The United States Drone Program as Counterproductive Counterterrorism

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Military strategy has been shaped by many disruptive technologies over the course of history, the most recent of which is the unmanned aerial vehicle, more commonly referred to as the drone. The dominant politico-military rationale for the use of drones in war is that with the "drone stare"—a video feed in near real-time—the operator can see and strike with "surgical precision," minimizing civilian casualties and the risk to one's own soldiers (Sandvik, 2015). The use of drone strikes for targeted killings began as a counterterrorism strategy under President Bush and expanded during President Obama's first term to non-war zones. The US military and intelligence agencies used drone strikes to in Pakistan to eliminate terrorist and insurgent threats, but may have caused much more unnecessary damage to the Pakistan population. Since 2001, the United States has been gripped by a fear of terrorism and has gone to great lengths to protect itself and its allies from this global threat. If a great power like the US is not prudent in its protective measures, it could isolate itself and help the enemy grow stronger in the long run. Implicated in this question are American political leaders and CIA officials, Pakistani government officials concerned with foreign relations, civilians of Pakistan who live with the consequences, as well as terrorist groups in the area and their recruits. Evaluating the opinions of these participants indicates that the US military and intelligence agencies have acted irresponsibly in their use of drones for targeted killings, contributing to the destabilization of allied nations and setting a dangerous precedent for other international powers in their use of force.

Review of Research

The argument that the US drone program complies with international laws and norms has been heavily criticized. Researchers Javaid and Akhlaq contrast US practice with its world democratic goals, arguing that the recent surge of drone strikes in Pakistan are an example in which America, "the champion of the new world order based on democratic values and human rights itself" directly caused more war and bloodshed by resorting to the arbitrary use of force and violence, while "seriously undermining international laws and norms" (Javaid & Akhlaq, 2018). Andrea Birdsall takes the US relationship with international law further by saying the US purposefully works to alter prevalent norms related to the use of drones in counterterrorism efforts, which challenges international law on a number of levels (Birdsall, 2018). Finally, Gurcan presents an interesting view of US motivators: the military technique of armed drones informs military strategy and politics, rather than the other way around (Gurcan, 2013).

Many problems with the US drone campaign are rooted in the fact that they are portrayed as unprecedentedly humane. Hugh Gusterson has devoted volumes to disproving this claim. He explains, "US drone warfare in Waziristan has been legitimated through a discourse of military humanism that claims very low rates of civilian casualties and a concern to spare the lives of the innocent. In practice, in concert with the Pakistani government's counterinsurgency campaign and the tactics of the Taliban, drone strikes in Waziristan have killed substantial numbers of civilians and…have torn apart Waziri civil society while creating a culture of terror" (Gusterson, 2019). Stanford and NYU law schools published an extensive report on the same topic, expanding it to include many other disastrous effects of drone killings. Their key findings were (International, 2012):

> In the United States, the dominant narrative about the use of drones in Pakistan is of a surgically precise and effective tool that makes the US safer by enabling "targeted killing" of terrorists, with minimal downsides or collateral impacts.
>
> This narrative is false.
>
> Following nine months of intensive research—including two investigations in Pakistan, more than 130 interviews with victims, witnesses, and experts, and review of thousands of pages of documentation and media reporting—this report presents evidence of the damaging and counterproductive effects of current US drone strike policies…In light of significant evidence of harmful impacts to Pakistani civilians and to US interests, current policies to address terrorism through targeted killings and drone strikes must be carefully re-evaluated.

The following argument attempts to develop a comprehensive view of the military and CIA drone program by examining relevant international law and US interaction with it, exploiting the true number of casualties inflicted by armed drones, and examining other counterproductive effects that undermine global goals for preventing terrorism.

The Relationship Between Drone Strikes and International Law

Several bodies of law regulate the use of force by nations against individuals. The United Nations Charter pertains to relationships between states, International Humanitarian Law applies in the presence of armed conflict, and International Human Rights Law applies outside of armed conflict (International, 2012). Critics contend that the use of drone strikes against militants in the Federally Administered Tribal Areas (FATA) of Pakistan, which share a border with Afghanistan, has implicated the US in failing to follow these international protocols protecting human life.

The Pakistani government has never publicly consented to the drone attacks within its borders. However, when the strikes began many believed that the government was tacitly

supporting them by taking credit for some strikes and denying US involvement. Former US Ambassador Anne Patterson recounted a meeting with former Pakistani Prime Minister Yousaf Gilani, where he acknowledged "I don't care if they do it as long as they get the right people. We'll protest in the National Assembly and then ignore it" (International, 2012, p. 106). However, this sentiment changed as the frequency of strikes increased over the next few years. In 2012, the spokesman to Pakistani President Asif Ali Zardari said that, in a meeting with US special envoy to Afghanistan and Pakistan, Zardari "reiterated his call for an end to the drone attacks, terming them counterproductive in the fight against militancy and in the battle of winning hearts" (Dawn.com, 2012). Several other Pakistani political leaders spoke out against the drone attacks, but the position of the US did not change. In the words of Pakistani foreign minister Hina Rabbani Khar, "On drones, the language is clear: a clear cessation of drone strikes. I maintain the position that we'd told them categorically before. But they did not listen. I hope their listening will improve" (Chalmers & Gregory, 2012). Even if the US had implicit permission for strikes at first, these explicit condemnations implicate them in violating the sovereignty of the Pakistani state by acting as an unchecked foreign regulator.

Under prevailing interpretations of Article 2 of the UN Charter, the arbitrary use of force against individuals is permitted when it is carried out with the consent of the host state or in cases of self-defense (International, 2012). In 2009, President Obama recognized this when claiming "the world rallied around America after the 9/11 attacks, and continues to support our efforts in Afghanistan, because of the horror of those senseless attacks and the recognized principle of self-defense" (Obama, 2009). Although he specifies Afghanistan, there is no mention of attacks against tribal areas of Pakistan. Such attacks might be considered self-defense against combatants in Pakistan preparing to attack American forces across the border, but this

interpretation is dubious given the many strikes targeting militants such as Baitullah Mehsud, who fought the Pakistani state rather than the coalition forces (Aslam, 2013). If the drone strikes in Pakistan were defending the US from terrorism, there would have had to be reasonable evidence that these militants pose an imminent threat.

Humanitarian and human rights laws protect the rights and lives of individuals by prohibiting arbitrary use of force against them. If targeted killings are to be classified as self-defense, they must satisfy rules of necessity, proportionality, and legality. Christoph Heyns, Special Rapporteur and member of the UN human rights council, holds that "the aim should be to halt and repel an attack," but "an anticipatory attack against an imminent threat is also permissible… [H]owever, this may be done only in response to an existing threat. It may not be done pre-emptively to prevent a threat from arising in the future. The necessity of the self-defense, in the well-known phrase, must be instant, overwhelming and leaving no choice of means, no moment of deliberation" (Heyns, 2013). It is dubious that US drone strikes in Pakistan satisfy these requirements, because long deliberation is given to low level insurgents and targets can rarely be linked to a specific threat.

The Truth Concerning Casualties from Drone Strikes

Political and military leaders praised the weaponized drone for being both effective and moral to an unprecedented degree, subscribing to what Hugh Gusterson terms "drone essentialism": the assumption that the technical capability of drones to discriminate determines their actual use, as if sparing civilians is inherent in the technology (Gusterson, 2016). In 2010 John O. Brennan, one of President Obama's top counterterrorism advisors, claimed that over the previous year, "there hasn't been a single collateral death because of the exceptional proficiency,

precision of the capabilities we've been able to develop" (Shane, 2011). In contrast, The Bureau of Investigative Journalism (TBIJ) estimated at least 45 innocent Pakistanis died from US drone strikes in that year, and between 392 to 781 total as of 2011, including 175 children (Woods, 2011).

The discrepancies in casualty estimation are largely due to deliberate lack of transparency from the agencies ordering strikes. A common misconception is that drones are solely used for "personality strikes," in which the target comes from a known list of terrorists, when in actuality most drone strikes are "signature strikes," in which unidentified individuals are targeted because they exhibit the appearance or behavior associated with insurgents (Klaidman, 2012). According to the TBIJ's estimates, only 6 percent of people killed by drone strikes were named militants, and even fewer were "high value" militant leaders (Shane, 2011). Such profiling of militants is difficult in a war in which the enemy does not wear uniforms, so in some conditions any male of military age is considered a militant unless there is evidence proving otherwise (Hamid, 2013). There are too many examples in which this profiling strategy went disastrously wrong, with little cost to the US.

On January 23, 2009, just three days after taking office, President Obama personally authorized his first drone strikes in Pakistan. Gulistan Khan was a tribal elder, or *malik*, who lived in a large compound with his extended family. On that night he and his male family members were gathered in the *hujra*, a room meant for hospitality and entertainment, when the strike hit. Malik Khan and four of his sons and nephews were dead in seconds. Khan's brother later told researchers, "We did nothing, have no connection to militants at all. Our family supported the government…" and other tribal elders said he was a member of the local peace committee (Woods, 2015). Just three hours earlier in a neighboring province, 16-year-old

student Faheem Qureshi was sitting in another *hujra* with Malik Khalil, two cousins and half a dozen guests. They had noticed drones flying above "but we did not expect them to attack because we are not terrorists, why should they attack us? But suddenly, while we were having tea and chatting the drones attacked," the teenager later recalled. (Woods, 2015). Faheem survived the attack with severe injuries, but seven to fifteen others died (International, 2012). The following day, The Washington Post reported that the attacks struck "suspected terrorist hideouts" and killed "at least 10 insurgents, including five foreign nationals and possibly even 'a high-value target'" (Miller, 2011). Thousands of tribesmen gathered for funerals, Islamabad granted a stipend for the surviving families, and Faheem filed a lawsuit, but President Obama and the CIA continued to order drone strikes.

On March 17, 2011, some 40 community figures, elders, and government officials met in a town center for a government-sanctioned meeting to settle disputes over nearby chromite mines. Four Taliban members were also present, as they were necessary to effectively resolve the dispute (International, 2012). The CIA deployed a drone to fire multiple missiles upon the gathering and maintained that every individual killed was an insurgent, with one American official saying, "These people weren't gathering for a bake sale. They were terrorists" (Masood & Shah, 2011). However, research compiled by Stanford and NYU law schools found that at least 42 people died from the attack, including 24 named civilians and only one named member of the Taliban. Cited in this estimate were the Pakistani military, independent investigations by The Associated Press and TBIJ, interviews with attorneys, and testimonies of nine witnesses, survivors, and family members (International, 2012).

These examples are a few of many which illustrate that the CIA, which is in charge of all drone attacks outside of the battlefield, was dangerously arrogant in its thirst for terrorist blood.

Yet, America did not have to pay the price for its mistakes, but rather left the task of recovery to the people and government of Pakistan and other countries where it decided a threat existed.

Additional Consequences of Drone Strikes for the Pakistani Population

The consequences of drone strikes on civilians in the FATA of Pakistan go beyond the immediately apparent death, injury, and destruction caused by the strikes. Impacts include living under fear of drone attacks, reduced willingness to rescue victims, property and livelihood destruction, and a negative public opinion of the US. The Taliban has reacted to drone strikes with retaliation attacks and execution of suspected spies.

Above North Waziristan, drones hover for hours or days before striking, which creates a constant scenario of fear and anxiety for civilians who may view the attacks as random. David Rhodes, a former journalist for the *New York Times*, recounts his experience in this "hell on earth" after being kidnapped and held by the Taliban in FATA: "The drones were terrifying. From the ground, it is impossible to determine who or what they are tracking as they circle overhead. The buzz of a distant propeller is a constant reminder of imminent death. Drones fire missiles that travel faster than the speed of sound. A drone's victim never hears the missile that kills him" (Rhodes, 2012). Another account from a civilian describes the fear as continuous: "We are always thinking that it is either going to attack our homes or whatever we do…No matter what we are doing, that fear is always inculcated in us. Because whether we are driving a car, or we are working on a farm, or we are sitting home playing cards…we are always thinking the drone will strike us" (International, 2012). The presence of Drones in Pakistan this has a significant impact on daily life and rituals for civilians.

There is significant evidence that when the US military uses hellfire missiles, they deploy a tactic termed “double tap,” by which two missiles are fired in succession to improve accuracy (Nasuti, 2011). The Pakistani people soon became aware of this practice when first responders to strikes were attacked after arriving on the scene. TBIJ found evidence of at least 18 such strikes on rescuers and mourners (Woods, 2011). A father of four, who lost one of his legs in a drone strike, admitted that, “We and other people are so scared of drone attacks now that when there is a drone strike, for two or three hours nobody goes close to [the location of the strike]” (International, 2012). Average civilians thus avoid strike sites or approach at their own risk, but this effect is not limited to civilians; a local professional emergency relief organization has a mandatory six-hour delay in responding to drone strikes (International, 2012). When civilian casualties inevitably occur, the victims have little hope of relief.

While the US believes drones present the technological capability of “surgical precision,” they are not a replacement for intelligence. The CIA relies on strikes that are guided by on-ground personnel, who are local hired spies. The Taliban and insurgents quickly grew wise to the drone's ability to track cell phones and internet use, so they largely cut it out. They knew that the drone strikes must have gotten their information somewhere, and when they discovered spies they were not forgiving. Their practice was to create an execution video of the spy and place it with his body in a public place as a warning to others not to betray their fellow citizens in favor of the US (Woods, 2015). CIA informant Mohammad Hassan described his experience, saying “The Taliban know that someone has to be passing on information. There is a special unit whose job is to expose spies and punish them. Even someone who is suspected of being an informant has a problem… And then these people turn up as corpses along the side of the road, along with the DVD of the execution and a note stating that this is the fate all spies can expect" (Hassam,

qtd. by Kasim, 2013). These spies are hired by the CIA and paid in cash, but often don't know who their employer really is and definitely do not receive any sort of protection (Woods, 2015).

It would be a logical guess that a terrorist group would retaliate against direct attacks. An example of this is when terrorists killed 18 members of a police academy in Lahore in 2009, after which Baitullah Mehsud stated that the attack was "in retaliation for the continued drone strikes by the United States in collaboration with Pakistan on our people." US officials directing attacks are aware of this undesirable effect, but likely believe that targeted strikes will incapacitate the insurgents to the point that they are unable to enact revenge. Jaeger and Siddique performed a vector autoregressive analysis on drone strikes and terrorist attacks in Afghanistan and Pakistan, with daily samples from January 2007 through September 2011. They found that in Pakistan, the probability of a terrorist attack increases the week following a drone strike, and decreases the second week, suggesting a reallocation of efforts in response to strikes (Jaeger & Siddique, 2018). Given the dangerous nature of terrorist groups, counterattacks are an important negative effect of drone strikes in addition to the others already described.

In 2013, President Obama explained that force alone cannot defeat terrorist threats, but these measures must be complemented by efforts to build the capacity of Arab states to mitigate terrorism on their own (Obama, 2013). These efforts are undermined by drone strikes because they create an immense culture of distrust towards the US. The Pew Research Center found that in 2012, 80% of Pakistanis viewed the US unfavorably, and 74% viewed the US as an enemy; "only 17% back American drone strikes against leaders of extremist groups, even if they are conducted in conjunction with the Pakistani government" (Kohut et. al., 2012). The president acknowledged the negative effects of this unfavorable opinion by stating: "[T]he cost to our relationship with Pakistan -- and the backlash among the Pakistani public over encroachment on

their territory -- was so severe that we are just now beginning to rebuild this important partnership" (Obama, 2013). Thus, the US is aware of the negative impacts of targeted killings in Pakistan towards their own goals, yet their practices changed very little.

Conclusion

It is important to consider this research and the issues it presents in a global context. As a great international power and leader, the US may be in a position to interpret laws as it pleases, but these actions are not free of consequences. As drones and other technologies become cheaper and more commonplace, nations will look to the US as an example, and what will they see? Evidently, international human rights laws are up for interpretation concerning the use of force on preemptive or low-probability threats; with a little bit of secrecy and precision technology, casualties can be ignored; and long-term impacts are outweighed by the occasional high-value target elimination that makes for a good news heading. Although this document focuses on attacks in Pakistan during the Obama presidency, its content may be extrapolated to other countries such as Yemen and Somalia as well as later regimes. The US must carefully re-evaluate its policies to address terrorism through targeted killings and drone if it wishes to contribute to a safe and free world.

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