

THE GAMER GENERATION – FUTURE DRONE PILOTS

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Abstract

Drones or unmanned piloted vehicles represent the pinnacle of ranged weapon technology that ensure a fast strike, low cost and with almost no boots on the ground. This type of new technology also brings a new requirement for governments that use these devices, a requirement that dated air force training cannot offer, but a mobile phone or controller can offer it wholesome. The idea of downplaying war to sound very hip and cool and fun for the younger crowd has been around since the 1970's, when the Vietnam war recruiters were using the idea that war was a good investment for children and teens, because it offered them a future-proof job and access to entertaining tools, but kept out the negative aspects of participating in an armed conflict. Now we see a resurgence in the way military recruiters use such trends to draw in the crowd.

In this regard, the situation of using children and teens, or more precisely ones who have video-games as a time investing hobby, has been considered by the regulated armed forces for some time now, but due to international treaties that govern child protection this has been deemed impossible to accomplish. Should child protection treaties be revised or not, and if they should, could drones be the entry point for taking part in armed conflicts or other armed situations?

Keywords: *drones, soldiers, videogames, treaties, conventions.*

1. Introduction

This paper will focus on answering issues regarding the usage of children as potential drone pilots and how international law tries to fight a known issue in governments around the world. Furthermore, the paper will focus on how international law subjects dealt with child recruitment and how modern military practices outpace the law of nations. To effectively define the focuses, this paper will outline current legal instruments and practices of states, even if said states did ratify some or all legal instruments, they still do not uphold them and furthermore, disobey them entirely because internal legal instruments allow them do so.

While other authors have indeed offered their point of view on child recruitment in regular armed forces, this paper took inspiration from Tonje Hessen Schei's work entitled "*Drone*", a war documentary with human rights focuses, and tries to outline more legal instruments that are already existent in the struggle to prevent armed forces recruiting children as drone pilots and military hackers.

2. Keeping children off the battlefield and the efficiency of treaties that enforce such an action.

2.1. The definition of children under the Convention on the Rights of the Child (1989) and its Optional Protocol.

As per article 1 of the aforementioned *Convention*, a child is considered anyone who is below the age of 18 years old, unless national law state otherwise¹. This is also further enforced by the Optional Protocol, where it expressly forbids incorporating persons bellow the age of 18 as direct participants². Such a prohibition has been circumvented by non-state actors in armed conflicts mainly because it was a psychological weapon and because children were easy to draft and motivate to participate.

Under the *Geneva Conventions (1949)* and the *Additional Protocols*, according to article 77 paragraph 2 of *Additional Protocol I*, parties should refrain from using persons bellow the age of 15 as direct participants, but for those that are between the age of 15 and 18, the older ones will have priority in taking up direct combatant roles³. This is tied to the constant activity of the United Nations and the Security Council who has adopted ever since 1999 a regular debate on "*Children in armed conflict*"⁴ and as such has periodic reports published on

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¹ Convention on the Rights of the Child, UNGA, 2.09.1990.

² Optional Protocol to the Convention on the Rights of the Child, A/Res/54/263 25.05.2000, UNGA.

³ Additional Protocol I of 1977 of the Geneva Conventions of 1949.

⁴ UNSC Res. 1261, 25 August 1999, text can be consulted at the following address: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20SRES%201261.pdf>. Accessed 09.01.2017.

implementing a strategy to help war stricken communities and to protect children of all ages from the horrors of war.

While this debate launched without aiming the action at a specific non-state actor or government, it did however outline the fact that this issue will be handled by the UN Security Council as it sees fit. The most recent report of the U.N.S.C.⁵ and the Human Rights Watch, entitled „*Extreme Measures: abuses against children detained as national security threats*”⁶ is considered a tip of the iceberg type of situation where children have been detained on an extensive scale because they have been considered a real threat to national security in Nigeria and Syria. This may be true in the conventional way of fighting in an armed conflict, meaning with on the ground and in the trenches, but what if they were fighting from a location, far away from said battlefield, and connected from a computer or with a joystick?

These types of situations have to draw out the fact that persons bellow the age of 18 have become more active in how new generations of armed conflicts have been waged in this century. This is further pointed out in the UNSC report⁷ where it's stated that a lot of states that have been confronted with the issue of terrorism and child soldiers have adapted their national legislation to allow the detention and questioning of participants bellow the age of 18 as potential terrorists, all the meanwhile allowing them to be treated as other adults, meaning they get beaten up, tortured or killed in prisons.

This raises a lot of questions on how a person bellow the age of 18 would be treated if he or she was a drone pilot that was detained on the battlefield. Would they get better treatment or even should they be treated in other ways as a regular adult soldier? The UNSC resolution requires states to comply with child protection laws, but so far, states such as Israel have failed to comply and offer proper child demilitarization or even basic child protection laws and have gone ahead and prosecuted the alleged terrorists as full spectrum warriors.

Other situations that are blatantly disregarded are those regarding children being already targets of drone strikes⁸. Such a situation was called even in 2015 a barbaric practice by tagging children as „*fun-sized terrorists*”. To try an add a more awareness even among drone pilots, the Foundation for Fundamental Rights asked an artist in Pakistan to

make a giant picture of a child and place it in a heavy bombed region⁹, but sadly this did not ease the situation as attacks continued regardless of the ongoing campaign.

However, even if children are not yet recruited directly in the military, signs that things are changing in how the military considers who should be part of it. Recently the Swiss Army has decided that it should change its military recruiting algorithms by incorporating overweight people in their service¹⁰. This is coming at a time when cyber security and robotics threatening to become major areas in regular military situations. This is in line to how the U.S.A. has decided to create new military algorithms even from 2016¹¹ when former Secretary of Defense Ashton Carter stated that the military standards are due for a reform and that overweight people, pot smokers and single parents should be allowed in the military in different roles. Seeing as how these categories are usually people who are very versed in using computers and joysticks they make the perfect targets for future drone pilots and military hackers.

2.2. Why videogames are the entry point for convincing children to become part of the military.

First of all, what are videogames? Videogames, as the *Webster Dictionary*¹² puts it, is „*an electronic game played by means of images on a video screen and often emphasizing fast action*”.

This means that playing games that have a heavy military theme could create a false sense of reality on how warfare is being handled in real life and could impact a child's expectations¹³. The U.S.A. Army tried to recruit children by offering them a contract stipulating that once they reach a certain age they have to enroll in either a military school or directly in the military, but this practice was seen as prohibited since it forced the child into military service at a later stage in life.

Human rights activist and documentary maker Tonje Hessen Schei¹⁴ stated that confirmed reports from locations where gamers usually gather are frequently visited by army recruiters who bring a drone mission simulator and allow participants of the event, who are aged 10 or older, to partake in a mission to take out different military targets and terrorists in hoping that they would be entertained and join the military. The activist goes furthermore and claims that game designers are actually creating

⁵ UNGA, A/70/836 – S/2016/360, 20.04.2016.

⁶ HRW, 28.07.2016, available on their website, at the following address: <https://www.hrw.org/report/2016/07/28/extreme-measures/abuses-against-children-detained-national-security-threats>.

⁷ See supra note 4, pages 5 and following.

⁸ Murtaza Hussain, Former drone operators say they were „horrified” by cruelty of assassination program, *The Intercept*, 19.11.2015.

⁹ Notabugsplat.com blog, April 2014.

¹⁰ TheLocal.ch, Swiss military service: „Fat doesn't mean unfit to serve” says commission, 23.01.2017.

¹¹ Douglas Ernst, Pentagon may ease recruiting rules for obese people, pot smokers and single parents, *Washington Times*, 2.11.2016.

¹² Webster definition accessible at: <https://www.merriam-webster.com/dictionary/video%20game>.

¹³ Knight Ridder Tribune News Service: "Army Game to Draft Virtual Soldiers," 23.05.2002, pg. 1 and following.

¹⁴ Maker of the renowned documentary *Drone*.

videogames with the formats the military suggests them to as to create a better interface for future pilots or military personnel.

Furthermore, Professor Philip Alston stated in 2010¹⁵ that the „PlayStation mentality” is a key factor in how drone pilots are being trained and factor why killing has become a more viable option rather than capturing and also why collateral damage is no longer an issue.

3. Could child protection treaties be modified for the new generation of military personnel?

3.1. Why video games are the new tools for recruiting military personnel.

Video games are currently considered a spectrum of the entertainment sector that outgrew other conventional mainstream entertainment sectors by a large margin. The military have a longstanding reputation of partaking in the development of games or influencing some studios to develop certain interfaces¹⁶.

Such an example is the popular game *America's Army*, a game that debuted in 2002 on the personal computer and PlayStation 2 and now expands to 5 games in the series with the latest in 2015. The game debuted at an annual gaming convention known as E3 and in 2002, the US Army used this momentum to release a video game that was both a recruiting tool and also a training simulator for people interested in a military career¹⁷, but what the game also teaches is that international law and with a high regard, international humanitarian law, is something very subjective.

In this regard, the game teaches people that attacking hospitals or using new weapons is perfectly legal if the enemy is present there. The issue with such situations is that a lot of the player base is comprised of children who are very easily influenced and as such can be molded in developing a desire to join a military branch later on in life.

However, this trend has been in a tug-of-war situation, as the International Committee of the Red Cross has stepped up their presence in this sector as trying to teach young gamers about the risks of war and that justice exists for those who abuse their positions^{18,19}. This created the chance for players to

create content and use the created content to learn about war crimes and the protected emblems of the Red Cross, while also learning that killing should not be the focus of the armed conflict, but rather obtaining an advantage.

Sadly, the ongoing trend in the U.S.A. set a precedent for other states like Norway or Sweden and it will further outline how military recruiters will transform small and harmless robotics events into giant recruiting events for future military researchers and pilots²⁰. This is the case where human rights activists from Child Soldiers International have argued that during a 2013 event in Ohio, high-school students were exposed to a heavy military themed event in which they were being briefed about the benefits of drones and also they were exposed to military trainers who were teaching them how to build drones and rockets and how to use them in the field.

3.2. Are treaties still relevant?

To answer this as bluntly as possible, yes they are relevant. The current child protection treaties forbid armies to recruit children bellow the age of 18 for active combat roles²¹. This was outlined in conferences held under a political-level initiative of U.N. member states to form a working group that strives towards the disarmament and reintegration of children taking part in armed conflicts and to further the U.N. General Assembly Resolution from 1996²² which created the *Special Representative for Children and Armed Conflict*. From this stage, the UN Security Council cataloged the recruiting of children bellow the age of 18 to take part in direct armed conflict as a *threat to peace*²³ and going even further as to incorporating it in the Rome Statute of 1998, through which the International Criminal Court was created, to make child recruiting a *war crime*.

The Security Council also considered that struggle against the usage and recruiting of children to be a high issue that will always be in the attention of the UNSC and the Secretary-General of the U.N²⁴ and starting with 2014 the UNSC started a campaign entitled *Children. Not Soldiers* to end military recruiters from going to schools to influence children into joining the military²⁵.

Unfortunately, as the *Drone* documentary proves, governments did not follow-through with the UNSC resolution to reduce military recruiter presence in schools and even went further as to request that the

¹⁵ Philip Alston and Hina Shamsi, 'A Killer above the law', The Guardian, 2.08.2010.

¹⁶ Tom Breakwell, Documenting the next generation of drone pilots, Vice, 6.10.2014.

¹⁷ Michael B. Reagan, US Military recruits children: America's Army videogame violates international law, CommonDreams.org, 26.08.2008.

¹⁸ Amanda Kooser, Red Cross: penalize war crimes in video games, Cnet, 4.10.2013.

¹⁹ ICRC, New video game contest promotes respect for health-care personnel and facilities, 17.10.2014.

²⁰ Wearenotyoursoldiers.org, Why is the U.S. military pushing K-12 students to build drones in dayton?, 22.07.2014.

²¹ Paris Principles and Commitments – guidelines on children associated with armed forces or armed groups, February 2007.

²² UNGA A/RES/51/77.

²³ UNSC Resolution 1314.

²⁴ UNSC Resolution 1379.

²⁵ UNSC Resolution 2143.

Playstation generation be moved from the bedroom/living room to the frontlines against terrorism²⁶. The former drone deputy commander in the RAF considers that current pilots suffer from fatigue and stress and as such a younger generation needs to take the lead in the fight against terrorism, since most of them are acquainted with the drone interface and controls from over playing console and personal computer games during their teenage years.

This is further noticeable in the USA where the Supreme Court in 2006²⁷ ruled that military recruiters will be allowed on school premise only if other groups that promote career orientation are allowed and will not receive extra benefits. This comes at a time when schools were trying to fight the Pentagon's presence on school grounds which sometimes meant that if a school would not allow recruiters to partake in their mission or discriminate regarding sexual orientation, then that school would lose funding. But after 2006, universities and law schools are not allowed to ban military recruiters for this reason, because federal law requires equal access for the military. This issue has been seen in Scotland as well when in 2007²⁸ teacher unions tried to push out the military out but failed to gather the require momentum to ban the recruiting of minors in schools.

While child protection treaties remain steadfast, governments are trying to find a loophole so that they can recruit potential soldiers into their fold, even if international campaigns and internal opposition is met. This was done by allowing legal interpretations of personal information protection laws to be in favor of national defense interests. For example, in the USA, in 1982 Congress voted on allowing the Department of Defense to establish a data-base of every person who is aged 17 and up as a potential recruit for the military, and also to store that information for up to 3 years²⁹. Later on, in the early 2000s, Congress enacted a more forcible language towards schools and universities in the way of forcing them to accept the presence of a military recruiter on school grounds while failure to comply was met with harsh political backlash. Later on, Congress amended the legal documents as to allow parents to decide whether or not their child should be added to the Department of Defense watch list.

In Europe, the United Kingdom is the only government that allows the recruitment of teens in the army, as long as they are at least 16 years old³⁰. This means that they will not see active combat until the age of 18 but until then they will have a supportive

role in the regular army. This has been seen as a paradox to the normal European practice, where the minimum age of enlisting is 18 for any role in the regular army.

In this regard it is worrying that children are allowed to join the military branch in Europe, this aspect being noted in the *Concluding observations on the fifth period report of the United Kingdom of Great Britain and Northern Ireland* conducted by the UN³² and the *Open letter to the Ministry of Defence*³³ from May 2016 where both UK Parliament members alongside NGOs, teacher and parent unions and the UN request that the UK stop accepting enlisting requests from children that are between the age of 15 and 18 as it contradicts the Convention on the Rights of the Child. Unfortunately, the requests fell on deaf ears since the UK has one of the biggest military presence in the world and is also a permanent Security Council member, meaning that the UK and the USA can legally get teenagers to join the army and also shape them as future military hackers or drone pilots.

4. Conclusions

While most states around the world race to acquire drone technology and the means to build it, the privileged states such as Israel, U.S.A. and the U.K. have developed enough tech that they require more manpower to use it and maintain it. This means that state will try to find potential manpower in the private sector or try to supplement its lack of manpower by preparing younger generations to take up the role of legal combatants.

This paper has a dual role, first being that to spread awareness of the ongoing practice of recruiting or promoting military careers to teens or younger audiences and second, to try and outline the constant work that the U.N. has achieved in the struggle to prohibit children from taking part in armed conflicts, yet the political will of certain states comes as counterproductive to the work of the entire U.N. system.

While it is true that the U.N. has certain areas in which it cannot intervene as much as it should, the peer pressure it can create could later on force states to adopt a certain conduit that is moral and on par with democratic states. Other than the U.N., only NGOs and other working groups can deter the ongoing child recruitment mechanisms and stop exposing them to military opportunists.

²⁶ Patrick Wintour, RAF urged to recruit video game players to operate Reaper drones, TheGuardian, 9.12.2016.

²⁷ Rumsfeld v. Forum for Academic and Institutional Rights, Inc. 547 US 47 (2006) – USA Supreme Court.

²⁸ BBC, Teachers vote for army school ban, 8.06.2007.

²⁹ David F. Burrelli, Jody Feder, Military recruitment on high school and college campuses: A policy and legal analysis, Congressional Research Service, 22.09.2009.

³⁰ There are 16 more other states in the world that have the same regime, but sadly most of them are considered to be autocracies or rogue states.

³¹ As seen on the UK Army website: <http://www.army.mod.uk/join/How-to-join.aspx>.

³² UN CRC/C/GBR/CO/5 – 12.08.2016.

³³ Member of the UK Parliament – Penny Mordaunt, 23.05.2016: <https://www.child-soldiers.org/news/open-letter-to-the-ministry-of-defence>.

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