like in a strictly theoretical context. A prominent aspect of applied ethics is professional ethics. In many professions, including the military one, it is particularly clear how ordinary moral norms which apply in the society at large might not apply in the same way in professional situations. For this reason, military ethics is a particularly fertile field of applied ethics which facilitates the testing of many border-line concepts in normative ethics.

The particularities of professional ethics vis-a-vis general social ethics open up the question of what conditions professional ethics must satisfy in order to be sufficiently socially legitimate. If various professions require various professional ethics, a key question is what standards all such individual ethics must adhere to in order to remain within what is generally believed to be socially acceptable. Clearly military ethics allows certain actions (such as killing other human beings) which social ethics strongly stigmatises and, certain exceptions granted, treats as a moral taboo. However, military ethics which would hold it entirely morally justified to kill all enemies would obviously violate our basic moral intuitions and render the military profession one of social outcasts, rather than an exemplary part of society. Thus professional ethics, while different from general normative ethics, must conform to the same general principles as social ethics; it must interpret the specificities of the moral circumstances encountered by a profession in terms which are

principally *reconcilable* with the principles of general social ethics, such as respect for human dignity, proportionality between the (legitimate) goals and the means employed to reach these goals, etc. In short, professional ethics is a highly complex and demanding field of moral reasoning methodologically speaking.

The professions of 'social warriors' (military and the police) require of their members' personal propensities and values which, in some cases, go directly against the norms which apply to other members of society. Where everybody else is legally required to move away from a threat of violence whenever possible, rather than deliberately engaging in one (doing so may lead to criminal responsibility), soldiers and police officers are required to move towards the threat of violence and control it. Where everybody else is required to abstain from the use of force in the resolution of any issue, social warriors are expected to use force to rectify problems or to enforce the law. They are thus in a potentially morally schizophrenic position: in their official capacity, they are entitled to act in ways which are forbidden to them in their capacity as private citizens. In other words, the values and the perimeter of moral action within which they operate 'on the job' are starkly at odds with the moral and social norms which apply to them in their private lives. Many have great difficulty adapting to this value-duality. Unfortunately, police officers are disproportionately represented among law breakers of various kinds, including, for example, the perpetrators of domestic violence in many parts of the world. The same applies to soldiers, and this is not an accident. Moving from one morality to another within a single day is both cognitively and emotionally taxing for anyone.

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One of the ways in which the military was traditionally able to fend off the problem of incongruence of values pertaining to their profession vis-a-vis those pertaining to their social lives was by emphasizing the dividing line between war and peace. This boundary line allowed some values to be considered appropriate in wartime, while others were considered adequate for peacetime. The military profession's daily life was seen as preparation for war, and thus, to varying extents, an approximation to and imitation of wartime, where there was a clear difference between pretending to be fighting a war in the form of training, developing discipline etc., and actually waging war. However, with the changed nature of warfare, where traditional military virtues no longer apply, it has become increasingly difficult to distinguish between what is allowed in wartime and what is acceptable in peacetime. Virtues required of soldiers appear to have changed. I wonder whether army generals must still be brave as they clearly had to in times of conventional warfare. Can they be just frightened ordinary men behind computers, in possession of technocratic skills required to run a large operation?

Accordingly, the moral justifiability of extreme violence, including killing by the military, has changed. Traditionally, it was unacceptable for the military to kill people in peacetime, just as it was required in wartime. Today, the difference between war and peace is often fuzzy, and exceptionally violent actions, which still fall short of waging a full scale war, are routinely undertaken, including the taking of human lives. This opens the question of the values we need for military ethics in cases where force short of war is at stake. Some of the value-laden questions in this context are:

Does the military still need courage?

Does it need the willingness to make sacrifices?

What role does justice play in the application of military force short of war?

What is the role of traditional military virtues such as respect of the enemy and personal humility?

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The corporatisation of the military has led to a situation where the instrumental rationality of efficiency has largely over-ridden the traditional virtue ethics which used to define the military profession as a moral community. Today's military leaders belong to more or less the same moral community as business leaders; in fact, they often change careers exactly by moving to positions of corporate responsibility. The use of drones for offensive actions is precisely the sort of military action which reflects all of the moral issues involved in the general decline of the military profession as a moral community.

The moral dimensions of drone attacks

The use of drones is already *prima facie* morally controversial because it fails to satisfy any of the four conditions for the justified use of military force mentioned above. First, to use drones, the drone operator or the military in general need no courage whatsoever. Secondly, they don't need to be willing to make sacrifices for the cause they fight for; drone attacks are costless in terms of risk to own soldiers; the only cost associated with them is financial. Thirdly, drone attacks are technological tasks for the drone operator, and justice does not factor into their daily work. Firing a missile from a drone, to the operator, is nothing like firing a missile on a battlefield; it is far more like firing one in a computer game where an immediate awareness of justice or injustice does not exist as a factor of decision-making. Fourthly and finally, to conduct offensive military operations by drones one needs no virtues, no humility, and one does not have a sense of oneself as a part of the military moral community. In fact, most drone operators are people who perceive their work as similar to any other 'job': they drive to work, leave their

children at the kindergarten on the way, and spend the prescribed number of hours operating drones. They get rewarded for successful 'releases' (strikes), and then drive home through the city traffic to eat dinner. Drone warfare, for those behind the controls of the drones, is not at all war-like.

One of the key features of organic military communities, which are communities based on specific military virtues and a shared sense of moral values, is what Giorgio Agamben famously called 'effectivity': the actual participation in the 'special actions' which characterize the community and help solidify its identity and inner solidarity (Agamben, 2013). For university professors, the special actions are teaching, researching and engaging in particular roles within the university; without doing these things, one does not belong to the organic community of university professors. For doctors, the special actions are the examination of patients, performing surgery and the like. One who does not perform these special actions simply fails to be a member of the community of doctors. For military people, the special actions are engaging, honourably, in warfare or war-like actions on behalf of their country, demonstrating courage and willingness to endure hardships and make sacrifices. Without the military virtues and the taking of risks, the special actions of the military community would hardly differ from the special actions of a community of assassins. There is a moral dimension which is connected with putting one's own safety on the line for greater good which defines military special actions. Drone attacks fail to satisfy the criteria for these special actions, and it is doubtful whether the people who operate drones (or their superiors) can be considered to belong to an organic military community.

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In their account of the legitimacy of the use of force short of war Daniel Brunstetter and Megan Braun propose a sequence of concerns which must be addressed, including, e.g., the proportionality of the force used to the threat supposedly addressed by that force, the likelihood that a further escalation might be prompted by the use of force, and the maximisation of the protection of rights of others by using legitimate authority to use force (Brunstetter and Brown, 2013: 97–102). This type of account may be procedurally compelling (justifying the specific uses of drones as weapons within a general system of beliefs about the use of drones, where the latter remains largely unquestioned). It is, however, deeply doubtful whether a morally foundational authority to use drones can even exist in a conceptually consistent way.

One of the reasons to question the possibility of such authority lies in the concept of a military community just mentioned. The legitimacy and authority of the military community arises from its members' willingness to proportionately risk their lives in order to achieve a just cause by the use of legitimate force. The era of the use of drones sees the use of remotely controlled weapons (which evade all traditional considerations of the morality

of the use of military force) alongside with a continued use of soldiers. Some people, in armies which use drones, must still be brave, harbour military camaraderie, act skilfully on the battlefield and risk their lives for the just cause. Without such people, even today, it is usually impossible to achieve significant military objectives. Alongside the warriors, the armies are increasingly populated by people who operate drones and who do not satisfy any of the moral conditions to be considered warriors; in fact, their ways of operation resemble bureaucrats. This makes it difficult to establish the moral authority on which they act to protect 'the interests of others', as well as the nobility of their 'intentions', their real concern about proportionality, or their ability to factor in their decisions considerations of the likelihood of further escalation and the like. The use of drones cannot be an expression of the legitimate authority's concern for the welfare of others any more than the use of remote-detonated bombs by insurgent or terrorist groups can express their legitimate political aspirations. The fact that drones are used in ways which evade the ordinary circumstances through which structures of legitimacy are articulated (engaging in the use of force by placing a stake which founds a claim of legitimacy) removes the possibility of moral authority being exercised through their use. As military authority is enshrined in the effectivity of the military mission and identity, and those associated with the use of drones do not satisfy the conditions for membership in the military moral community in the sense of effectivity, the use of drones itself evades the traditional military moral logic or that of legitimate military authority. As drone attacks are controlled fundamentally bureaucratically, and drone operators are merely technicians, and not warriors or soldiers in the real sense, drone attacks embody the corporatized nature of the use of force by the modern intervenors. They open up the room for the potential political and procedural legitimization of evil, cowardice and the abolition of moral autonomy of soldiers.

The corporatisation of the military has potentially devastating effects on morality. Use of force short of war is particularly susceptible to corporatisation, because it requires less massive tactical structures than full-scale warfare, lower-level decision-making and, due to the smaller scale and more clandestine nature of its operations, it is less transparent than warfare. The use of drones for offensive attacks and assassinations belongs to the most easily misused applications of military force short of war. Drones are used not only for discrete military actions, but also for national security operations involving (sometimes arbitrary) assassinations of designated enemies. They are also employed in intelligence operations whose overall 'intelligence product' can be used in any of a variety of ways, including being sold or given to various parties in exchange for other, not always legitimate favours (Fatić, 2015). The clandestine nature of drone operations makes these problems even graver.

But why is corporatized warfare morally problematic in the first place? The reason is in the fact that we must be able to rely upon the assumption of certain military virtues by our military officers in order to believe that our military's actions on the battlefield are fundamentally morally sound, given the practical exigencies of actually securing a transparent monitoring of such actions in the theatre of engagement. This is why the military used to be such a strong moral community, with stronger and more vitals links of mutual solidarity and shared values than most other professions. It is only by counting on the core values of the military profession, and the virtues to which such values give rise, that we are able to assume that 'our' officers in action would act honourably and that 'our' military personnel, when engaged in actions 'short of war', will adhere to appropriate moral standards. The corporatisation of the military, by removing the need for key moral virtues, such as courage and willingness to make sacrifices, has automatically removed the most important ground for us to believe that 'our' military men and women would do the right thing in most, if not all, circumstances of engagement. The traditional assumption that the right to take a life in a military action is predicated upon one's willingness to sacrifice one's own translates into a value assumption that only brave people are entitled to kill legitimately, on behalf of their nation. Conversely, this value assumption rules out the legitimacy of people who could be described as cowards or corrupt to kill honourably (Grossman, 2009: 197–230). The honour of killing within a military mission partly consists of an implicit or explicit preparedness to sacrifice one's own life should the task not go to plan. The introduction of drone attacks removes this moral reasoning completely. Drone operators need no virtues; they may and the majority of them do, of course, have certain virtues, but they are not required for their jobs, strictly speaking. They are essentially technical personnel administering deadly force in a totally risk-free way for themselves. To push things to an extreme, drone attacks are consistent with the possibility of 'corrupt cowards' killing from the distance in a way which is legally and morally sanctioned by their countries. Such killings may be opportune, efficient and instrumentally justified in a variety of ways; however, they fundamentally change the moral nature of military operations and cast the use of drones, especially in situations which fall short of full-fledged war, in a light very similar to that of professional assassinations.

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There is a fundamental moral difference between a military killing and a professional assassination, in that the latter does not involve appeals to any kind of virtue, proportionality or even greater good (Howe, 2005: 125–148). The professional assassin acts based on a specific task, which is unquestionable, and uses all of the circumstances and resources which conduce to his successful execution of the task with no broader considerations involved. The professional corporatisation of force short of war brings drone operators

and their commanders dangerously morally close to paid assassins, though, admittedly, they are paid by and serve their countries in a way which these countries either make legal, or pronounce to be honourable although it is, strictly speaking, illegal, such as most intelligence operations abroad (Wiebes, 2003: 11–50). While traditional warfare, and the traditional conceptualisation of the military, remain firmly within what are supposed to be morally tolerable bounds of violence within war, the non-conventional warfare and non-conventional actions short of war, such as drone attacks, occur in the fuzzy terrain of unclear values, often extreme non-transparency, very ineffective structures of accountability, and no tangible assumption whatsoever of any traditional military virtue.

Drones and the paradox of military ethics

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The paradox of military ethics is that ethics is the safest where risking life is part of taking military action. Putting one's own safety on the line for a cause inoculates the military from a large part of recklessness and corrupt manipulation in the use of deadly force that might otherwise plague its missions. This is especially the case with globally the most powerful military forces, which tend to be employed in interventionist missions across the world. When such interventions are attended by dramatically lowered risk to own personnel, they are likely to become both more numerous and far more liberal in the terms under which they are conducted. The use of drones is arguably one of the most effective ways to reduce the risk to own soldiers, while at the same time providing substantially increased operational possibilities for clandestine attacks, assassinations, or selective strikes for which neither accountability, nor visibility or detectability (as with the use of substantial conventional forces) are a concern.

In a recent interview to the BBC, the dissident US former drone operator Brandon Bryant described how drones conducting strikes in the Middle East were operated from over 10,000 kilometres away in Las Vegas, Nevada. He explained how civilians, as well as 'friendlies' were killed by drones with no investigation ever having been launched. In fact, Bryant stated, quite starkly, that the only situations in which investigations into drone operations took place were ones where the aircraft were 'crashed' and lost. He described how the drone he had helped operate had killed a child and then 'maintained target' with the pilot laconically dismissing his shock. 'There is no recoil (which shows) that we have done a shot, there is not anything, just "click, click"', says Bryant. The human cost, including the killing of civilians and third parties, is treated as an acceptable part of engaging in drone warfare (BBC, 2015). On a practical level, descriptions like Bryant's illustrate why robotized violence conducted by the military, especially when it

takes place outside the framework of full-fledged war, undermines military morality. Soldiers engage in actions which are enormously disproportionate in various ways. They are not only disproportionate in the technological capabilities of the sides in conflict, or in their strategies or daily tactics; they are also disproportionate in the moral dimensions which define the side's identities in the conflict and their modes of engagement in the field. The conflict in the Middle East is well suited to illustrate just how dramatic this moral and psychological disproportionality is. According to Bryant, tens of thousands of drone missions are flown every month in the Middle East, and civilian casualties rarely get reported by the military. He claims that the only situations where civilian casualties are reported in the media are those where there is 'unquestionable evidence from third parties', and this is only a small fraction of the civilian deaths inflicted by drone strikes. Bryant describes an instance when one of his missiles hit three men in Afghanistan. Two died and he describes how he watched the third one crawl, without a leg, on a frozen ground, his blood hitting the ground and freezing on the spot, after which they observed, on screen, how the man's body gradually turned the same colour as the frozen ground that January. He concludes: 'This is the most cowardly type of warfare that's been created. It was sickening. At that moment the only thing that I felt was that I was the worst coward' (BBC, 2015).

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Some of the former drone operators who have since gone public with their testimonies are not the exemplary 'high scoring' talents such as Bryant — some were former or subsequent strippers or porn stars, and at least one, Matt deHart, entered a guilty plea with a Tennessee court in 2015 in order to avoid a possible 70-year prison sentence for child porn (*The National Post*, 2015). These personal careers, which among the 'real' military personnel are very few and far between, tell ominously about the screening procedures and the selection of personnel for this 'cowardly' type of military actions, as Bryant describes them.

The moral disproportion between drone operators and soldiers who fought on the ground on the other side in the Middle East in 2015 and 2016 is stark. Whatever their values and beliefs, those on the ground, whether they fought for the legal government in Syria or for their renegade Islamic communities against the government, engaged in conventional warfare where they put their existence on the line for their beliefs. This alone gave them a moral stance within the conflict. The reason why one of the parties in the conflict, the Islamic Caliphate, was stigmatised, not just by the world at large but also by the other parties in the same conflict, was that it drastically breached the conventional moral rules of conventional warfare by killing civilians, beheading hostages and instilling terror in civilian communities. It is this moral

reason that primarily explains why the Islamic State has been targeted by the civilised countries, and these actions have been accepted and supported by civilised populations, including those in Syria itself, in Iraq and in Libya. Finally, precisely these morally appalling crimes, which so drastically violated the conventional values of armed conflict, have caused global outrage against the very beliefs and way of life of those who represent the Islamic State. It seems, on a different level but no less dramatically, that the use of drones in the Middle Eastern conflict has been as morally disproportionate to what the other parties have done on the ground as have been the actions of the Islamic State. While drone operators did not personally decapitate anyone, they conducted aerial operations which left children and civilians torn into pieces without so much as blinking, by clicking a computer mouse. They engaged in what Bryant calls cowardly operations with no real sense of moral responsibility for the consequences and with no real personal identification with the values in the name of which such operations were launched. It is apparently possible for a socially problematic person, even for a child molester, to work as a drone operator, alongside with 'proper' air force personnel such as Bryant. However, a child molester would likely find it extremely difficult, if not impossible, much less desirable, to become a Marine or find themselves in a personnel carrier somewhere in the Middle East. There are multiple reasons for this which hardly require elaboration here. However, individuals with such personal credentials can, and have been, recruited as drone operators, and the reason is principled: the nature of the 'cowardly' strikes does not require highly morally integrated individuals to conduct them; in fact, I would venture into assuming that for at least some missions, more labile personality structures are even more desirable, because people of integrity tend to ask moral questions.

Bryant also makes a philosophically important point in his description of drone operations when he says that 'as a warrior, I believe that I have to give people opportunity that they do not do harm to anyone', while the drones which he operated killed everyone who carried weapons anywhere, including on the roads, in countries where people routinely carry weapons. He describes drone killings of those who were 'not doing any harm to anyone' and elaborates how those who had been targeted by drone attacks 'had every right to be angry' given the record of the US in destabilizing and destroying countries in the Middle East, which has led to hundreds of thousands of dead and displaced people. In other words, he questions both the *Jus ad Bellum* and *Jus ad Vim* of drone strikes.

Military ethics requires exactly what Bryant mentions: that in the course of a conflict, the opponents are given a chance to lay their weapons down, and that every effort is made to distinguish between the combatants ('those who

do harm to others') and the non-combatants ('those who do not do harm to others', in Bryant's words). The fact that, in the Afghan mountains, three men walk down a road with rifles on their shoulders by no means makes them combatants, as in the same mountains all or most men are armed when they go about their daily work. The fact that in a particular culture people are usually armed does not provide moral grounds for a foreign intervening force to kill them just in case that they might be combatants. In fact, the American culture is also a 'gun culture', with the constitutional right granted to citizens to possess and carry firearms, so it should not be difficult, even empirically, for drone operators to understand that the fact that somebody has a gun does not by itself make them a military threat. Much more concern, of course, should be extended to cases (one of which Bryant also described from first-hand experience) where children are killed by a click of the mouse and the incident brushed off with less notice than squashing a fly would elicit. These are powerful contextual factors which render people's perceptions of values very different than they would be if they were physically on the battlefield; that is why what I call the paradox of military ethics is only seemingly a paradox. Risking one's life is an inherent element of moral military engagement, not just in abstract terms of proportionality of risk and comparability of the stakes between the parties in conflict. Even more important is the perceptual dimension of the context: the same person who kills a child by a drone-mounted weapon without as much as blinking would likely shy away from doing the same 'in person', on the ground. The emotions, which are the main dynamic factors for our moral action, are dramatically different when one is dressed in a uniform and holds a 'real' gun in one's hands, facing potential death any moment, and when one sits behind a computer desk in Las Vegas, operating a drone.

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The context of computer-operated strikes from afar blurs the distinction between military intervention and assassination; it generates a similar, if not the same, mentality in drone operators as that of professional killers. In the most extreme cases, it is quite conceivable that the only difference is that the former are not criminally prosecuted (they even receive social praise), while the latter face criminal sanctions if caught. This psychological set-up is destructive for military morality and for the traditional concepts of both *Jus ad Bellum* and *Jus ad Vim*. It is also more broadly socially destructive because it damages the moral expectations of the military profession, and allows — even welcomes — people whom Bryant describes as 'the worst cowards' behind the trigger of a missile with no military risk to themselves. To put it bluntly and very simply, military ethics implies that cowards should not be involved in military actions of any kind, including those 'short of war'; yet the abandonment of this principle is the transformative effect on military morality that the use of weapon drones in fact causes.

The consequences of drone culture for the military

The detrimental effects of drone attacks on military morality are not exhausted in the synchronic dimension of operational circumstances of carrying out such missions. Training drone operators and the reprogramming of training for other forces (including the conventional ones such as infantry and artillery) are irrevocably affected by the use of drones. Where once special forces were used for reconnaissance and aggressive intelligence operations (removal of high profile targets in advance of more massive troop deployment), drones provide a risk-free alternative. The reduction of risk to personnel adversely affects military morale in the sense that the entire military structure becomes more like a business and less like an army; this means that the traditional virtues associated with the military in general gradually become less pronounced, except in select units which remain indispensable to conduct 'hands on' missions.

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The training of drone operators does not require military drills, the instilling of discipline and character; it is more like training in mathematics and computer simulations. In this way people become desensitised to extreme violence and, accordingly, capable of perpetrating it without pangs of conscience. Such personnel are de facto trained in the technical aspects of what amounts to individual or group assassinations and destruction of infrastructure. Their desensitisation to killing others and destroying property with what is in effect an utter impunity generates character traits which are deeply worrying for society. These people are not really soldiers; they do not spend a period of military engagement away from society in special conditions, performing what Agamben calls 'special actions' which define their profession, ruled by their special military morality. Such absence from society emphasises the difference in moral circumstances between military mission and ordinary life. Soldiers who return from battlefields often have trouble readjusting to civilian life, but this difficulty, in its own way, confirms that there is a stark difference in moral norms which govern the battlefield and those which govern civilian society. While they struggle to re-adjust, and many succumb to their inability to do so, they re-adopt the values of society which make them good citizens. Without this normative gap, which coincides with physical removal from society, drone operators, in addition to their lack of proper military training and to controversies in the way they are recruited, never really face the enormity of the moral difference between what their drones do on the battlefield and how they are supposed to feel and act in society. Within their ordinary social routines, they kill people with a factual impunity. It is doubtful to what extent people trained in what they experience as legitimate assassinations with no regard for human life, without being placed in a special context, and without labelling these actions as 'special' in Agamben's sense, can afterwards be good citizens.

Another major problem with the use of drones and the consequent reduction of risk to troops is the rise of awareness of asymmetry of warfare among the military personnel, which gradually makes it quite extraordinary for them to engage in what in the future might be more symmetrical wars. A military profession which has become used to conducting strikes across the world from the security of their offices at home, with only moderate, if any, exposure to risk, will, on the one hand, be used more readily for interventionist missions (it will be easier for political decision-makers to decide in favour of actions short of war if the risk to troops is low). On the other hand, such armies, with all their technological resources and skill, are likely to become accustomed to their own shielded position in war. Once they face an enemy who is equally technologically capable to act from a distance and with whom a 'real', 'old style' war appears necessary, the armies used to drones and drone-like operations are likely to be reluctant to risk their lives in conventional combat. That means that a shift to technology alone without what is traditionally considered a 'military heart' might lead armies to either conduct operations with little risk to their personnel, such as drone strikes, or, where this proves impossible or ineffective, to sooner resort to nuclear means rather than fighting bloody ground battles. If fighting a disproportionately weaker enemy (in itself doubtful from the point of view of military honour) tends to take the form of actions short of war with the use of drones and similar means, then fighting a proportional enemy in strength and military skill in a proper war will likely be even more frightening and might prove paralysing for the military. A paralysed, frightened military and its leaders, in the face of what they perceive as mortal danger (and armies used to winning tend to perceive every threat of military loss as 'mortal danger') would more easily choose the nuclear means of waging war. This logic obviously reduces the overall security and is detrimental to prospects for peace. The use of what I see as perverted military means, including drones and robotised weapons (at the moment mostly armoured vehicles and 5th generation bomber aircraft, capable of executing missions with or without a pilot), contribute to the immediate security of military personnel. However, at the same time, the use of such weapons dramatically reduces the chances for peace and overall global security in the medium and long term. Armies which use drones and other unmanned weapon carriers are more immediately predisposed to use weapons of mass destruction, when seriously challenged, than armies which maintain a culture of military honour, virtue, discipline and preparedness to make sacrifices for a cause.

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To what extent should military personnel be protected from harm?

Most military men and women sign up to join the ranks voluntarily; they choose a military career, knowing full well that this means putting their

lives on the line in the course of duty. Just as it is justifiable to kill the enemy during war in ways in which it is unacceptable, even taboo, to do in society, it is to be expected that members of the armed forces may die as part of their jobs. The law of war stipulates that it is legal to kill enemy soldiers as much as it is illegal to deliberately kill civilians, or non-combatants. Thus the rights of the civilians are different in wartime from the rights of soldiers. The former's lives are considered privileged and protected; the latter's lives are legitimately taken in the course of (legal) warfare (Best, 1994: 235–252). Thus the soldiers' right to life is considerably less strong than the civilians' right to life. Hence, the deployment of any means, technological, tactical or any other, whose aim is to protect the lives of military personnel, while at the same time placing an equal, or additional, risk to the lives of non-combatants, is inconsistent with the very moral logic of the law of war. According to this logic, military personnel should risk their lives much sooner than civilians. The deployment of drones, which shield the 'soldiers' behind the controls from harm absolutely, while at the same time affording them circumstances to kill enemies — and civilians — in highly unaccountable ways, militates directly against the moral logic of the law of war (Bachmann and Fatić, 2015: 117–132). While there is no assumption in the law of war that soldiers should seek risk — obviously, the contrary is the case — there is a very clear hierarchy of rights which the law stipulates: killing soldiers in a military mission is, in a sense, morally all right, while killing civilians, except under very exceptional circumstances, is forbidden and considered a war crime. Killing civilians in war is tolerable only in circumstances which make it clear both that such victims were unintended, and that all reasonable actions in the given circumstances were taken by the military to avoid them (Best, 1994: 323–360). Drone attacks do not place the pilot 'in the heat of battle'. They usually do not involve psychological and operational considerations arising from battlefield circumstances. Such attacks are planned, rational killings and destruction of infrastructure. As such, under the moral logic of the law of war, civilian casualties would normally be tolerated at a much lower level than in conventional military operations. In short of war operations which border with aggressive intelligence missions, such as assassinations of potential threats, the tolerance of civilian casualties should be zero, under the threat of immediate criminal prosecution both of the drone operator and of the mission commander. The taking of evidence of crimes should be entirely feasible given that the current technology of weaponised drones is such that, as Bruyant describes it, drone operators were able to actually observe, on screen, the details of a person bleeding in the Afghan desert and his flesh turning grey. Surely it is possible to record such scenes in a legally compulsory way and safeguard the records to be used in criminal proceedings. In this way, the excessive use of weapon drones would both be curtailed (due to the risk of prosecution for many of the actions which

drone operators conduct at the moment) and made more discriminate and accountable. If the moral future of the weaponised drone is to be saved, the criminal law and law of war must develop special provisions which would ensure strict criminal culpability for any non-combatant casualties apart from extremely exceptional circumstances, which ought to be judged exclusively by the criminal courts.

Even this type of regulation would not, however, save the military from a considerable amount of damage that the use of weapon drones is inflicting on its morality. Soldiers are trained to become warriors, not cold-blooded assassins; they are traditionally expected to seek worthy opponents, not helpless 'targets' or victims. The training of drone operators and the bureaucratic rather than combat environment in which they operate certainly do not turn them into warriors, although they make them into efficient killers. This mentality is potentially contagious, and divisive. Most soldiers perceive their careers not in terms of their ability to kill other people, but in terms of the values which they see as a fundamental part of their collective, professional identity. In fact, the military is one of the strongest moral communities in modern society because its members identify as persons primarily through their membership in the military. The military virtues are part of that identity (Fatić, 2016).

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Drones have been designed for two main purposes: to conduct precise and largely clandestine operations, in missions which predominantly fall short of full-fledged war, and to protect the military personnel from risk. They have achieved the first goal to a considerable extent, and they have obviously accomplished the latter goal fully. At the same time, by protecting the personnel, they have generated a massive threat to military morality and to the identity of the military profession, which might well be transformed, in morally undesirable ways, for ever. The introduction of drones has illustrated and reinforced the moral paradox of the military: the less risk there is to the personnel, the less courage is required, and the more likely it is that military missions will be conducted by non-exemplary people, acting within morally non-exemplary missions, for over-archingly non-exemplary hierarchical structures, in morally non-exemplary ways. The damage thus inflicted on the military will be massive. Not only will the distinction between honourable military killing and premeditated assassination gradually be entirely erased, but the military, as a source of collective identities and a social repository of particular virtues will disappear. The disappearance of the military as a socially exemplary moral community, in turn, will reverberate throughout society, adding to the impetus of its moral degradation and corruption. Just as a significant number of socially problematic individuals appear to find their way into the ranks of drone operators today, tomorrow such non-exemplary

members of society might make up majorities in entire armies. The moral and security consequences of this development, which is not only entirely consistent with, but a highly likely consequence of the continued use of weaponized drones for short-of-war offensive missions, would be truly devastating for society and for our understanding of the prevalent moral values in a community as we know them now.

References:

- Agamben, Giorgio (2013), *Opus Dei: An Archaeology of Duty*, Stanford: Stanford University Press.
- Bachmann, Klaus and Fatić, Aleksandar (2015), *The UN International Criminal Tribunals: Transition Without Justice*, London: Routledge.
- BBC (2015), 'HARDtalk Brandon Bryant Former US Drone Operator', https://www.youtube.com/watch?v=_U2kPuQ9TxE, 13 April.
- Best, Geoffrey (1994), *War & Law Since 1945*, Oxford: Clarendon Press.
- Bunstetter, Daniel and Brown, Megan (2013), 'From Jus ad Bellum to Jus ad Vim: Recalibrating Our Understanding of the Moral Use of Force', *Ethics & International Affairs* 27, 1: 87–106.
- Fatić, Aleksandar (2015), 'The Epistemology of Intelligence Ethics', in Galliot, Jai and Reed, Warren (eds), *Ethics and the Future of Spying: Technology, National Security and Intelligence Collection*, London: Routledge: 39–51.
- Fatić, Aleksandar (2016), *Virtue as Identity: Emotions and the Moral Personality*, London: Rowman and Littlefield International.
- Grossman, Dave (2009), *On Killing: The Psychological Cost of Learning to Kill in War and Society*, New York: Little, Brown and Company.
- Howe, Paul (2005), *Leadership and Training for the Fight*, Bloomington, IN: Author House.
- The National Post* (2015), 'Extremely rational' Anonymous hacktivist Matt DeHart avoids 70-year prison term with child porn plea deal', 13 November.
- Wiebes, Cees (2003), *Intelligence and the War in Bosnia 1992–1995*, Muenster: LIT Press.

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Aleksandar Fatić

Etika u ratu dronovima

Apstrakt

U tekstu se ispituje teorijska kompatibilnost savremenog ratovanja, zasnovanog na tehnologiji, sa tradicionalnom vojnom etikom i ukazuje se na niz problema u etičkom opravdanju rata u kome tradicionalne vrline, poput hrabrosti ili požrtvovanosti, više ne igraju važnu ulogu. Autor nagoveštava da je teorija efektiviteta Giorgio Agamben-a jedna dobra teorijska strategija kojom je moguće detaljno ispitati uporedivost savremenog, tehnologizovanog rata sa tradicionalnom vojnom etikom. Ova vrsta ispitivanja daje najblaže rečeno pomešane rezultate, u smislu održivosti tradicionalne vojne etike u savremenom kontekstu ratovanja.

Cljučne reči: efektivitet, ratovanje, dronovi, tehnologija, vojna etika.