

Killer Drone Policy Exposed at the UN

by Carl Osgood

Oct. 28—The administration of President Barack Obama has carried out targeted killings using armed, unmanned aircraft, without any transparency or accountability, and may have committed war crimes in the process. That is the conclusion to be drawn from reports and discussions, beginning with the release of the interim report of UN Human Rights Council Special Rapporteur for Counter-Terrorism and Human Rights Ben Emmerson on Oct. 18, the simultaneous release on Oct. 22 of reports by Human Rights Watch and Amnesty International, which examined the results of U.S. drone strikes in Yemen and Pakistan, and the Oct. 23 release of a report by UN Special Rapporteur for Extrajudicial and Summary Executions Christoph Heyns.

These reports were followed by a debate in the UN General Assembly on Oct. 25, informed by the reports of Emmerson and Heyns, and a panel discussion at the UN Human Rights Council in Geneva, the same day, which was addressed by Emmerson, Heyns, other human rights advocates, and a former U.S. drone operator.

It is clear from these presentations that drone strikes in Pakistan and Yemen have had an enormous impact on the civilian populations in the areas where the attacks have occurred. They have undermined local efforts to deal with problems brought on by the activities of armed groups, and they have killed civilians who presented no threat to the United States whatsoever. The secrecy with which the U.S. has pursued its killer drone campaign also means that there is no justice for the victims and their families.

While there are issues of the lack of clarity in international law, which both Emmerson and Heyns argued need to be cleared up, the lack of transparency “is the greatest obstacle,” to assessing the impact of drone strikes on civilians, Emmerson said. The secrecy “makes it extremely difficult to assess the claims” made by the U.S. “of precision targeting accurately

and objectively.” Emmerson’s report is “interim,” in fact, precisely because of the lack of cooperation of the U.S. administration. Therefore, his only recommendation, so far, is “that in any case where civilians have been or appear to have been killed, the state responsible is under obligation to conduct a prompt, independent, and impartial fact-finding inquiry, and I should say that those inquiries already take place, but states must also provide a detailed explanation of the outcome.”

The central question of Heyns’ investigation was not whether drones are legal, but rather how their use might be constrained so that it complies with international humanitarian law, international human rights law, and the laws of armed conflict, so that the right to life remains secured. The default position of customary international law, Heyns said, is that the taking of a life needs to be justified. International law includes thresholds for the taking of life—it must be necessary, and the use of force must be proportional, to avoid unnecessary civilian casualties. But there are several ways that these thresholds are being undermined. Heyns cited a number of arguments made by the Obama Administration to argue that its drone campaigns in Pakistan and Yemen are justified and legal, such as the argument that the U.S. is not engaged in an armed conflict (which would involve the rules of interstate conflict under international law), or by broadening the threshold by targeting “associated forces” that may not even be directly participating in the armed conflict that is going on.

Rights Groups Allege U.S. War Crimes

The Human Rights Watch (HRW) and Amnesty International (AI) reports were also presented as part of the Oct. 25 Human Rights Council’s panel discussion. Those reports argued that in most of the cases that they investigated, U.S. drone strikes in Yemen and Pakistan violated international human rights law, and may have constituted war crimes. AI reviewed all 45 drone strikes known to have taken place in Pakistan’s North Waziristan in 2012 and 2013, and gave detailed accounts of several, including the death of a 68-year-old grandmother harvesting vegetables in October 2012, and the July 2012 deaths of 18 laborers in a village near the Afghan border. “We cannot find any justification for these killings,” said Mustafa Qadri, AI’s Pakistan researcher. “There are genuine threats to the U.S.A and its allies in the region, and drone strikes

may be lawful in some circumstances. But it is hard to believe that a group of laborers, or an elderly woman surrounded by her grandchildren, were endangering anyone at all, let alone posing an imminent threat to the United States.”

AI also found numerous instances of “double tap” strikes, where people responding to the devastation of the first attack are then targeted in followup attacks, increasing the carnage, and as terrifying people into not responding to future attacks. Heyns has previously characterized this tactic of targeting civilian rescuers as a war crime.

HRW reviewed six cases of drone strikes in Yemen in 2012 and 2013, which killed 82 people, 57 of them identified as civilians. They highlighted the Aug. 29, 2012 targeting of five alleged militants from al-Qaeda and the Arabian Peninsula (AQAP), in the village of Kashamir in southern Yemen. However, one of those killed was actually a prominent local cleric by the name of Salim bin Ali Jaber, who was well known for preaching *against* AQAP’s violent methods. A second man killed was his cousin, a police officer who had accompanied Ali Jaber for security reasons. They were meeting with three alleged AQAP members at AQAP’s demand, to discuss Ali Jaber’s particularly strong denunciation of AQAP during a sermon the previous Friday.

The six cases studied by HRW also included at least two where the suspects who were killed could likely have been arrested instead, because they lived in areas under government control. Instead, U.S. authorities launched drone strikes, risking civilian casualties, undermining the authority of the government of Yemen, and fomenting rage against the United States.

The White House responded to these two reports, in the person of spokesman Jay Carney, who told reporters on Oct. 23 that “U.S. counterterrorism operations are precise, they are lawful and they are effective,” and that the United States takes “extraordinary care” to avoid civilian casualties, but this is war, and in war civilians get killed.



A predator drone firing a missile. Will the Obama Administration come up on charges of war crimes, for the indiscriminate killing of civilians?

DoD

Drones Make Yemen Less Safe

Denunciation of the U.S. drone campaign also came last week, from a former U.S. diplomat who had served in Yemen. The U.S. war on terrorism has made Yemen a much more dangerous place than it was before 2009, argued Nabeel Khoury, who was Deputy Chief of Mission at the U.S. Embassy in Sana’a from 2004 to 2007. In a commentary published by the *Cairo Review of Global Affairs*, Khoury described a country, during his time there, where foreign diplomats could travel nearly anywhere. They needed to coordinate with local officials, but it was safe for them. The exception was the region of Saada, where the government of Ali Abdallah Saleh denied permission for foreigners to visit because of the then-ongoing war there. American diplomats could also bring their families and live in Sana’a.

With the end of the Iraq War in 2011 and after four years of President Obama’s war on terror, which for Yemen has included at least 67 drone strikes in 2012 and 2013 alone, Yemen is a far more dangerous place. Diplomats cannot bring their families with them, and must live in heavily guarded compounds; they can barely travel outside the embassy and certainly not outside Sana’a. The number of al-Qaeda operatives in the country has risen steadily over the last few years, to

several thousand, today. “If we assess U.S. policy in Yemen from a security standpoint first, we would have to conclude that it has certainly not brought more security to the American diplomats in Yemen,” Khoury wrote.

Khoury praised other aspects of U.S. policy but warned that the war on terror has trumped efforts at democratization. “Drone strikes take out a few bad guys to be sure, but they also kill a large number of innocent civilians,” he wrote. “Given Yemen’s tribal structure, the U.S. generates roughly forty to sixty new enemies for every AQAP operative killed by drones.”

“In war, unmanned aircraft may be a necessary part of a comprehensive military strategy,” Khoury concluded. “In a country where we are not at war, however, drones become part of our foreign policy, dominating it altogether, to the detriment of both our security and political goals.”

Hold Obama Accountable

The major question that remains is that of accountability. When asked what UN member-states should do

about the drone problem, Emmerson first said that they should get together to hammer out a framework that would put the necessary constraints on such operations. Second is accountability for past violations. Emmerson stressed that the fact that the number of strikes in Pakistan has dropped dramatically over the past few months (this is also the case in Yemen) “doesn’t alter the fact that between 400 and 600 civilians lost their lives over the previous five years.”

Holding the Obama Administration accountable for the crimes it has committed in its targeted killing program cannot be done by the international community, however. It must come from Congress, acting according to the U.S. Constitution, which gives the Congress the responsibility to conduct oversight of such programs and investigate them. If it finds evidence of impeachable crimes, then it must act to remove Obama from office. Those who argue that Obama has already modified the program to reduce civilian casualties, as Bloomberg News did on Oct. 24, miss the point: Crimes that go unpunished remain precedents for the future.

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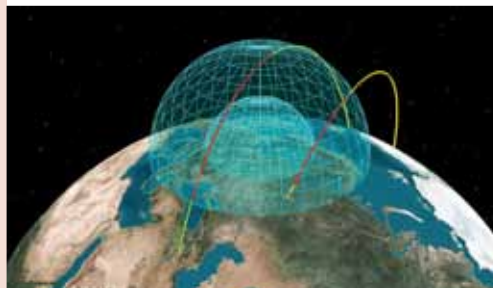
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