



**LCHR**

Labour Campaign for Human Rights

**BRIEFING – DRONES AND TARGETED KILLINGS**

## DRONES AND TARGETED KILLINGS

### Executive Summary

LCHR believes that remotely piloted aircraft (“drones”) offer significant military advantages to the UK and other states. We also believe that, if used correctly, this technology can be beneficial for human rights.

However, the way the United States is currently using drones outside of defined areas of conflict raises a number of concerns. The US targeted killings programme may be in breach of both international human rights law and international humanitarian law, setting a dangerous precedent for other states and non-state actors as drone technology proliferates.

The targeted killings programme also causes significant alienation in affected countries and communities. The damage this does to the wider counter-terrorism effort may outweigh the tactical value these drone strikes have.

LCHR is also concerned that the UK may be providing active support to the US targeted killings programme.

In this briefing, we recommend that the government should:

1. Support the use of drones for surveillance of suspected terrorists and other human rights violators;
2. Restrict Britain’s use of armed drones to defined areas of conflict;
3. Be transparent about its use of drones;
4. Ensure that Britain is not directly or indirectly complicit in any US breaches of international law; and
5. Encourage our international partners, including the United States, to use drones in line with international law.

### The benefits of drones

#### **1. Military advantages**

The ability of drones to loiter over areas for prolonged periods of time and provide real-time intelligence prior to a possible strike should allow for greatly improved accuracy. Advancements in drone technology mean that some drones can follow targets for a series of days and can generate up to thirty simultaneous video feeds at an 18,000-metre distance.<sup>1</sup>

In countries such as Iraq, drones have been used to observe and prevent the planting of explosive devices by armed groups, and to foresee potential assaults on convoy missions, resulting in a significant drop in fatalities.<sup>2</sup> They have also provided a crucial 'over-watch' role for troops on the ground.

Drones also help us to avoid putting our soldiers and pilots in harm's way as they can be a substitute for operations by Special Forces and manned aircraft.

#### **2. Human rights benefits**

Due to their ability to loiter, drones can offer greater reliability in distinguishing real terrorist threats from civilian activity and recording lifestyle patterns which tell us when the target is most likely to be alone.<sup>3</sup> This data can be vital in reducing civilian deaths.

Drones can also be used for the surveillance of human rights violations. Previously, they have been employed as peacekeeping tools in the Democratic Republic of the Congo and Chad. During these missions, drones have gathered information about the movements of troops or militia groups, and have also estimated the scale of refugee and displaced populations.<sup>4</sup>

### Concerns about drones

#### **1. Current US drone policy may be in breach of international law**

The overwhelming majority of drone strikes take place within conventional theatres of armed conflict such as Afghanistan.<sup>5</sup> It is not these strikes that LCHR is concerned about, but instead those that take place outside defined areas of conflict, most prominently in Pakistan and Yemen. The absence of consensus as to the nature of these conflicts has complicated the status of drone strikes in these countries under international law, a situation compounded by the secrecy that surrounds them.<sup>6</sup>

Since 2004, drones operated by the CIA have carried out strikes in the Federally Administered Tribal Areas of Pakistan. It is estimated that, as of September 2013, the US had launched at least 330 strikes in Pakistan as part of this targeted killings programme, bringing about at least 2,200 deaths.<sup>7</sup> It is unclear how many of the dead were civilians, although the number reported by Pakistan's government is at least 400.<sup>8</sup>

At all times, states must comply with their obligations under human rights law. In times of armed conflict, international humanitarian law (IHL) also applies, with certain human rights obligations, including the right to life, interpreted in terms of IHL.<sup>9</sup>

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President Obama has argued that ‘the United States is at war with al Qaeda, the Taliban, and their associated forces’, and therefore that any strike on a member of one of these groups, wherever they are, takes place within an armed conflict.<sup>10</sup> This novel definition does not fit into either of the categories recognised under IHL and, as such, there is currently no consensus as to whether these laws of war apply.<sup>11</sup>

### Breaches of human rights law

If IHL does not apply, these targeted killings are taking place outside the legal scope of an armed conflict. They may be classified as extrajudicial executions, and be in violation of human rights law.

### Breaches of International Humanitarian Law

If it is accepted that the United States is involved in an armed conflict in Pakistan and Yemen, then the requirements of IHL apply. These laws of war appear to have been breached in three ways:

1. **Signature strikes** – IHL requires that a distinction be made between civilians and combatants, and that where there is a doubt as to whether a person is a civilian or not, civilian status be presumed. Civilians may not be attacked unless they take a direct part in hostilities, and only for such time as they are participating.<sup>12</sup> Under President Obama, the US has moved from carrying out strikes against identified individuals to carrying out ‘signature’ strikes that target suspicious groups of men whose identities are unknown but whose appearance and activity patterns bear signatures that link them with hostile activity.<sup>13</sup> Targeting individuals without knowledge that they are combatants is a violation of IHL’s principle of distinction.
2. **Proportionality** - Not all civilian deaths that occur as part of armed attacks are unlawful. However, it is prohibited to carry out an attack which may be expected to cause incidental injury to civilians or loss of civilian life which is excessive in relation to the concrete and direct military advantage anticipated.<sup>14</sup> There have been numerous attacks documented in which high numbers of civilians have been killed, with no clear explanation of the military advantage gained.<sup>15</sup>
3. **Double taps** – There have been a number of attacks documented in which a second missile has been fired from a drone minutes after the first, killing those who attended the scene of the first strike to give medical assistance or search for survivors.<sup>16</sup> On 6 July 2012 a group of eight labourers in Zowi Sidgi village were killed by a drone as they gathered in a tent after work. Minutes later, villagers were at the scene searching for survivors when a second strike hit the same location, killing a further six instantly.<sup>17</sup> Where one attack is followed by another in order to target the wounded and medical personnel, it constitutes a war crime.<sup>18</sup>

### 2. Drone technology is proliferating, and there is a danger that breaches of international law may become normalised

Drone technology is no longer the preserve of the USA and Israel. At least 75 other countries are known to have unmanned aerial vehicles, of which approximately 20 are thought to have armed drone capabilities.<sup>19</sup> These countries include Iran, which has recently unveiled the Shahed-129, capable of carrying up to eight missiles and with a range of up to 1,700km.<sup>20</sup>

The pace of proliferation is increasing. Over the past eight years, Israel has exported \$4.6bn of drone technology, making up nearly 10% of its total defence exports.<sup>21</sup> China, which is not a member of any of the two major missile export control regimes, is able to export the technology to other

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countries without restraint.<sup>22</sup> Iran has reportedly supplied the Assad regime with drones.<sup>23</sup> Non-state actors are also increasingly likely to acquire drones; Hezbollah is reported to already possess the ability to field unmanned reconnaissance systems in Israeli territory.<sup>24</sup>

In this climate of proliferation, there is a very real danger that violations of international law arising from US use will become normalised in a manner that threatens to undermine the rule-based international order. John Brennan, director of the CIA, has acknowledged that the United States is 'establishing precedent that other nations may follow'.<sup>25</sup> It is therefore vital that potential violations of international law are challenged and addressed before drone use becomes widespread and potentially affects British citizens and those of allied countries.

### 3. Drone strikes may be undermining long-term security in the West

*'Drone attacks are fuelling terrorism'* – Malala Yousafzai.<sup>26</sup>

In recent years, drone technology has enabled the United States to kill numerous senior terrorist and militant leaders, including Al Qaeda's number two in Afghanistan, Abu Yahya al-Libi, and Hakimullah Mehsud, leader of the Pakistani Taliban.<sup>27</sup> The civilian casualties caused by strikes such as these have been well-documented. A central issue to be addressed is what long-term effects these strikes are having on affected populations.

#### Pakistan

In communities targeted by drone attacks, these strikes are often the only direct contact the targeted communities have with the West. A group of 26 US Congressmen described drones as 'faceless ambassadors' of death, and expressed concern about the ability of strikes to generate 'profound and enduring anti-American sentiment'.<sup>28</sup> There is clear evidence that US strikes have fostered anti-American sentiment throughout all of Pakistan, not just in those areas directly affected. Research carried out in 2012 found that 94% of Pakistanis believe that drone attacks kill too many innocent people, and that 74% of Pakistanis now view the United States as an enemy.<sup>29</sup>

The anger and resentment caused by such strikes may have facilitated recruitment to violent groups wishing to attack the West. A study by the *Middle East Policy Council* found it 'probable that drone strikes provide motivation for retaliation', and identified a 'substantive relationship between the increasing number of drone strikes and the increasing number of retaliation attacks'.<sup>30</sup> Pakistani Parliamentarian Syed Akhunzada Chittan has stated that 'for every militant killed', many more are born, whilst Noor Behram, a journalist based in the Waziristan region, held that 'when people are out there picking up body parts after a drone strike, it would be very easy to convince those people to fight against America'.<sup>31</sup>

#### Terrorism in the West

Additionally, US drone strikes have explicitly been referred to as a motivation for a number of specific planned or implemented terrorist attacks. Faisal Shahzad, who attempted to blow up a car bomb in New York's Times Square, conceived of his attacks as retaliation for US policies including drone strikes. Najibullah Zahi, an Afghan who plotted to attack New York's subway system, was 'in part, motivated by drone strikes in [his] ancestral homeland'.<sup>32</sup>

### 4. Britain may be aiding US targeted killings

Under the Immigration, Asylum and Nationality Act 2006, the Home Secretary has the power to strip British citizens with dual nationality of their British citizenship.<sup>33</sup> Since 2010, at least 37 individuals who are suspected of involvement in terrorism have been stripped by Theresa May of their citizenship.<sup>34</sup> This has allowed ministers to wash their hands regarding the fate of these individuals, two of whom are known subsequently to have been killed in US drone strikes.<sup>35</sup>

Additionally, the UK may be complicit through the sharing of intelligence with the United States. Although, at present, the British military has only used its drones to launch missiles in areas where there is a defined conflict, such as Afghanistan, it is highly likely that Britain has passed intelligence to the US on individuals who are later targeted in drone strikes elsewhere. Ben Emmerson, UN Special Rapporteur on counter-terrorism and human rights, recently told Members of Parliament that, because of the very close relationship between the British and American intelligence services, he regarded it as 'inevitable' that intelligence had been shared with the US that is then used in drone strikes.<sup>36</sup>

### 5. Britain is not being sufficiently transparent in its own use of drones

Though Britain restricts its use of drones to clearly defined areas of conflict, there is an inadequate level of transparency about how they are used in these areas. There is a lack of information about casualty figures, and where and when strikes take place. Sometimes it is unclear whether strikes are carried out by the US or the UK, making it impossible to ensure proper accountability.

### **Recommendations**

In the light of these points, LCHR recommends that the government should:

1. Support the use of drones for surveillance of suspected terrorists and other human rights violators;
2. Restrict Britain's use of armed drones to defined areas of conflict;
3. Be transparent about its use of drones;
4. Ensure that Britain is not directly or indirectly complicit in any US breaches of international law; and
5. Encourage our international partners, including the United States, to use drones in line with international law.

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