

UN To Probe Obama's Killer Drone Program

by Carl Osgood

Jan. 28—Neither the start of the New Year, nor the beginning of his second term in office, seems to have prompted President Obama to pull back from his drone wars in Pakistan and Yemen. In fact, 2013 has seen an intensification of drone strikes in both countries, with dozens killed and dozens more wounded and traumatized, and, as always, with little information being provided by the Administration to justify, or even confirm, the strikes, and no oversight being provided by the U.S. Congress.

The only serious investigations, outside of lawsuits seeking to gain more information, are those of the United Nations Human Rights Council. The most recent such investigation was announced last week, by Ben Emmerson QC, the council's Special Rapporteur on Human Rights and Counter-Terrorism (HRC). The Obama Administration has so far refused to cooperate with HRC investigations of its drone campaigns, and instead, has arrogantly asserted its right to conduct targeted killing operations in countries with which the U.S. is not at war. This arrogance has driven concerns about both the legality of such killings under international law, as well as about civilian casualties resulting from such operations.

At a Jan. 24 press conference in London, Emmerson reported that the inquiry that he has begun was launched in response to a request, made in June 2012 by Russia and China—both UN Security Council members—by Pakistan, and a number of other countries that he did not name.

“The exponential rise in the use of drone technology in a variety of military and non-military contexts represents a real challenge to the framework of established international law,” he said, “and it is both right as a matter of principle, and inevitable as a matter of political reality, that the international community should now be focusing attention on the standards applicable to this technological development, particularly its deployment in counterterrorism and counter-insurgency initiatives, and attempt to reach a consensus on the legality of its use, and the standards and safeguards which should apply to it.”

Emmerson added that, since the technology is here to stay, “It is therefore imperative that appropriate legal and operational structures are urgently put in place to regulate its use in a manner that complies with the requirements of international law, including international human rights law, international humanitarian law (or the law of war as it used to be called), and international refugee law.”

Emmerson noted, in his press conference and in media interviews afterwards, that there are at least three different theories vying for legitimacy regarding drone strikes. There are those who argue that targeted killings, by drones or otherwise, that take place outside of recognized zones of international conflict are unlawful under international human rights law, which permits “the use of lethal force only where it is strictly necessary as a matter of immediate self-defence.”

At the other end, is the Obama Administration's theory, promoted by John Brennan, Obama's nominee to head the CIA, among others, that it is in conflict with a stateless enemy that can operate anywhere in the world, thus making the entire globe a theater of war. “This analysis is heavily disputed by most States, and by the majority of international lawyers outside the United States of America,” Emmerson said.

Somewhere in the middle lies the question of when a third party can intervene in an internal armed conflict in support of government forces. “The reality here is that the world is facing a new technological development which is not easily accommodated within the existing legal frameworks, and none of the analyses that have been floated is entirely satisfactory or comprehensive,” Emmerson pointed out. “And they may differ in their application in different theatres of conflict.”

The Nature of Obama's Drone War

According to the London-based Bureau of Investigative Journalism, there have been 310 drone strikes in Pakistan since Obama took office in 2009, and another 42-52 in Yemen. The BIJ estimates that 2,629-3,461 people have been killed in Pakistan, among them, 475-891 civilians, including 176 children. The BIJ estimates that 374-1,112 have been killed in Yemen, including 72-178 civilians. The BIJ's estimates are based on media reporting, and are therefore necessarily incomplete, mainly due to the lack of official investigations into individual strikes. The Obama Administration, in fact, has gotten around the question of civilian casualties by simply declaring that all “military-age males” in



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UN Special Rapporteur Ben Emmerson is investigating Obama's murderous drone strikes.

the strike zone are, by definition, “militants,” and therefore fair game.

The BIJ has also charged, as a result of its own investigations, that the Obama Administration has engaged in war crimes in Pakistan, specifically, by following up drone strikes with second strikes that target rescuers responding to the first strike. These “double tap” strikes, as they are called, were defined by the Department of Homeland Security as terrorism back in 2007. Emmerson, himself, noted in an Oct. 25, 2012 speech at Harvard University, that it has been “alleged that since President Obama took office, at least 50 civilians were killed in follow-up strikes when they had gone to help victims, and more than 20 civilians have also been attacked in deliberate strikes on funerals and mourners. Christof Heyns [UN Special Rapporteur for Extrajudicial Killings, Summary and Arbitrary Executions] has described such attacks, if they prove to have happened, as war crimes. I would endorse that view.”

The Lack of Accountability

The problem, of course, is that the Obama Administration refuses to be accountable. On the one hand, the U.S. says that targeted killings are legal and justifiable as self-defense, but on the other, refuses to confirm or deny the existence of targeted killing programs using armed drones. In this way, the U.S. “is holding its finger in the dam of public accountability,” Emmerson said, last Aug. 19. Emmerson is, nonetheless, hopeful that the U.S. will cooperate with his investigation. He told the London *Guardian* on Jan. 23 that the U.K. Ministry of Defence (which operates armed drones in Af-

ghanistan) has already expressed its willingness to cooperate, and the New York Council on Foreign Relations, in a special report released on Jan. 14, recommended that the U.S. President “provide information to the public, Congress, and UN special rapporteurs without disclosing classified information on what procedures exist to prevent harm to civilians.” Emmerson told the *Guardian* that, “One of the fundamental questions is whether aerial targeting using drones is an appropriate method of conflict where the individuals are embedded in a local community.”

Emmerson plans to consider 25 particular drone strikes as case studies, not only strikes by the U.S. in Pakistan and Yemen, but also U.K. drone operations in Afghanistan, and the use of drones by Israel in the Palestinian territories. “The central objective of the present investigation is to look at the evidence that drone strikes and other forms of remote targeted killing have caused disproportionate civilian casualties in some instances, and to make recommendations concerning the duty of States to conduct thorough independent and impartial investigations into such allegations, with a view to securing accountability and reparation where things can be shown to have gone badly wrong with potentially grave consequences for civilians,” Emmerson said on Jan. 24.

Emmerson indicated that his investigation will take place in three phases: an evidence-gathering phase, which will be concluded by the end of May; a consultation phase, during which his investigation will seek the views and responses of the relevant states, to be concluded by July; and the evaluation and the drafting of the final report, which will be completed by the end of September, and presented to the U.N. General Assembly in October.

As valuable as this international spotlight on Obama's brutality is, it is no substitute for an unbridled investigation by the relevant committees of the U.S. Congress, as part of that body's Constitutional responsibilities. As *EIR* has documented elsewhere,¹ the blowback from Obama's drone wars is actually increasing the terror threat, not reducing it, and that is the same terror threat with which Obama is allied with in both Syria and Libya. This meets the definition of an impeachable offense and cries out for Congressional investigation.

1. See Edward Spannaus, “Drone Strikes as Strategic Folly: Obama Is al-Qaeda's No. 1 Recruiter,” *EIR*, Jan. 18, 2013.