



When France Arms its Drones

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Only three countries currently use armed drones: Israel, the United States and the United Kingdom. Others are developing them, among which China, Russia, Iran, India and Pakistan, whose Burraq armed drone entered service on 13 March 2015. These machines are missile-fitted surveillance drones, which, because they are slow, not stealthy and relatively unmanoeuvrable, can only be used in conquered airspace. The next generation of drones, called combat drones, of which only demonstrators currently exist (Neuron, Taranis, X47-B and Dark Sword), is aimed at rectifying these vulnerabilities. By nature armed, they should enter service after 2020.

France does not possess any armed drones, but it does have Reaper, which if modified can be armed. Reaper drones are currently deployed in Niamey (Niger), as part of Operation Barkhane. This article defends the armament of our Reapers and prepares the ground for a doctrine of use and a campaign of public diplomacy.

Why should we arm our drones?

Armament of drones has become a widespread and irreversible trend because of the numerous advantages it offers, even if it raises legitimate concerns over proliferation. Above all it offers a saving in resources, since our unarmed drones are the sensors, which transmit information to the shooters, the combat aircraft, who follow on to carry out the strike. Armed drones carry out both functions, thereby reducing the cycle and economising on manned aircraft and also on any search and rescue mission which would have to be conducted to recover the pilot, were there to be a crash.

This in no way calls into question the need for combat aircraft because the drone, which is vulnerable to many things (including weather, air superiority, manoeuvrability, speed, power and reliable satellite links), can only replace it in very specific situations, and especially because even if we have air supremacy, the two do not perform the same tasks. For one thing, they do not carry the same



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armament, and therefore do not have the same effect. For another, the combat plane has very broad reactivity over an extended theatre, whereas the drone's reactivity is localised over a much more limited area—from which is derived long-term 'permanence', the key characteristic of the drone.

Thus a drone fitted with a narrow-field sensor in this precise case allows the cycle to be reduced, time to be saved and discrimination to be improved since being unarmed it depends on the availability of an aircraft to conduct the strike. But in the time period needed for the strike aircraft to arrive in the zone, the target could have moved into an environment where the risk of collateral damage is far higher. This has happened to our men, who have identified a target's vehicle in the desert, but have then had to wait for a combat aircraft to be made available to deal with it: by the time the aircraft arrived, the vehicle had moved into town. So it is that the non-armament of our drones reduces choice as to timing and place, and at the same time increases the risk to civilian populations.

It also increases the risks to our soldiers on the ground. The British quickly realised that their armed drones acted as force multipliers and protectors.⁽¹⁾ Even the drones used today on humanitarian missions, such as that in the Democratic Republic of Congo (DRC) under the UN mandate since December 2014, might sometimes be usefully armed in an attempt to prevent the abuses that they record.

For what use?

The Israelis and the Americans use their armed drones in armed conflicts and also outside them, to conduct targeted killings. Two US programmes arise from this: the official one of the US Air Force, which struck in Afghanistan, Iraq and Libya, and the secret one of the CIA, which conducted strikes in Pakistan, Yemen and Somalia. The latter is very much at the origin of the controversy which now surrounds the use of armed drones. The British only use theirs, which are operated by the Royal Air Force, in armed conflict situations. The question now is to know whether we can allow ourselves to do the same, because we are confronted by ever more complex situations, particularly in the Sahara-Sahel band.

The difficulty is general: the definition of armed conflict is ambiguous, a declaration of war has never been a good indicator of a state of war (France has never declared war since the Second World War), and the evolution of conflicts, particularly with the multiplication of transnational non-state armed groups (such as ISIS and Boko Haram) puts many situations into very grey areas. Beyond those considerations, if our target crosses a border into a state with which we are not in a situation of armed conflict, would we refrain from hitting it if the opportunity

(1) *The Security Impact of Drones: Challenges and Opportunities for the UK*, Birmingham Policy Commission, October 2014 (www.birmingham.ac.uk/Documents/research/policycommission/remote-warfare/final-report-october-2014.pdf).



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to do so presents itself? And if we strike, do we do so with or without the consent of the state in question?

In a confused regional context, to adopt the British rule, that the RAF only uses its armed drones in an armed conflict situation, might not be enough. In exceptional cases we might be led to conduct targeted killings outside a recognised armed conflict. Such strikes could not be attributed to the French Air Force which, like the RAF, can only intervene in official theatres, so they would be attributed to the DGSE, the Directorate for external security. While the killing of Ahmed Abdi Godane, the then chief of Al-Shabab, was by a US missile on 1 September 2014, it was made possible by intelligence supplied by the DGSE about the vehicle in which he was travelling. If the DGSE had been able to operate an armed French drone based in Djibouti, for example, it would have acted itself. So why not give it the means to do so?

This occasional recourse to targeted killing would pose legal problems. Regarding *jus ad bellum*, the Americans claim that they are in a non-international armed conflict (NIAC) against Al-Qaeda and its associated forces, but a NIAC without defined territorial bounds, or transnational, which allows them to strike anywhere. In this the United States calls upon a certain interpretation of self-defence, which in principle we do not share. Against this doctrinal approach, we prefer an approach by exception that recognises the illegal character of the action whilst justifying the exceptional violation of law in certain operations. It must always be stressed that such exceptions do not create any precedent. This was argued for the ‘illegal but legitimate’ intervention in Kosovo in 1999, and that into Syria would have been justified in the same way, had it happened in September 2013.⁽²⁾

With regard to *jus in bello*, in principle the Americans and Israelis have quite strict criteria—imminence of threat, primacy of capture, conformity to international humanitarian law—but they are interpreted rather loosely. In reality the criterion of imminence disappears since, according to the official US interpretation, which is in any case not consensual, this condition does not require the government to know that a specific attack will take place in an immediate future. It could include people who plan attacks in a ‘continual’ manner, simply by being affiliated to ‘Al-Qaeda or its associated forces’—which is not easy to prove since these organisations do not exactly issue membership cards. The replacement of imminence by affiliation removes the time element from any response.

Another problem in US policy is the practice of signature strikes, which do not target an individual who has been identified in advance (that would be a personality strike) but any group of presumed militants, based on apparently questionable behaviour. It was the increasing number of these signature strikes, for the

(2) For a defence of the approach by exception against the doctrinal approach, see Jean-Baptiste Jeangène Vilmer: *La Guerre au nom de l'humanité. Tuer ou laisser mourir*; Puf, 2012; p. 227.



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most part in Afghanistan and Pakistan from 2000 onwards, which led to numerous abuses and which is largely responsible for the worldwide controversy over CIA strikes, controversy that has spilled over to the means used, that is, the armed drone. The US government has since then taken account of the counter-productive character of the industrialisation of targeted killings: there are fewer and fewer strikes (122 in Pakistan in 2010, 73 in 2011, 48 in 2012, 27 in 2013, 22 in 2014 and at the time of writing 5 in 2015)⁽³⁾ and the proportion of signature strikes has been drastically reduced.

France can draw lessons from the US experience in order to define its own identity. France would in any case be more discreet and parsimonious in the use of its armed drones for the simple reason that it would have very few of them—bear in mind that we have 3 Reaper: the RAF has 10 and the USAF will have 346 by 2016. Apart from that, we recommend that France adopt a more restrictive approach to targeted killings, limited to personality strikes against high-value targets, a very restricted list of leaders of terrorist organisations we are fighting which pose an immediate and demonstrable threat to national security, and when the state in which they are situated does not have the will or the capability to eliminate the threat.

Why communicate?

The armament of our drones, which would have such advantages, has not happened because there is a resistance to it which has become embroiled in a broader debate carried along by numerous NGOs, the UN and certain states (note the hypocritical, yet repeated complaints by Pakistan). In the United States, the population is broadly convinced of the legitimacy of drone strikes but there is nevertheless a persistent and even growing proportion of opponents.⁽⁴⁾ The Senate Select Committee on Intelligence is also demanding greater transparency on the procedures and standards that control targeted killings. This opposition has demonstrated its value, since it has pushed President Obama to rein in his policy on Pakistan, recognise (ie publicly) the existence of the CIA programme and promise a certain number of changes, among which a military preference—in other words, for strikes to be conducted by the armed forces.

This debate has already raised concern in the European Parliament, which is ‘seriously preoccupied by the use of armed drones outside the framework of international law’,⁽⁵⁾ and to believe that it does not worry the French public would be burying one’s head in the sand. The rare opinion polls show that the French are more opposed to drones than the Israelis and Americans of course, but also more

(3) New America Foundation (<http://securitydata.newamerica.net/drones/pakistan/analysis.html>).

(4) Tom McCauley: *US public support for drone strikes against asymmetric enemies abroad: Poll trends in 2013*, in *Dynamics of Asymmetric Conflict*, vol. 6 No 1-3, 2013; p. 90-97.

(5) In its resolution of 27 February 2014, adopted by a very large majority.



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than the Pakistanis, Indians, Chinese, Nigerians, British, Poles and the Germans, for example.⁽⁶⁾ One only has to read the press and watch TV to be aware that the debate exists and that it is largely due to a double linking of ideas—on one hand the armed drone and the CIA's use of it (the Chamayou syndrome)⁽⁷⁾, and on the other the armed drone and autonomous lethal weapon systems (the Terminator syndrome).⁽⁸⁾

Resistance is both external (public opinion) and internal, because within the armed forces there is a cultural split between at least two military ethics, some contending that there is a problem in remotely waging a war in which the soldier has no need to show physical courage, others that there is none. To gain the measure of this double resistance it might be useful to arrange some opinion polls on the idea of arming our Reapers and to bring the whole of our armed forces into the discussions with specialists who are already persuaded of the need. Our policy in these matters must be better coordinated, firstly within the Ministry of Defence, then with other ministries.

How to communicate?

The priority has naturally to be to demystify the machine by explaining again and again what a drone is, and what it is for, and by countering the anti-drone propaganda, which is proliferating because of ignorance and paranoia. If we did arm them, we would have to stress what separates us from the Americans sufficiently well to refute the confusion of ideas in the public mind, but without doing it too head-on so as not to damage diplomatic relations. It would also be necessary to give a reminder that when used in an armed conflict these machines, which are piloted by genuine Air Force pilots, are subjected to the same rules of engagement and the same constraints as any other aircraft.

After that we have the issue of targeted killings: we have to consider the measures needed to satisfy the democratic requirement for transparency and responsibility. Firstly, communicate either before a strike on the processes and standards of targeting (who decides what, how and to what criteria), or after a strike has occurred (identity of the person, cause of the strike—which means what constituted the immediate threat, why it was not possible to capture the person or neutralise him any other way). In a letter to the US Federal Prosecutor, three members of the Senate Select Committee on Intelligence made a distinction between

(6) *Pew Research Center: Global Opposition to US Surveillance and Drones, but Limited Harm to America's Image*, 14 July 2014, p. 5 (www.pewglobal.org/2014/07/14/global-opposition-to-u-s-surveillance-and-drones-but-limited-harm-to-americas-image/).

(7) Jean-Baptiste Jeangène Vilmer: *An Ideology of the Drone*, in *Books and Ideas*, 6 November 2014 (www.booksandideas.net/An-Ideology-of-the-Drone.html).

(8) Jean-Baptiste Jeangène Vilmer: *Terminator Ethics: Should We Ban 'Killer Robots'?*, in *Ethics and International Affairs, Online Exclusives*, 23 March 2015 (www.ethicsandinternationalaffairs.org/2015/terminator-ethics-ban-killer-robots).



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the list of strategies to combat terrorism (the playbook), of which several sections should stay secret, and the list of rules (the rule book) that the government follows in such situations and which should always be available to the American public.⁽⁹⁾

Secondly, we might also imagine the setting up of systems of monitoring. Two types are possible⁽¹⁰⁾: on the lines of the US Foreign Intelligence Surveillance Act (FISA), one which would authorise strikes before they take place, except in urgent situations, which would be analysed afterwards—in either case, the deliberations would be classified secret. Or possibly on the lines of the Israeli model, which has been operating for several years: on demand of the Supreme Court a thorough post-strike enquiry into a targeted killing is conducted by an independent body.

The problem with these measures of course is that they can affect military effectiveness. The more the process and norms are precise and known, the better able the adversary is to bypass them and restrict our action. Because of this, there is great value in ‘strategic ambiguity’, which means not being clear about one’s position and which has a deterrent effect in this and many other fields. On the other hand, excessive ambiguity, a lack of information, risks arousing suspicion and even hostility with regard to an ill-understood policy. The British have grasped this and recommend keeping the public informed as much as possible.⁽¹¹⁾ The challenge then is to make available certain information in order to increase transparency and a feeling of legitimacy without at the same time affecting national interests. Reveal enough to reassure, but not enough to handicap operations.

(9) Ron Wyden, Mark Udall and Martin Heinrich: *Letter to the Honorable Eric Holder*, 26 November 2013 (www.wyden.senate.gov/download/?id=C48CD5E5-EF15-4A44-A1BF-2274E5B1929A&download=1).

(10) Diane M. Vavricheck, *The Future of Drone Strikes: A Framework for Analyzing Policy Options*, *CNA Occasional Paper Series*, September 2014 (www.cna.org/sites/default/files/research/COP-2014-U-008318-Final.pdf).

(11) *The Security Impact of Drones*, op. cit., p. 83.