

The manhunt doctrine

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George W. Bush had warned us early on: the United States has launched itself into a new kind of war, a ‘war that requires us to be on an international manhunt’.¹ It would be wrong to believe that Barack Obama’s ‘justice has been done’, echoing Bush nearly ten years later, will close what was merely a parenthesis. In the interim, what had sounded merely like the picturesque slogan of a Texan cowboy was converted into a state doctrine with its experts, plans and weapons. A new doctrine of state violence emerged, finding its unity in the concept of the militarized manhunt.

‘How do we organize the Department of Defence for manhunts? We are obviously not well organized at the present time’, said Donald Rumsfeld in 2002.² The United States military machine was no doubt not ready, in the early 2000s, to carry out efficiently, and on a global scale, missions that would otherwise be allotted to the police at home. But the difficulty came in a variety of forms in other registers, including the justification of these hybrid operations, the *enfants terribles* of the police and the army, of war and of the hunt, which are, as much on the level of the theory of war as of international law, like monsters. In a report by the Joint Special Operations University published in 2009, George A. Crawford proposed to make ‘manhunting a foundation of U.S. national strategy’.³ He thus took over a whole series of military studies done before which had sought to establish a conceptual framework for this new strategic doctrine.

The doctrine of the manhunt breaks with conventional warfare, which rests on the concepts of fronts, linear battles and face-to-face opposition. In 1916, General Pershing launched a large military offensive on Mexican territory to seize the revolutionary Pancho Villa. The massive deployment of force drew a blank. For the American strategists who cite this historic precedent as a counter-example, it is a question of reversing the polarity: faced with the ‘asymmetrical extremes’ posed by small mobile groups of ‘non-state actors’, one must employ small flexible units in a logic of targeted attacks. Contrary to Clausewitz’s classic definition, such *cynetic war*⁴ is not, in its fundamental structure, a duel. The structure does not involve two fighters facing off, but something else: a hunter who advances and a prey who flees or who hides. The rules of the game are not the same:

In the competition between two enemy combatants, the goal is to win the battle by defeating the adversary – both combatants must confront to win. However, a manhunt scenario differs in that each player’s strategy is different. The fugitive always wants to avoid capture, while the pursuer always wants to engage and capture the target – the pursuer must *confront* to win, whereas the fugitive must *evade* to win.⁵

The first task no longer involves immobilizing the enemy but instead requires identifying and locating him. This is done by means of slow detection work. The art of modern tracking proceeds by means of a cartography of the prey’s social networks that the ‘hunter-analysts’ piece together in order to succeed in tracing him back, through his friends or relatives, to his hideout.

The prey who wants to escape his pursuers tries to become undetectable or inaccessible. But inaccessibility is not only a function of physical geography – such as an inextricable bush or deep crevice. The theorists of manhunting remind us that the ‘political and legal restrictions, especially in the form of jurisdictional boundaries’, are an eminent part of the ‘set of constraints that shape the rules of the game’. From this point of view, it is clear that ‘sovereign borders are among the greatest allies’ that a fugitive can have.⁶ The hunter’s power has no regard for borders. It allows itself the right of universal trespassing, in defiance of territorial integrity of sovereign states. It is an invasive power which, unlike the imperial manoeuvres of the past, is based less on a notion of right of conquest than of a right of pursuit. In the past, English common law allowed, in the countryside, ‘the hunting of ravenous beasts of prey, as badgers and foxes, in another man’s land; because destroying such creatures is said to be profitable to the Public’.⁷ It is this kind of right that the United States would like to give itself today with regard to human prey, and on a global scale. To do this fully, however, it would be necessary, in contradiction to contemporary law, to resuscitate the archaic category of common enemies of humanity.⁸

Absolute enmity

In cynegetic war, armed violence seeks to pursue the prey wherever it might be. The place of hostilities is no longer defined by the locatable space of an effective combat zone, but by the simple presence of the hunted individual who carries with him everywhere a kind of little halo denoting a personal hostility zone. In this way of thinking, the very notion of armed conflict occurring in a distinct geographical space tends to vanish. Here, on the one hand, the combat zone tends to be reduced to the body of the enemy, which must then, according to the principle of distinction, be the only space that is targeted; but, on the other hand, it is believed that this mobile micro-space can be targeted wherever it happens to be. The paradox is that the principle of targeting is accompanied by a limitless virtual extension of the conflict zone: the world becomes the battlefield. Thus the classical distinction is erased between armed conflict zones, in which the use of weapons of war is allowed, and other zones in which they are not allowed. This, besides the question of respect of territorial sovereignty, is the problem posed by the current American air attacks. As Mary Ellen O’Connell states:

there was no armed conflict on the territory of Pakistan because there was no intense armed fighting between organized armed groups. International law does not recognize the right to kill with battlefield weapons outside an actual armed conflict. The so-called ‘global war on terror’ is not an armed conflict.⁹

This ‘war’ is more like a vast campaign of extrajudicial executions: a strategy of targeted assassinations, of lethal manhunts, which make up the ‘rogue’ and unilateral counterpart to the manhunts carried out under the aegis of international criminal justice. The difference is that in a law-enforcement regime, the use of lethal force is strictly limited to situations of legitimate defence: there is no question of killing the suspects on sight. Thus, when Barack Obama declared that ‘justice has been done’, regarding the killing of an unarmed man, there is a worrying abuse of language – unless one thinks that a summary execution is compatible with the standards of a revised concept of ‘justice’.

If the practice of targeted assassination stretches back into the ancient history of state violence, what is new is the fact that it is no longer confined to clandestine activity, but instead is made legitimate by the states that carry it out. This strategy involves the reinterpretation of the principles of international law, even if it means emptying them of their meaning, in order to authorize arbitrary executions soberly called ‘targeted killings’. As Philip Alston showed in a recent report,¹⁰ Western states – with the USA and Israel at the forefront – mobilize a legal arsenal in order to give themselves

the right to murder enemies that are reduced, rhetorically, to the status of criminals, yet deprived of the elementary forms of justice.

In the new doctrine of militarized manhunting, the goal is ‘to detect, deter, disrupt, detain, or destroy networks before they can harm innocents’.¹¹ It is a matter of preventative security campaigns founded on a logic of elimination of dangerous individuals. The underlying rationality of this type of practice is that of the *measure of safety*. Unlike a sentence given, the measure of safety, which is ‘not designed to punish but only to protect society from danger’,¹² is not determined by the seriousness of an act committed, but by the estimated danger of an individual. We find this mode of thought, today, in the notion of ‘pre-emptive manhunting’,¹³ where it is not a question of responding to attacks with countermeasures, but of preventing a threat by means of the anticipated elimination of the potential agents. The fragility of this kind of reasoning, which is highlighted elsewhere,¹⁴ takes on a particularly dramatic dimension here since it has to do with founding the irrevocable – death – on the probable. ‘Threat’ and ‘dangerousness’ are the words used today to cover over the Schmittian concept of absolute enmity.

The logic of political assassination subscribes to a fetishized vision of the power in which the eradication of undesirable individuals would suppress the reasons for their genesis. This way of thinking, common to the murderous state and the statesman’s assassin, neglects however the fact that, even if it is severed, the head can grow back again so long as the conditions which created it remain.¹⁵ This logic of elimination furthermore systematically neglects its own effects in return, which can always, in accordance with the law of unintended consequences, end up magnifying the threat that it had intended to eradicate. A premonitory slip perhaps: the programme of assassinations launched by the Americans in Vietnam was called ‘Phoenix’.

Cynegetic war bears an ideal of non-confrontation with death, and of domination without real combat. While a duel involves a reciprocal relation of exposure to death – each participant bearing his chest to the enemy – in the hunt, on the contrary, the master barely ever confronts his prey directly. He uses intermediaries, beaters or the pack. Everything is done so that his life is never in danger, to assure him maximum protection. The use of predator drones and of Hellfire missiles, operated at a distance from American soil, illustrates this principle of absolute preservation of the life of the hunter by the mediation of hunting auxiliaries. In this outline, at a pinch, combat becomes superfluous. War becomes pure power of murder.

The drone is the emblem of contemporary cynegetic war.¹⁶ It is the mechanical, flying and robotic heir of the dog of war. It creates to perfection the ideal of asymmetry: to be able to kill without being able to be killed; to be able to see without being seen. To become absolutely invulnerable while the other is placed in a state of absolute vulnerability. ‘Predator’, ‘Global Hawk’, ‘Reaper’ – birds of prey and angels of death, drones bear their names well. Only death can kill without ever dying itself. Facing such an enemy, there is no way out. As a T-shirt glorifying American drones stated: ‘You can run, but you’ll only die tired.’

The drone is the technical solution found for what Edward N. Luttwak calls the contradictions of the post-heroic age, where Western states are ordered to make war without losing soldiers on their side. Freed of the constraints linked with the mobilization of human combatants, the leader of an army of drones could then finally acquire ‘the right to lead them into war as he would take them on a hunt, and into battles as on a pleasure trip’,¹⁷ to borrow an expression from Kant; that is, so that the risk of allowing some of their own to be killed would no longer need to be accounted for in the decision. In a phantom and remote-control war, the people, who do not risk their lives, would have no say in all of this. The drone appears in this sense also like a remedy to the internal political contestations of imperial wars. The strategists who advocated the general use of these weapons after the failures in Vietnam clearly had this goal in

mind. The unmanned fighter is a terrible weapon, but it is the weapon of the coward. The danger, perceived by the army itself, consists, for the one who uses it, in becoming 'unmanned' in every sense of the term. It is the reason for which the officers of the Air Force, with their haloed image of knights of modern times, resisted the generalization of drones, which of course threatened their use, but also and most of all their virile prestige.

Asymmetrical weapons create a radical crisis in the warrior ethos of the dominant player. The residual ideological need to heroicize the use of means that are, however, quite unheroic creates a burlesque effect which, in a macabre way, appears to be the main characteristic of all *cynthetic* war stories. This *cynthetic burlesque* is born of the contrast between the baseness of the means deployed and the height of the style in which they are decorated.¹⁸ When an assailant can kill without ever risking his or her own life, heroism, as well as martyrdom, becomes the exclusive privilege of the enemy. The contradiction is that the material advantage comes at the price of a moral disadvantage. When the balance of courage leans entirely to the side of the enemy camp, the problem becomes strategic. Specialists of counter-insurrectional war are alarmed today at the perverse effects of an excessive use of drones for American interests. Drones excel at pulverizing bodies at a distance, but they are perfectly incapable of winning 'hearts and minds' on the ground. This is, however, the classic objective that is claimed in any strategy of counter-guerrilla warfare.

The fact that certain professors of moral philosophy recycled as military consultants should today learnedly claim that drones are weapons that *are ethical in themselves*¹⁹ undoubtedly says a lot about what the word 'ethics' refers to today. The public version of the argument was recently given in a British report explaining that the 'use of unmanned aircraft prevents the potential loss of aircrew lives and is thus in itself morally justified.'²⁰ This is a thesis that a magazine, towards the end of the 1990s, summarized much more efficiently with a rather advertisement-like subheading, between two photographs of drones with purified lines on a sky blue background: 'Nobody dies – except the enemy.'²¹ But this is a double standard that subscribes to not doubting the universalization posed on the foundation of moral law.

At the opposite extreme to this simplistic theory of 'weapons that are ethical in themselves', Hegel wrote regarding virtue and the world: 'the weapons are nothing else but the nature of the combatants themselves, a nature which only makes its appearance for both of them reciprocally.'²² In war, and anything else, the effective mode of existence of universality is no doubt only found in reciprocity. But it is precisely that which should push the apostles of militarized ethics to trade their good conscience for a certain anxiety. For, if it is true, as Nietzsche also wrote, that this form of compromise that human societies call justice cannot exist without a certain balance of forces and a certain reciprocity of the power of aggression, it may be that the pretensions for just *cynthetic* war cannot become effective without terrible retaliation.

This is in any case the path opened, unwittingly, by those today who seek to legitimate the drone attacks by a certain 'right to anticipatory self-defence against non-state actors'.²³ Michael Walzer, in a surprisingly – yet ironically – prophetic text, aiming in other times to establish such a right in interstate relations, used the following image:

if we imagine an unstable society, like the 'wild west' of American fiction, the analogy can be restated: a state under threat is like an individual hunted by an enemy who has announced his intention of killing or injuring him. Surely such a person may surprise his hunter, if he is able to do so.²⁴

It could be that the populations over whom the threat of American 'Predators' looms, in Pakistan or elsewhere, might quite rightly, albeit inversely, reach the same conclusion for themselves.

Translated by Shane Lillis

Notes

1. 'President Speaks at FBI on New Terrorist Threat Integration Center', 14 February 2003, www.fas.org/irp/news/2003/02/wh021403b.html.
2. Rowan Scarborough, *Rumsfeld's War: The Untold Story of America's Anti-terrorist Commander*, Regnery Publishing, Washington DC, 2004, p. 20. 'They want to turn these guys into assassins' was, at the time, the reaction of senior officers in the American army to Rumsfeld's plans for the military's most elite forces. Seymour Hersh, 'Manhunt', *New Yorker*, 23 December 2002.
3. Kenneth H. Poole, 'Foreword', in George A. Crawford, *Manhunting: Counter-Network Organization for Irregular Warfare*, Joint Special Operations University report, JSOU Press, Hurlburt Field FL, September 2009, p. vii.
4. On this concept, see my *Les chasses à l'homme, histoire et philosophie du pouvoir cynégétique*, La Fabrique, Paris, 2010; English translation forthcoming from Princeton University Press, 2012.
5. Steven Marks, Thomas Meer and Matthew Nilson, *Manhunting: A Methodology for Finding Persons of National Interest*, thesis, Naval Postgraduate School, Monterey CA, June 2005, p. 19.
6. *Ibid.*, p. 28.
7. See William Blackstone, *Commentaries on the Laws of England*, Garland, New York, 1978, vol. 3, p. 213.
8. See Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations*, Zone Books, New York, 2009.
9. Mary Ellen O'Connell, *Unlawful Killing with Combat Drones: A Case Study of Pakistan, 2004–2009: Abstract*, Notre Dame Law School, Legal Studies Research Paper No. 09–43, 2009. And if, as the American authorities claim, it is a question of armed conflict, then the civil CIA operatives who operate the drones that strike Pakistan from American soil 'have no right to participate in hostilities and are unlawful combatants. They may be charged with a crime' (p. 22).
10. Philip Alston, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Addendum. Study on Targeted Killings*, UN, New York, May 2010.
11. Crawford, *Manhunting*, p. 12.
12. Jean André Roux, *La Défense contre le crime: répression et prévention*, Alcan, Paris, 1922, p. 196.
13. See Seymour M. Hersh, 'Moving Targets. Will the Counter-insurgency Plan in Iraq Repeat the Mistakes of Vietnam?', *New Yorker*, 15 December 2003. See also Alberto Moreiras, 'Preemptive Manhunt: A New Partisanship', *Positions*, vol. 13, no. 1, Spring 2005, pp. 9–30; and Ariel Colonomos, *Le Pari de la guerre. Guerre préventive, guerre juste?*, Denoël, Paris, 2009.
14. See, in another context, Bernard Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age*, University of Chicago Press, Chicago, 2006.
15. Hans Magnus Enzensberger has argued: 'Individual terror is based on the conviction that history is made by emperors, kings, and presidents; a conviction that is shared by emperors, kings, and presidents. No bomb thrower can change the great and anonymous social forces', Hans Magnus Enzensberger, *Politics and Crime*, Seabury Press, New York, 1974, p. 76.
16. I am currently preparing a book on this subject, *Théorie du drone*, to be published in France in 2012.
17. Immanuel Kant, *The Metaphysics of Morals*, ed. and trans. Mary J. Gregor, Cambridge University Press, Cambridge, 1996, p. 116.
18. A sign of the times, the only heroic motifs that the dominant parties still have to decorate the stories of their exploits are their dogs' feats of arms. The dog that participated in the elimination of bin Laden has, it is said, been honoured at the White House, and *Foreign Policy*, in a gallery of portraits to the glory of American dogs of war, is enraptured with 'the canine member of the U.S. Navy SEAL Team 6 that took down Osama bin Laden – a Belgian Malinois who answers to the name of Cairo'. For an account the growing role of dogs throughout the disciplinary apparatus of the modern state, see Mark Neocleous, 'The Smell of Power: A Contribution to the Critique of the Sniffer Dog', *Radical Philosophy* 167, May/June 2011, pp. 9–14.
19. See Bradley Jay Strawser, 'Moral Predators: The Duty to Employ Uninhabited Aerial Vehicles', *Journal of Military Ethics*, vol. 9, no. 4, 2010, pp. 342–68.
20. See Walter Pincus, 'Debates Under Way on Combat Drones', *Washington Post*, Sunday, 1 May 2011.
21. Bill Sweetman, 'Fighters Without Pilots', *Popular Science*, November 1997.
22. Hegel, *Phenomenology of Spirit*, §383.
23. Philip Alston criticizes this notion: 'there are very few situations outside the context of active hostilities in which the test for anticipatory self-defence – necessity that is "instant, overwhelming, and leaving no choice of means, and no moment of deliberation" – would be met. This hypothetical presents the same danger as the "ticking-time bomb" ... a thought experiment that posits a rare emergency exception to an absolute prohibition can effectively institutionalize that exception.' *Report of the Special Rapporteur*, p. 25.
24. Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Basic Books, New York, 2006 (1977), p. 85.