

Drone killings come under attack

Geneva, 9 Jul (Martin Khor*) -- The use of drones by one state to kill people in other countries is fast emerging as an international human rights issue of serious public concern.

This was evident in the recent session (18 June-6 July) of the Human Rights Council in Geneva, both in the official meetings and in NGO seminars.

The use of drones, or pilotless aircraft operated by remote control, by the government in one country to strike at persons and other targets in other countries, has been increasingly used by the United States in Pakistan, Afghanistan, Yemen and Somalia.

Instead of following clear legal standards, the practice of drone attacks has become a vaguely defined and unaccountable "license to kill", according to a 2010 report of a UN human rights special rapporteur.

According to an article in the London-based The Guardian, the American Civil Liberties Union estimates that as many as 4,000 people have been killed in US drone strikes since 2002.

Of those, a significant proportion were civilians. The numbers killed have escalated significantly since Barack Obama became president.

Recent criticisms and concerns raised by officials, experts and governments about the use of drones include the high numbers of deaths and casualties of innocent civilians; possible violation of sovereignty and international human rights laws; lack of information, transparency and accountability; their being counter-productive; and the indirect encouragement to other countries to similarly use drone attacks.

The UN High Commissioner for Human Rights, Navi Pillay, in her overall report to the Human Rights Council on 18 June, said that during her recent visit to Pakistan, she expressed serious concern over the continuing use of armed drones for targeted attacks, in particular because it is unclear that all persons targeted are combatants or directly participating in hostilities.

She added that the "UN Secretary-General has expressed concern about the lack of transparency on the circumstances in which drones are used, noting that these attacks raise questions about compliance with distinction and proportionality."

She reminded Member States of their international obligation to take all necessary precautions to ensure that attacks comply with international law and urged them to

conduct investigations that are transparent, credible and independent, and provide victims with effective remedies.

On 26 June, Pakistan's Ambassador Zamir Akram told the Council that his country was directly affected by the indiscriminate use of drones, and at least a thousand civilians, including women and children, have been killed in drone attacks.

"The government of Pakistan has maintained consistently that drone attacks are not only counter-productive but a violation of international law and Pakistan's sovereignty," said Akram, adding that Pakistan's Parliament has called for an immediate end to these attacks.

"Regrettably, this call has not been heeded. The drone attacks continue in violation of the UN Charter, international human rights and international humanitarian law. The international human rights machinery must clearly reject attempts to justify these actions."

At the Council meeting on 19 June, Christof Heyns, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, called for more transparency and accountability from the United States, according to an Inter Press Service (IPS) news report.

He urged that a framework be developed and adhered to, and pressed for accurate records of civilian deaths. "I think we're in for very dangerous precedents that can be used by countries on all sides," he said.

At an event organised by the American Civil Liberties Union (ACLU), Heyns said the US drone attacks would encourage other states to flout human rights standards and suggested that some drone strikes may even be war crimes, according to a report in The Guardian.

Heyns said some States "find targeted killings immensely attractive. Others may do so in future ... Current targeting practices weaken the rule of law."

If reports are true that there have been secondary drone strikes on rescuers who are helping the injured after an initial drone attack, those further attacks are a war crime.

Criticisms are also coming from US groups and a former President. "The US has cobbled together its own legal framework for targeted killing, with standards that are far less stringent than the law allows," Hina Shamsi, a director of the ACLU, told the Council on 20 June, according to IPS.

Shamsi also took issue with the lack of transparency of military programs based on what she called "a secret legal criteria, entirely secret evidence, and a secret process".

"The international community's concern about the US targeted killing program is continuing to grow because of the unlawfully broad authority our government asserts to

kill 'suspected terrorists' far from any battlefield, without meaningful transparency or accountability," Shamsi told IPS.

The lack of a legal framework allows for drone strikes to be implemented at will, in non-conflict zones and on the basis of loosely defined terrorist threats, without permission from the host nation, added the IPS article.

"In essence, drones cancel out national sovereignty," Tom Engelhardt, co-author of "Terminator Planet: The First History of Drone Warfare, 2001-2050", told IPS. "The rules of the game are one country's sovereignty trumps that of another."

Former US President, Jimmy Carter, writing in the New York Times (24 June), noted that the use of US drone attacks "continues in areas of Pakistan, Somalia and Yemen that are not in any war zone. We don't know how many hundreds of innocent civilians have been killed in these attacks, each one approved by the highest authorities in Washington. This would have been unthinkable in previous times.

"These policies clearly affect American foreign policy. Top intelligence and military officials, as well as rights defenders in targeted areas, affirm that the great escalation in drone attacks has turned aggrieved families toward terrorist organisations, aroused civilian populations against us... As concerned citizens we must persuade Washington to reverse course and regain moral leadership according to international human rights norms."

Drones were originally developed to gather intelligence. More than 40 countries have this technology and some have or are seeking drones that can shoot laser-guided missiles, according to a pioneering 2010 report by the then UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston.

They enable targeted killings with no risk to the personnel of the state carrying them out and can be operated remotely from the home state.

Calling drone attacks as a "vaguely defined license to kill", he criticised states that use drones for failing to specify the legal justification for their policies, to disclose safeguards in place to ensure the targeted killings are in fact legal and accurate, or to provide accountability mechanisms for violations.

More troublingly, they have refused to disclose who has been killed, for what reason and with what collateral consequences.

"The result has been the displacement of clear legal standards with a vaguely defined license to kill, and the creation of a major accountability vacuum."

The report traced the use of drones by some States for targeted killings. They have been used by Israel since the 1990s for the killing of Palestinians it considers to be dangerous.

In recent years, the main user of drones for targeted killing has been the US. Since 2002, it used drones in Yemen, Afghanistan, Iraq, and Pakistan.

The report examined whether and in what conditions the use of drones for targeted killings is legal or not under international humanitarian and human rights laws, and interstate law in relation to sovereignty concerns.

It urged disclosure by States on the use of drones, the rules of international law that they consider provide a basis for their actions, the basis for their decision, the procedural safeguards they use to ensure compliance with international law, and measures taken after any killings to ensure its analysis was accurate and if not then the remedial measures taken. States should make public the civilians killed in targeted killing operations and measures to prevent such casualties.

This 2010 report lay out the framework for analysing the human rights implications of drone attacks. Since then, however, drone attacks have not only continued but increased.

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