



# Peace Review

A Journal of Social Justice

ISSN: 1040-2659 (Print) 1469-9982 (Online) Journal homepage: <https://www.tandfonline.com/loi/cper20>

## Drones as Aerial Occupation

John R. Emery & Daniel R. Brunstetter

To cite this article: John R. Emery & Daniel R. Brunstetter (2015) Drones as Aerial Occupation, *Peace Review*, 27:4, 424-431, DOI: [10.1080/10402659.2015.1094319](https://doi.org/10.1080/10402659.2015.1094319)

To link to this article: <https://doi.org/10.1080/10402659.2015.1094319>



Published online: 18 Nov 2015.



Submit your article to this journal [↗](#)



Article views: 459



View related articles [↗](#)



View Crossmark data [↗](#)



Citing articles: 2 View citing articles [↗](#)

## Drones as Aerial Occupation

JOHN R. EMERY AND DANIEL R. BRUNSTETTER

Airman First Class Brandon Bryant zoomed the MQ-1B Predator drone's camera in on three "suspected insurgents" along the Afghanistan–Pakistan border. The message he received through his headset was clear—"confirmed weapons." Yet, for all he could tell from the video feed, the weapons "were shepherd's staffs." Bryant switched to infrared imaging and launched one hellfire missile at the three men. A bright flash of light erupted on impact. Bryant recalls:

The smoke clears, and there's pieces of the two guys around the crater. And there's this guy over here, and he's missing his right leg above his knee. He's holding it, and he's rolling around, and the blood is squirting out of his leg, and it's hitting the ground, and it's hot. His blood is hot. But when it hits the ground, it starts to cool off; the pool cools fast. It took him a long time to die. I just watched him. I watched him become the same color as the ground he was lying on.

This is one example of hundreds, perhaps thousands of "signature strikes"—a method of attack that once was the core *modus operandi* of U.S. drone policy. Now, despite some reforms in U.S. policy, signature strikes are still perceived to be the most common type of drone strike. Signature strikes target unnamed and unknown individuals solely because they fit the "signature" of a terrorist/militant, based on patterns of behavior, or because they occupy specific geographic spaces. Drones provide an omniscient "god's eye view" of territories, holding the power of life and death. The control that drones and their operators wield over the population below is tantamount to a form of occupation. Controversially, drone strikes in the tribal areas of Yemen and Pakistan take place in areas of ambiguous sovereignty where the government does not maintain control over vast territorial areas or, as Michael Walzer calls them, in-between spaces.

Without "boots on the ground," drones are a manifestation of U.S. presence from above. The near perpetual loitering ability of drones has resulted in what we refer to as "aerial occupation"—the occupation of a geographical space by a foreign power through the constant presence of airborne military force. Implicit in aerial occupation is the ability to use military force

against those who resist or oppose it. The capacity to occupy results from the presence of drones loitering above, watching and tracking movements of individuals. The power comes from the ability to strike individuals perceived to be threats at any time in any place without warning.

Drones are not “shock and awe” weapons. They do not inflict the massive physical damage caused by aerial campaigns of the past. Despite their much lauded precision, however, the consequences of drones strikes for civilian populations is fear of “a strike out of the blue,” terrorizing the civilian populations caught in these in-between spaces among the brutal Taliban, Al Qaeda, and American drones. While drone strikes are arguably discriminate—a contested assertion to say the least—the effects of aerial occupation are indiscriminate, as everyone, including civilians, living under drones is impacted by their presence. The consequence of aerial occupation is a cocktail of violence that diminishes the human rights of those living under drones and spurs consuming cycles of violence pitting “us” versus “them” in what statespersons colloquially call a “generational conflict.”

**D**rone proponents extol the ability of these machines to kill precisely. After all, drones are thousands of times more precise than, say, the firebombing of Dresden. Terms such as “surgical strike” and “targeted killing” are commonly employed when officials and the media discuss drones. It is also commonly asserted that drone strikes satisfy the just war principles (*jus in bello*) of discrimination and proportionality. All these claims are misleading if drones are put into the context of aerial occupation.

Drones are capable of precision targeting; strikes will typically hit what they aim to hit. Yet, who or what the operator is targeting is anything but a precise science. Bryant’s story demonstrates that the individuals targeted is often based on signatures. In Bryant’s story, it was not the specific individuals who were being targeted, but, rather, it was the “confirmed weapons” that led to the three men being killed. The act of carrying weapons is just one of many possible signatures. According to Campbell A.O. Munro, half of all known signatures are in fact “spatial signatures.” Spatial signatures include suspected terrorist compounds and training camps, as well as individuals occupying spaces where terrorists are known to operate. The latter might include being a “military-age male in area of known terrorist activity” or a group of “armed men travelling in trucks in Al Qaeda in the Arabian Peninsula controlled area.” While eliminating specific individuals deemed to be a threat to the United States may be the purported goal of the drone program, the tracking of “spatial signatures” points to another, more subtle goal—namely asserting power over the territory of the target zone itself.

In 2010, at the height of the signature strike campaign in the tribal areas of Pakistan, there was, on average, a drone strike every three days. These strikes had a significant impact on the ground for the civilian populations. They serve

a different purpose than the relentless bombing campaigns conducted in the Vietnam War. It is easy for policy makers and drone proponents to forget the number of civilians who reside in these spaces, only reminded briefly on the occasion when civilians are mistakenly killed. On the rare occasion that civilian deaths are reported and acknowledged, officials express their regret (although they never admit the number of civilians killed). President Obama has stated that he takes the deaths of civilians seriously, and that he is even haunted by them. He nonetheless succumbs to the trope of military necessity, accepting that a small number of mistakes are tolerable for the greater good of reducing the threat from terrorists. Under the rules of war, the accidental death of civilians in war is tragic, but not illegal and not a war crime. But what if the constant presence of drones and the continuous threat of lethal strikes are viewed as aerial occupation? Does Obama lament the psychological impact of living under aerial occupation? Does he recognize the price others pay for American security?

**I**n an armed conflict—like in Afghanistan—international humanitarian law (IHL) applies to the conduct of lethal operations. Under IHL, civilians may not be targeted unless they are directly participating in hostilities. Outside of an armed conflict, international human rights law (IHRL) applies. IHRL protects the right to life and prohibits the arbitrary deprivation of life. There are, however, two exceptions to the right to life outside of an armed conflict. One is a capital conviction imposed by a legitimately constituted court. The other is when an individual poses an imminent threat to the lives of others. Both of these bodies of law, however, fail to capture the peculiarities of drone-based counterterrorism. This is why we invite our readers to think about drones as aerial occupation.

The Obama administration asserts that the Authorization for Use of Military Force signed by George W. Bush after the 9/11 attacks applies to Al Qaeda, Taliban, and “associated forces” wherever they operate. Further, a Department of Justice White Paper that was leaked in 2011 indicates that the Obama administration considers these groups an imminent threat at all times, thereby undermining the traditional meaning of imminence. Moreover, the laws of occupation require that the occupying force does not assume sovereign control over the territory and that the occupation is only temporary. Thus, the ability of drones to perpetually occupy territory from above raises significant legal questions.

The in-between spaces that U.S. drones occupy outside of declared warzones denotes a sharp legal divide between IHL and IHRL. According to John Williams, President Obama authorized the Central Intelligence Agency (CIA) to target anyone in Pakistan’s tribal areas considered a potential threat without having to seek authorization from outside the CIA. This authority was ceded on the condition that targets were located in approved geographical

“boxes” near the Afghan border. This is crucial because the border marks the legal boundary between a zone of armed conflict in Afghanistan, where drone strikes are permissible, and a zone where drone strikes are necessarily illegal. Of course, the irony is that the United States unilaterally decided where those boxes were to be drawn, and reserved the right to redraw them whenever it deemed fit.

In addition to the ethical and legal problems associated with lethal drone strikes, there are psychosocial aspects caused by the threat of death from above, such as the disruption of social patterns and other consequences of aerial occupation. The Stanford/NYU report, *Living Under Drones*, offers the most comprehensive information on the psychological effects of drone strikes in Pakistan. The report documents interviews with community members, as well as doctors and psychiatrists who have treated patients in the Federally Administered Tribal Areas (FATA) of Pakistan. The report provides a glimpse of the long-term impact of aerial occupation by drones.

One Pakistani psychiatrist, who has treated patients presenting symptoms he attributed to experience with or fear of drones, explained that the pervasive worry about future trauma he found in patients is emblematic of “anticipatory anxiety.” The real or perceived lack of control over one’s safety is a core element of anticipatory anxiety. Mental health professionals in Pakistan also said that they dealt with numerous cases of posttraumatic stress disorder (PTSD), resulting from patients witnessing (in some cases being injured in) drone strikes and the constant presence of drones, or the perception that they are there. People suffering from PTSD, insomnia, emotional breakdowns, and night terrors were all too common.

There is something unique about the perpetual presence of drones. Alison J. Williams discusses the unique loitering capability of drones. The aircraft is able to remain aloft, cameras fixed at a location on the ground without the knowledge of those being watched below, transmitting information back to someone far away who has the power to launch a lethal strike. In the case of armed drones loitering above, the threat is implicit, unknown, always possible, but ideally undetectable by those at whom the threat is aimed.

As drones loiter above, they can sometimes be heard, but much of the time they are inaudible. This psychological unknown is the crucial element of aerial occupation when it comes to deterring terrorists, for it disrupts their activities as they become more cautious. Osama bin Laden purportedly warned Al Qaeda members to limit their activities for fear of drones that were decimating the ranks. But civilians living under drones, even if they are not targets, are also subject to this fear. They know that drones frequently loiter overhead, but can never be certain if and when a strike might be launched, whether they might be in the wrong place at the wrong time, or mistakenly viewed as an enemy combatant. With hellfire missiles that travel faster

than the speed of sound, death arrives before one even hears the missile's launch.

A useful insight into the civilian psyche comes from a Waziri father of three: "Drones are always on my mind. It makes it difficult to sleep. They are like a mosquito. Even when you don't see them, you can hear them, you know they are there." Additionally, like the sound of a mosquito, the buzzing of the drone stays with you even when you can no longer hear it. Indeed, drones are different from traditional air power because they provide a constant threat, creating a relentless tension that never abates.

The perpetual psychological trauma of aerial occupation makes drones especially unique. Piloted fighter jets can only stay airborne for as long their pilots and fuel capacities allow. The CIA drone program is not limited by either of those restraints, which leads to constant patrol and a continuous threat of strike without clear rules of engagement. We are compelled to believe that the perpetual nature of drones makes the psychological impacts on civilian populations categorically different in a way that inherently violates General Assembly Resolution 39/11 (1984), the Declaration on the Right of Peoples to Peace (reaffirmed in 2005).

With the constant uncertainty that accompanies the fear of instantaneous death by drone, one cannot live in peace because the normalcies of daily life—the typical social patterns that constitute community relations—unravel. In times of peace, children go to school. Farmers tend their fields. People congregate in cafes, walk the streets, and go to sleep at night expecting to awake the next morning to the light of another day. Life under aerial occupation by drone is different as the social fabric is disturbed. Consider the impact of aerial occupation on children living in FATA. The life we would imagine of children—playing outside, laughing, being carefree—is a dream for children trapped in these in-between spaces.

It should not be difficult to imagine the impact a constant fear of death would have on children in their developmental years. One Pakistani mental health professional stated that the biggest concern he had was that when the children grow up, the kinds of images they will have with them could have significant consequences. For example, imagine the impact it could have on personality development. People who have experienced such things may have difficulty trusting people; they may have anger issues and a desire for revenge. When young boys and girls grow up with these experiences, they can cause permanent damage. A fundamental aspect of a right to peace is the psychological well-being of children.

Critics argue that all of these psychological impacts have as much to do with the violence of the Taliban/Al Qaeda as they do drones. Obviously, one hundred percent of the psychological impacts cannot be directly attributed to drones. Therefore, one could claim that the children would show the same

symptoms without the presence of drones because of the actions of extremists. Such arguments, however, do not vindicate drones. Drones contribute to the forestalling of progress for those living under them because they take peaceful options to ameliorate the situation off the table. Further, they create the incentive to hate those who operate drones—hate that someday could spur action.

Aerial occupation also impacts children's access to education. Aerial occupation leads to an immense fear of leaving the house, which prevents children from making it to school. Mamana Bibi (age 68) was killed by a U.S. drone strike in Pakistan on October 24, 2012 while tending to the family crops. Her family witnessed the killing (some were injured themselves) and subsequently testified before the U.S. Congress on October 29, 2013 to a nearly empty chamber. Bibi's grandson, Zubair, spoke at the hearings, illuminating both the psychological toll that the drone program is having on Pakistani children and how aerial occupation disrupts the social fabric: "Now I prefer cloudy days when the drones don't fly. When the sky brightens and becomes blue, the drones return and so does the fear. Children don't play so often now, and have stopped going to school. Education isn't possible as long as the drones circle overhead." Zubair's testimony regarding the detrimental effects of aerial occupation on the development of Pakistani children is echoed by others. These testimonies provide insight into the possible long-term consequences of aerial occupation by drones.

Drones also undermine communal trust. At times, the United States has used local informants to aid in tracking and targeting suspected militants. The resulting distrust within the communities has bred a kind of paranoia that has caused small-scale retaliatory violence within the community. David Rohde, a *New York Times* journalist held captive in the FATA by the Taliban for seven months, experienced living under drones firsthand. His testimony can offer a unique perspective on the effects of drones on civilians and the Taliban. Rohde recounts how the Taliban believed a network of local informants was aiding the CIA in determining when and where to strike. As a result, the Taliban rounded up innocent civilians and accused them of working as American spies, often torturing and/or killing them.

On one occasion, a drone missile struck near the house where Rohde was held captive. He recalls: "Several days after the drone strike near our house in Makeen, we heard that foreign militants had arrested a local man. He confessed to being a spy after they disemboweled him and chopped off his leg. Then they decapitated him and hung his body in the local bazaar as a warning." This anecdote represents the brutality with which the Taliban operate, using drones as a justification.

In reflecting on his time in captivity, Rohde was filled "with enormous sympathy for the Pakistani civilians trapped between the deranged Taliban and

ruthless American technology. They inhabit a hell on earth in the tribal areas.” “Hell on earth” is common in warzones, but the United States is not at war with Pakistan or Yemen. Assuming drones are not going to disappear from the U.S. arsenal and that the generational conflict is not going to suddenly end, what is needed is an ethics of aerial occupation that takes into account the effects we have discussed and provide better protection of the human rights of civilians.

**T**he long-term strategic benefits of drone strikes throughout the in-between spaces are questionable at best, while the immediate impact of aerial occupation on the right to peace is undeniable. The use of drones raises important questions about what the right to life, and what the very notion of human rights, will come to mean, as drone technology and related legal and moral norms evolve. In a world in which traditional notions of state sovereignty are fluid, threats amorphous, and the rules of armed conflict ambiguous, it is difficult to deny a state’s right of self-defense against terrorist groups. One can, however, change the discourse to better encapsulate the impact of drones on civilians. In lieu of a conclusion, we offer a few points from our interpretation of drones as a form of aerial occupation in an effort to shift the discourse on drones to one more conducive to respecting the rights of civilians, and ultimately toward an ethics of aerial occupation.

First, drone strikes need to be conducted with the intent of creating a context of peace, rather than simply safeguarding U.S. security by transferring the risk posed by extremist groups to those confined within the geographical spaces occupied by drones. To say we are in a generational conflict is a cop-out that will simply perpetuate the hostilities, making it a trans-generational conflict. We need to be discussing, instead, what is needed to end the aerial occupation.

In addition, drone discourse must evolve from one centered on their use as a tool in war to one that recognizes drones as a tool for aerial occupation. This evolution will lead to a human-centered approach to discussing drones, one that incorporates the psychological consequences for family life, education, and child development, as well as the retaliatory violence aerial occupation prompts. It will also shift the conversation from one of the right to self-defense against terrorist groups to one of the responsibility the United States has toward civilians living under its aerial occupation. While there are responsibilities toward civilians in times of war, those during occupation are much more robust. Among these responsibilities should be ensuring that the psychological trauma and disruption of the social fabric are minimized. Banning signature strikes (or severely restricting who may be targeted) would be a step in this direction.

All of this must also be part of an even bigger discussion regarding whether aerial drone occupation is ever justified. The current debate focuses

on the ethics and legality of individual strikes, but the effectiveness of drones depends on their ability to serve as ubiquitous—in time and space—eyes in the sky with the power to punish. Thus, to really understand whether drones are just, viewing them through the lens of aerial occupation as opposed to just war may provide the framing needed to steer the debate toward the right to peace afforded to all.

### RECOMMENDED READINGS

- Brooks, Rosa. 2014. "Drones and the International Rule of Law." *Ethics & International Affairs* 28(1): 83–103.
- McMahan, Jeff. 2009. "The Morality of Military Occupation." *Loyola of Los Angeles International and Comparative Law Review* 31(7): 7–29.
- Munro, Campbell A.O. 2014. "Mapping the Vertical Battlespace: Towards a Legal Cartography of Aerial Sovereignty." *London Review of International Law* 2(2): 233–261.
- Williams, Alison J. 2011. "Enabling Persistent Presence? Performing the Embodied Geopolitics of the Unmanned Aerial Vehicle Assemblage." *Political Geography* 30(7): 381–390.
- Williams, John. 2015. "Distant Intimacy: Space, Drones and Just War." *Ethics & International Affairs* 29(1): 93–110.

---

John R. Emery is a Ph.D. student in the Department of Political Science at the University of California, Irvine. His research focuses on issues of terrorism and counterterrorism, U.S. foreign policy, and the ethics of technology in warfare. E-mail: jremery@uci.edu

Daniel R. Brunstetter is Associate Professor in the Department of Political Science at the University of California, Irvine. His work on the ethics of drones has appeared in *Ethics & International Affairs*, *The Atlantic*, *the Journal of Military Ethics*, and the *International Journal of Human Rights*. E-mail: dbrunste@uci.edu