

VALLEY NEWS

Debating Killing Machines: VLS Holds Conference on Drones

By Jon Wolper March 23, 2013

South Royalton — A panel of lawyers, professors and think-tank members from across the ideological spectrum weighed-in yesterday on the hot-button issues of the legality and ethics of unmanned predator drones.

“Does the use of drones, for example, raise or lower the threshold of war?” asked Doug Bandow, sitting on a six-member panel at the Jonathon B. Chase Community Center at the Vermont Law School, noting the ambiguity that could arise in a “war in the shadows.”

“Traditional combat was pretty easy,” Bandow, of the libertarian-leaning CATO Institute, added.

National discourse on drones has intensified in recent weeks, perhaps reaching its most visible point earlier this month when Sen. Rand Paul, R-Ky., filibustered the nomination of John Brennan as CIA director for nearly 13 hours over questions about the Obama administration’s drone policy.

While timely, yesterday’s all-day conference, titled “Reaching Critical Mass: International and U.S. Law in the Wake of Modern Exigencies,” actually began to come together long before the legality of drones was thrust into the media spotlight.

Students Richard Sala, a member of the VLS chapter of the conservative Federalist Society, and Molly Gray, of the school’s International Law Society, began considering panelists from all sides of the debate six months ago.

“I think we both agreed, in order to have a constructive conversation” about an emotional issue, Gray said, “you have to have both points of view at the table.”

Sala said the timing of the February release of a confidential Department of Justice memo that argued the government can carry out the killing of an American citizen if they are thought to be “senior operational leaders” of a terrorist organization, worked “fortuitously” for the conference.

That so-called “white paper” factored heavily into yesterday’s talk, as the drone debate and conversations about killing of American citizens weaved in and out of each other.

“What does it mean to be an affiliate?” asked Bandow, a senior fellow at the CATO institute. “What does it mean to be ‘associated with?’ What does it mean?”

Over the course of nearly two hours, the panel — one of several events during the conference — moved from the changing idea of what constitutes a “battlefield,” to the impreciseness of the actual term “drone,” to what can be considered a lawful target for military action.

When it was his turn to speak, Chris Jenks, the director of the Criminal Justice Clinic and an assistant law professor at Southern Methodist University, brought up the concept of “autonomous systems.”

“Autonomous systems don’t have a human being that is deciding when to use lethal force,” he said. Instead, the systems are entirely computer-operated, he said.

Later, Michael Lewis, a law professor at Ohio Northern University, took issue with the idea that unmanned — but still human-controlled — drone strikes are not personalized attacks and, therefore, easier to carry out in a detached manner.

In fact, he said, manning a drone is even more personalizing than, say, charging at someone with a knife.

“Before I kill you,” he said, placing himself in the shoes of an Air Force member operating a drone thousands of miles from his target, “I watch you for 72 hours. I watch you go home to your wife and kids. I watch you play soccer with your son. ... Three days later, I follow you up a mountain road and blow you up.”

Then, he said, he would have to zoom in to confirm the kill.

“No warrior has known as much about the person he is killing as the drone pilots,” Lewis concluded.
“Don’t let anybody tell you that this is easy.”