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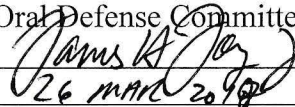
Killing Our Way Out of a Problem:
Ending Lethal Unmanned Aerial Vehicle Strikes Outside Zones of Active Hostilities

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Executive Summary

Title: Killing Our Way Out of a Problem: Ending Lethal Unmanned Aerial Vehicle Strikes Outside Zones of Active Hostilities

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Thesis: Lethal strikes by unmanned aerial vehicles (UAVs) in countries that are not active combat zones, as defined by a large presence of US combat troops may do more harm than good due to collateral damage.

Discussion: Targeted killings via UAV have occurred since 2002 in both zones of active hostilities, or combat zones (Iraq and Afghanistan) and outside of these areas in nations such as Yemen and Pakistan. Their use has been controversial. While the administration of President Obama went to great lengths to demonstrate how these killings were lawful, criticism remains. Further, worldwide public opinion is against the use of UAVs for targeted killings, and public opinion inside the countries where the strikes occur is significantly against the United States. The issue is complicated by the lack of precise targeting and identification methods of those the strikes are deployed against and slow to no acknowledgment and compensation for family members of innocent victims. The United States is one of only three nations to use armed UAVs, and other nations appear to have this technology but have not deployed it. In order to limit the proliferation of these weapons the United States could gain significantly by adopting a policy that it will no longer use these weapons.

Conclusion: Lethal UAV strikes outside of zones of active hostilities should be discontinued. This will prevent unnecessary civilian harm and property damage as well as cases of mistaken identity. This will simultaneously improve the international standing of the United States and send a message to other nations that these types of strikes will not be acceptable in the future.

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Introduction

Since 2002 the United States government has used unmanned aerial vehicles (UAVs) to conduct targeted killings of suspected terrorists and militants, both in and out of combat zones. While those conducted inside zones of active hostilities have served their intended purpose of efficiently engaging targets at significantly reduced risk of friendly casualties, those outside these zones have not stopped terrorism and may in fact create more anti-American militancy. They contribute to broader anti-American sentiment, particularly in Muslim nations such as Pakistan and Yemen. These killings should therefore be discontinued, both as a prudent policy decision and to serve as an example to other nations, many of which have UAVs but appear to have adopted a wait and see approach prior to using them for their own lethal strikes. By joining the nations that do not engage in these strikes, the US may prevent other nations from conducting lethal UAV strikes in the future.

This paper begins with the discussion of the manner in which lethal UAV strikes are employed. Second, the legality of armed UAV use is discussed. Third, the resultant negative worldwide public opinion, and specifically in Pakistan and Yemen is examined. Fourth, the response of militant groups to UAV use is analyzed. The paper then transitions to the potential for proliferation of these weapons systems. Alternatives to lethal UAV strikes are then explored.

UAV Killing Methods and Statistics

The United States employs two types of targeted killings by UAVs: *personality strikes*, “in which the identities of targeted individuals are known,” and *signature strikes*, which “are not directed against specific individuals identified as a threat to US national security, but rather are based on a set of observed actions and indicators understood to be significant enough to warrant lethal action.”¹ Whereas personality strikes target known high level members of al-Qaida or the

Taliban, signature strikes rely solely on observed behavior of unknown and unidentified targets.² Though the exact percentage of each type of strike is unknown, estimates indicate that as much as fifty per cent may be signature strikes.³ Frequency of use notwithstanding, signature strikes make it easier to deploy lethal UAV strikes over personality strikes, as it is easier to target anonymous individuals exhibiting suspect behavior than it is to make a positive identification of a specifically targeted person.⁴

The use of signature strikes has not been without criticism. President George W. Bush first authorized their use in 2008, but their continued use during the Obama administration led to criticism that the Executive Branch saw all military age males in certain areas as potential combatants.⁵ It also lent itself to the view that the Administration deemed all casualties guilty until posthumously proved innocent.⁶ The lower standard for these strikes as opposed to the positive identification required for personality strikes leads critics to contend that seemingly innocuous behavior can be mistaken for the activity of militants. This increases the risk of incorrect targeting and civilian harm.

The United States has used these strikes to kill militants inside designated combat zones in Iraq, Afghanistan, and to a lesser extent, Syria, but also Pakistan, Yemen Somalia, and the Philippines, where UAV strikes have been used without open acknowledgment.⁷ The deployment of UAV strikes in these areas blurs the distinction between combat and non-combat zones. While the Law of Armed Conflict (LOAC) requires due diligence to protect against civilian casualties, “collateral damage” is legally accepted as an unfortunate, but at times inevitable occurrence. The legality of killing suspected militants, much less civilians, outside of areas of declared hostility is much less settled.⁸

The US government released fact sheets and statistics for the number of targeted killings from January 20, 2009 to December 31, 2015, and for January 1 to December 31, 2016, and although this is a positive step, criticism of insufficient transparency and accountability to satisfy the argument over the lawfulness of the program remains.⁹ Human rights groups continue criticizing the targeted killing program and its inherent secrecy. This criticism would cease should these strikes be discontinued.

The first known, acknowledged, successful, armed UAV strike was in Yemen in 2002. It targeted Qaed Salim Sinan al-Harethi, wanted for the 2000 attack on the USS Cole.¹⁰ UAVs were further used during the Bush presidency, though the precise numbers of strikes are unknown. The first known use of a signature strike in 2008, which then became the preferred tactic of the Obama administration.¹¹ The first set of statistics, covering 2009-2015, indicate that 473 strikes occurred outside zones of active hostilities.¹² The second, covering 2016, indicates that 53 strikes occurred outside areas of active hostilities.¹³ Strikes have continued into the Trump presidency, with indications that some of the restrictions on UAV strikes will be, or have been reduced, while the previously established restriction of near-certainty of non-civilian deaths when using UAV strikes still applies.¹⁴ Thus, it would appear that the frequency and number of targeted killings via lethal UAV strike will continue under the current administration with what appears to be the same targeting criteria. Lethal UAV strikes were a particular point of contention across both the administrations of former presidents Bush and Obama. Given the strong feelings of those opposed to targeted killings via lethal UAV strikes domestically and the undeniable unpopularity of these strikes across the world, particularly in Muslim countries, the United States stands to gain more in resultant public perception by discontinuing the strikes than it does by continuing to kill low level militants by UAV. Many of

these militants are found threatening through merely suspicious activity when they may in fact be non-combatants.

Legality of UAV Strikes

The US government has deployed targeted killings in non-combat zones such as Pakistan, Yemen, Somalia, and on at least one occasion, the Philippines.¹⁵ Many, including prominent human rights groups contend that UAV strikes are illegal.¹⁶ These groups claim the strikes do not adhere to the LOAC as UAV use in such areas falls under the category of United States government involvement in undeclared wars.¹⁷ These strikes lead to confusion and controversy as to whether or not the strikes occur because they are against al-Qaida and affiliated groups (and thus authorized by the 2001 Authorization of the Use of Military Force, or AUMF) or groups that have appeared after the terror attacks on September 11, 2001, another frequent criticism.¹⁸ These strikes have been deemed in compliance with the AUMF, though there has been no clear statement to clearly articulate this.¹⁹ These strikes may not follow the LOAC's four principles of military necessity, humanity, distinction, and proportionality.²⁰ The LOAC allows for civilian casualties, but not the intentional targeting of non-combatants, but this is complicated due to the confusion determining civilian deaths resulting from intentional targeting versus collateral casualties attributed to these strikes. Human Rights groups argue UAV strikes violate the LOAC because it is the Central Intelligence Agency, (CIA) not the Department of Defense, that conducts these strikes, further arguing the CIA is not trained to apply and properly adhere to the provisions of the LOAC.²¹ Lastly, the use of UAV strikes outside of zones of active hostilities illustrates that the US engages in secret (and undeclared) wars, undermining democratic accountability and both national and international support for these actions.²²

The US government claims to act only out of military necessity when there is near-certainty no civilians are present and in such a manner that risk to civilians is kept to a minimum. Yet, according to the government's own statistics, there were 65-117 "non-combat" deaths from lethal UAV strikes outside of zones of active hostilities during the Obama administration.²³ These civilian deaths alienate the very people the United States must rely upon to prevent the recruiting of terrorists and militants. Though there are many reasons individuals join terrorist groups, civilian harm, no matter how proportionate or allowed under international law, is extremely counterproductive and serves as a rallying cry and recruiting tool for extremists.²⁴ Civilian deaths, while possibly decreasing, will inevitably continue and stoke further anger and resentment towards the United States. This will not stop others from becoming terrorists.

Throughout President Obama's second term in office the administration took great strides to present a legal justification for UAV strikes and demonstrate adherence to the LOAC. John Brennan, Counterterrorism Director and later Director of the CIA, gave a speech in which he outlined for the American public, and the world, the principles governing the program: maintaining the safety of the American people, using lawful tools and authority, being pragmatic and flexible, and upholding core American values, such as adherence to the rule of law.²⁵ Department of State Legal Adviser Harold Koh gave a speech in which he attempted to counter what he perceived as the four strongest reasons against the use of armed UAVs: that targeting enemy leaders violates the laws of war, the complaint against using advanced weapons systems that few or no other nations possess, the claim that UAV strikes amount to extrajudicial killings, and that lethal UAV strikes violate domestic laws against assassination.²⁶ However, Koh would give a later speech after he left the Department of State wherein he called for the "discipline of drones," stating that the Obama administration was not transparent enough about the use of

UAVs and resultant civilian casualties, resulting in complaints against their use as unlawful and unnecessary.²⁷

Part of the justification for UAV strikes is adherence to the condition of proportionality used in warfare, defined as whether or not the means employed are proportionate to the harm that is trying to be prevented.²⁸ The standard used by the US government when lethal UAV strikes are employed is that of “near-certainty” of no non-combatants being killed or injured when targeted killings occur.²⁹ In spite of this, there have been civilian deaths, injuries, and property damage resulting from these strikes. This in turn has led to backlash and outcry among the rest of the world, and in particular Pakistan and Yemen.

President Obama gave a speech in which he declared that the United States acts in a proportional and just way when using lethal force, such as occurs in UAV strikes, but that terrorism remained a primary focus of his administration, though he stressed that only an imminent threat would result in a strike, and that the administration had a commitment to not “create more enemies than we take off the battlefield.”³⁰ Given the ongoing lethal strikes since that time, it is uncertain if this was successful. The Department of Justice went so far as to declassify a formerly Top Secret document titled “Report on Process for Determining Targets of Lethal or Capture Operations,” released to the American Civil Liberties Union and available on their website, in an effort to satisfy the demands for greater transparency.³¹ In spite of these efforts, lethal UAV strikes are not more popular than they were previously.

Strained Foreign Relations

UAV strikes strain the foreign relations between the United States and other countries, particularly in Pakistan and Yemen. This results from the lack of transparency concerning the strikes, the lack of proportionality in the strikes, and finally, insufficient mechanisms for

compensation of civilian victims. Civilian deaths lead to public outcry condemning the strikes. Critics still have an additional problem with lethal UAV strike despite some claims that the civilian outrage is over reported, and that the number of civilian casualties is as well.³² Critics of the strikes state the real issue is the lack of transparency concerning the program, specifically in the outcomes of strikes, and that the discrepancy between public governmental condemnation of UAV strikes but secret support of them contributes to the lack of transparency.³³ Finally, the provision of adequate compensation for civilian deaths is a recurring issue. Though formal mechanisms exist to compensate for civilian deaths in zones of active hostilities, compensation outside zones of active hostilities appears to be sporadic and ineffective.

The international view of UAV strikes is that they are unpopular by significant majorities in 39 of the 44 countries surveyed by Pew Polling in 2014.³⁴ This unpopularity, while in and of itself is not enough to shift the overall view of the United States into negative territory, does not help foreign relations. Inside the United States, some have acknowledged that UAV strikes are very unpopular. Most notable among them are retired General Stanley McChrystal, who stated in 2013:

What scares me about drone strikes is how they are perceived around the world. The resentment created by American use of unmanned strikes... is much greater than the average American appreciates. They are hated on a visceral level, even by people who've never seen one or seen the effects of one.³⁵

McChrystal directly captures the opposition to the use of UAV strikes both in the countries where they are deployed as well as in the rest of the world.

The two countries where the majority of UAV strikes have occurred, Pakistan and Yemen, serve as important examples for evaluating the public opinion of the strikes. While there

are many reasons for negative public opinion surrounding lethal UAV strikes in Pakistan, two of the most significant causes are first, the perceived violations of sovereignty and second, the deaths of civilians. UAV strikes in Pakistan have a public perception problem. Significant protests to US UAV strikes have occurred in Pakistan. Estimates vary widely on the number of militants as opposed to civilians killed in these strikes, though the actual number of civilians killed is impossible to determine. Though the American government makes claims of very few civilians killed, tracking of the issue via the Bureau of Investigative Journalism, the Long War Journal, and New American Foundation differs on the numbers killed.³⁶ The exact number, however, is not relevant to the significant amount of damage that has occurred to the reputation of the United States. The polling data that does exist indicates the overwhelming response of Pakistanis is strongly against the strikes, though some polling indicates that UAV strikes are not a successful recruiting tool used by militants, and many people in the Federally Administered Tribal Areas (FATA) actually support targeted killings via UAV strikes.³⁷ This discrepancy allows groups to use UAV strikes in their recruiting, and though there is no exact data on whether or not militant groups are able to successfully use this as a tactic, it is widespread.³⁸

However, though an increase in militancy may not be directly tied to the use of UAVs, the FATA is a very difficult area in which to accurately gauge public opinion. UAV strikes likely harden the population against the US similarly to other historical bombing campaigns. Examples where the bombing of civilian populations did not bring victory to the attacking nation but actually increased the resolve and defiance of the affected country include the blitz in London in World War II, and Operation Rolling Thunder in Vietnam, where President Johnson aimed to establish a free and democratic South Vietnam through bombing North Vietnam as part of a larger strategy of attrition. The former example provided the popular support and will for

the UK population to continue the war against Germany. The latter example bolstered the North Vietnamese and was particularly ineffective as the Vietnam war dragged on in spite of this bombing campaign. The end result of the war was the overthrow of South Vietnam two years after the withdrawal of US forces.

As of 2010, however, 68 percent of those polled in Pakistan held an unfavorable view of American UAV strikes, compared to a 17 percent favorable view.³⁹ In 2014, further polling indicated the Pakistani view of UAV strikes was 66 percent against, with only three percent in favor.⁴⁰ A similar poll in 2012 found that 74 percent of Pakistanis consider the US an enemy, which was up from 64 percent in a poll taken three years prior.⁴¹ The trend appears to be negative concerning the attitudes of the Pakistani public towards lethal UAV strikes by the United States. Only one-third of the general Pakistani public is even aware these strikes occur in Pakistan, and the argument over UAV use is only waged among the educated there, but it still occurs nonetheless.⁴² Given this, it should be noted that the Urdu language press in Pakistan is overwhelmingly negative towards UAV strikes, while the English press does give space to competing viewpoints.⁴³

UAV strikes have led to increased tension and complications in the US/Pakistan relationship.⁴⁴ UAV strikes are indicative of Pakistan's pervasive belief of a generally interventionist American approach to foreign policy.⁴⁵ UAV use has become the most discernible part of US foreign policy in Pakistan and has a definite impact on Pakistan's internal politics.⁴⁶ Some argue that even without UAV strikes, the relationship between Pakistan and the US would be extremely negative.⁴⁷ However, lethal UAV strikes on Pakistan's soil is clearly a divisive issue that does not contribute positively to the US/Pakistani relationship.

Some of those in Pakistan feel the only justification for the US killing what they believe to be innocent civilians is that the US is doing so because Pakistanis are Muslim and the attacks are part of a broader war against Islam. In interviews, some Pakistanis stated that enmity between the US and Pakistan is due largely to lethal UAV strikes, and that the cessation of these attacks would greatly improve Pakistani impressions of the US.⁴⁸ Eliminating these strikes would be a positive step forward in bilateral relations between the two countries.

Although the number of UAV strikes in Pakistan has decreased, they still continue.⁴⁹ Thus, there does not appear to be a shortage of militants willing to take up arms against Pakistan and/or the United States. Despite the overwhelmingly negative attitude towards UAV strikes in Pakistan among at least a significant portion of the population, and that no matter how many strikes are employed, terrorist activity continues. This situation is further complicated by the repeated claims by the Pakistanis (perhaps at times ingenuously) that the strikes violate Pakistani sovereignty.⁵⁰

The following three examples demonstrate the negative Pakistani public opinion concerning UAV strikes. Protests have occurred against UAV strikes, the most notable of which was in 2011 when approximately 2,000 Pakistanis laid the coffins of four individuals they claimed were innocent victims of a UAV strike across the road and blocked traffic.⁵¹ Secondly, then Pakistani Prime Minister Yousaf Gilani complained in 2009 that US UAV strikes in Pakistan are counterproductive.⁵² He further stated that the strikes unite different factions against the US and Pakistan, and that strikes lead to an increase in anti-American sentiment.⁵³ Lastly, in 2013, then Pakistan Prime Minister Nawaz Sharif complained publicly that American UAV strikes should end and that the United States should respect Pakistani sovereignty.⁵⁴

In Yemen, the reaction to targeted killings via UAV strikes is largely similar. Besides Pakistan, Yemen has witnessed the largest amount of lethal UAV strikes to occur outside of a zone of active hostilities, which has caused significant perception and public opinion problems. Issues exist with timely compensation for innocent victims of UAV strikes, a possible increase in terrorist recruiting from civilian deaths (to include deaths of notable community members), discussion by educated Yemenis that the strikes are counterproductive (of which the testimony of Farea al-Muslimi serves as a stark example), and lastly that the Yemeni parliament rejects the use of UAV strikes even though they occur with the approval of the Yemeni President. Though there are not exact numbers, as in the case of Pakistan, much of the public is opposed to the strikes. It should be noted, however, that the Yemeni government under President Hadi does publicly approve of UAV strikes.⁵⁵

In spite of this government approval, an investigation by Human Rights Watch (HRW) in 2012 and 2013 claims that attacks, most by UAV, killed significant numbers of civilians.⁵⁶ Though the evidence is anecdotal, it comes from direct interviews with individuals who claim to have been directly impacted by UAV strikes, and their stories are significant. The report states that targeted killings started in 2002 but underwent a hiatus until 2009 before resuming.⁵⁷ HRW claims that from 2002-2013, UAV strikes killed nine high-value targets (HVTs).⁵⁸ The report also claims that 82 people died, of which 57 were civilians, in the strikes between 2009-2013.⁵⁹ These numbers are subject to debate, but it is known that one of the strikes in question, believed to be from a UAV, killed a Muslim cleric who preached against al-Qaida in the Arabian Peninsula (AQAP), as well as a local policeman, both claimed by their relatives and fellow villagers to have been innocent of any militant activity.⁶⁰ The resultant outrage caused some to claim that if the cleric and policeman killed were members of al-Qaida, then all of the villagers

were too.⁶¹ Likewise, when a UAV struck a reported wedding convoy in 2013, there was significant public outrage after 14 people were killed and 22 wounded.⁶² This outrage included calls by the Yemeni parliament for UAV strikes to cease on Yemeni soil.⁶³

It should be noted that in the case of the wedding attack, US officials initially claimed that all those killed were militants.⁶⁴ Much of the outrage at the time, according to those interviewed, resulted from the lack of US financial compensation for civilian harm in what was believed to be a case of mistaken identity.⁶⁵ Compensation in the form of condolence payments, for which the US admits no wrong-doing, have gone a long way to quelling local anger at civilian deaths in active combat zones such as Iraq and Afghanistan, where the public and human rights groups support condolence payments as respectful and help mitigate potential blowback from the larger population.⁶⁶ For these payments to be successful, they must be of sufficient value to the recipients and also made promptly.⁶⁷ Neither of these happened initially after the wedding attack. Indeed, one year later, local Yemenis affected by the strike complained they had not received adequate compensation for their losses.⁶⁸ Compensation for both attacks does appear to have been paid later. In July, 2014, relatives of the cleric and the policeman killed in Yemen claim to have received compensation for their losses, though some criticized the amounts as insufficient.⁶⁹ It was also reported in August 2014 that the relatives of victims in the wedding strike were compensated in the amount of \$1 million, and though it is unclear who made the condolence payments, they do appear to have occurred.⁷⁰

Condolence payments have been successful in zones of active hostilities, but less so outside combat zones. It is difficult to not only assess the aftermath of strikes and is also complicated to determine if in fact any civilians are killed in lethal UAV strike outside these areas. Additional complications include the difficulty of relatives claiming the deaths of civilian

family members killed in these strikes to not only prove that they are entitled to compensation, but exactly the method to proceed to receive this compensation. Adequate compensation, a method of providing for civilian loss to improve relations, is thus ineffective outside of combat zones. This further strengthens the argument that the US government should cease engaging in targeted killings outside of active zones of hostilities, which would eliminate the need altogether for condolence payments as a result of these strikes.

Yemeni opposition to UAV strikes has produced some notable examples, one of which was noticed by Congress. On April 23, 2013, Farea Al-Muslimi, a Yemeni educated in the United States, who professed strong pro-American sentiment in his testimony, appeared in Congress before the Senate Judiciary Committee.⁷¹ Al-Muslimi stated AQAP uses UAV strikes in recruiting, and that UAV strikes are counterproductive when compared to aid projects.⁷² He reinforced the belief that regardless of who carries out strikes in Yemen, the strikes are unproductive when they result in civilian casualties, which he claimed to know have occurred from interviews with those affected.⁷³ Al-Muslimi even stated that UAV strikes serve AQAP's purposes by creating martyrs that extremists celebrate and "allows AQAP to convince more individuals that America is at war with Yemen."⁷⁴

Al-Muslimi raised two points that contradict established and stated US practices; that of the claim that UAV strikes only occur when there is no possibility for capture and the secrecy surrounding the targeting of militants.⁷⁵ He stated he has spoken to personnel who have claimed that several individuals killed were in contact with the Yemeni government, to include face to face meetings, prior to their deaths.⁷⁶ This is further verified by others who stated targeted individuals could have been captured and not killed.⁷⁷ If true, this belies the claim that targeted killings via lethal UAV strikes only occur when it is impossible to capture a wanted extremist.

Al-Muslimi made the statement that if Yemenis were aware of the identities of the targets of the strikes, they would avoid them, reducing the likelihood of innocent civilians being killed in the attacks.⁷⁸ Others have made similar claims that if the US released information about data used in targeting decisions, it might prevent innocent civilians from being killed and that more importantly, the secrecy concerning the UAV strike program is counterproductive.⁷⁹ Of course, if militants were told the behaviors to avoid to lower their likelihood of being targeted they would undoubtedly cease to use these tactics. The fact remains that individuals on the ground in Yemen (as well as Pakistan) may exhibit what might be considered suspicious behavior that in actuality is benign or is at least behavior that is not atypical for the countries in question, which these individuals likely do not realize increases their risk of being targeted. This raises the likelihood of civilian deaths from UAV strikes. An additional problem is that the tactics used in Yemen overlook the Yemeni concept of revenge; i.e. that formerly uninvolved Yemenis will take up arms to avenge the deaths of neighbors and fellow tribesmen killed in attacks, a custom strongly adhered to in Yemen.⁸⁰ It is also argued that though targeted killings (some via UAV but some appear to be from manned aircraft) have been successful, the strikes only work at the tactical level and ignore the larger strategic goal of fostering stability in Yemen.⁸¹ This is reinforced by a mural in Yemen which received much coverage in the media, clearly indicating that at least some of the population is very angry at lethal UAV strikes. (Attachment A).⁸²

Yemeni President Abdurrahah Hadi views lethal UAV strikes as legitimate. However, not all the members of the Yemeni government agree, and their government is divided on the issue. Yemen's parliament staged a symbolic vote calling for the cessation of American UAV strikes in Yemen, stating that the "Yemeni public is angered by the drone strikes," and that parliament acknowledged the public's anger.⁸³ Thus, a significant portion of the Yemeni

population, to include the majority of their government representatives see American UAV strikes as counterproductive and damaging to US-Yemeni relations. Lethal UAV strikes make relations more complicated. Though privately officials may agree with US policy, the expressed opposition to strikes may be reflective of what their population actually believes. This does not lend support to the continuation of strikes and serves to risk further and more serious backlash against the strikes, supporting the argument these lethal UAV strikes should be discontinued.

Though Pakistan and Yemen may claim violations of sovereignty when it suits them, and perhaps spin the issue to their advantage despite supporting lethal UAV strikes behind the scenes, the issue of sovereignty is a significant one. In a zone of active hostilities with a large troop presence and declared hostilities, the sovereignty issue of violation of another nation's borders does not appear. But, even among countries with major sovereignty challenges or a lack of an effective central government such as Somalia, Yemen, and Pakistan, lethal strikes erode popular support, such as it exists, for the governments of those nations. Likewise, without the discontinuation of these strikes, the acute sovereignty issue in these countries will remain.

In countries in which the US is seen negatively, the elimination of lethal UAV strikes will not solve the entire set of issues causing these negative views, but it is a definite step that once taken will prove very popular among the broader world, and particularly among Muslim nations. The elimination of these strikes will serve to undercut, to a degree, the narrative that the US is at war against Islam. By eliminating these lethal UAV strikes, the United States stands to gain in opinion and influence among the larger group of nations of the world.

Militant Response to UAV Strikes

There are conflicting reports as to whether UAV strikes lead to an increase in militancy. There are indications that in the short term, the number of terrorist attacks decreased after the

targeted killing campaign in Pakistan, and that UAV strikes do not appear to be a successful recruiting tool employed there, though it is a major feature used in militant recruiting.⁸⁴ Dave Sloggett, author of *Drone Warfare: The Development of Unmanned Aerial Conflict*, argues that the population will be less likely to be radicalized from UAV strikes as the strikes are currently employed with greater precision than was previously the case.⁸⁵ However, the strikes in Pakistan and Yemen, though successful in killing militants and terrorists, have not resolved the continued presence of these groups. These groups still recruit, train, and aspire to commit further attacks (against the US government, its personnel or against the US homeland).

Anger against these strikes in Pakistan led to at least one very successful revenge attack in Afghanistan. In December, 2009, a Jordanian suicide bomber targeted a CIA facility in Afghanistan, killing several American personnel, in an attack claimed to be revenge for the UAV strike that killed Beitullah Mehsud in Pakistan.⁸⁶ Lethal UAV strikes are clearly an issue that provokes anger among militant groups. The concern that terrorists hate a particular tactic used by the United States is insufficient reason in and of itself to discontinue the tactic's use, but UAV strikes, while provoking this anger, do not lead to a notable and significant decrease in militancy. They in fact spur or at least at times fail to prevent additional terrorist attacks. In the case of the CIA bombing, it is demonstrable that the backlash against UAV strikes resulted in a deadly attack on American personnel. It is conceivable that this anger at UAV strikes has led to similar attacks.⁸⁷ One man who lost his brother in what appears to be a lethal UAV strike stated, "Blood for blood.... All I want to say to them is... why are you killing innocent people like us that have no concern with you?"⁸⁸ Anecdotal evidence from interviews with relatives of those killed in UAV strikes indicates there may be a cycle of revenge that occurs in their wake. For example, one Pakistani, when interviewed, stated that he would retaliate and get revenge for the

UAV strike that killed his brother.⁸⁹ In cases such as these, killing some militants can clearly be seen as creating more. One Pakistani politician stated in an interview that for every individual killed, many more militants are born.⁹⁰ Nor are Americans the only ones targeted for revenge for UAV strikes; there is a toll on the civilian population beyond the damage and injury done from the strikes themselves. There are indications that militants have killed civilians believed to be spies for the US government.

Terrorist groups target those they believe are spies, civilian non-combatants who are accused of assisting the US government in targeting suspected militants. These civilians are tortured and killed and have had their bodies put on display as a lesson to others to demonstrate the result of perceived cooperation with the United States.⁹¹ David Rohde, a journalist held captive by the Taliban, confirmed this practice.⁹² A Pakistani reporter who published an article on a suspected UAV strike disappeared, and his family was later notified the reporter had been killed.⁹³ This targeting of suspected spies may lead to further deaths of people that are not involved in militant activity and serves as an example to dissuade individuals from assisting their governments in fighting terrorism and militancy.

Beyond the suffering of these alleged spies, Tehrik-i-Taliban (TTP), an anti-Pakistani government militant group, stated they will refuse to negotiate with Pakistan until the US ceases UAV strikes.⁹⁴ In this case, American UAV strikes hamper the peace process for Pakistan. Lethal UAV strikes have derailed peace negotiations between Pakistan and the group before.⁹⁵ The blowback therefore is not limited to those that are immediately harmed by lethal UAV strikes, but spreads throughout individual communities and the nation of Pakistan itself.

In Yemen, protests have occurred against the strikes, and attitudes appear to be moving in the same negative direction as in Pakistan.⁹⁶ Interviewees stated that UAV strikes are driving

formerly neutral Yemenis to join AQAP.⁹⁷ AQAP uses UAV strikes as part of their recruiting propaganda and though it is impossible to lay the blame entirely on UAV strikes, AQAP grew to nearly 1000 members from 2009 to 2012, which indicates that UAV strikes do appear to have an impact on radicalization.⁹⁸ Prior to this AQAP had an estimated 200-300 member in January, 2009 when the group was formed.⁹⁹ AQAP is an umbrella organization that combined members of al-Qaida in Yemen (AQY) with other groups. Until 2012 AQAP declined in size, though it (or its predecessor) was able to conduct attacks in 2008, to include an attack on the US embassy in Sanaa.¹⁰⁰ The growth of the group shortly after its formation occurred at the same time, and arguably was assisted by, the Obama Administration's increased use of UAV strikes in Yemen.¹⁰¹ At a minimum, this growth occurred in spite of US counterterrorism efforts. It is claimed that AQAP recruits through economic inducement (they are known to pay their members locally high wages), however these groups also incorporate popular backlash against UAV strikes in their recruiting efforts.¹⁰² It is worth noting that there is significant anger on the part of the Yemeni population concerning UAV strikes, and further, that the population feels that any bombing that occurs (whether by the Yemeni government, the Saudis, or the US) actually comes from American UAVs, and anger over any such strike is directed at the US.¹⁰³ UAV strikes appear to have been at best, unhelpful, and at worst, counterproductive to US counterterrorism efforts in Yemen. Though many targets, to include HVTs, have been killed, the conditions on the ground (to which UAV strikes have not positively contributed) lead to ample recruiting opportunities for militant groups. A cessation of UAV strikes in Yemen would help placate the public's anger to some degree and may actually contribute to a lessening of anti-American sentiment in the country, removing the issue from extremist recruiting efforts.

Potential for International Proliferation of Armed UAV Strikes

The other nations of the world observe how the United States deploys its UAVs, both in and outside of combat zones. It is possible these nations will deploy UAVs in a more expansive manner in the future, and if sovereignty issues are not respected by the United States, it is likely that the nations that choose to deploy armed UAVs in lethal strikes will be unmoved by similar claims. The deployment of armed UAVs is a trend likely to increase in occurrence in the future; its adoption by non-democratic regimes will prove troubling.

To date, only the United States, the United Kingdom, and Israel are known to have deployed armed UAVs for targeted killings.¹⁰⁴ Other nations have this capacity but appear to be waiting prior to deploying them. China has taken steps forward in the development of UAVs, as have India, Iran, South Africa, and Russia, at times with Israeli assistance.¹⁰⁵ Though the proliferation of armed UAVs is to some degree addressed through the Missile Technology Control Regime, and the Wassenaar Agreement, much of the compliance is through voluntary measures.¹⁰⁶ It is not unreasonable to expect that other nations will develop lethal UAV capacity or refine it if already in their possession. Any battlefield technology developed will eventually grow and see greater use. Since the United States, the UK, and Israel engage in lethal UAV strikes (both in and outside of zones of active hostilities), it is inevitable that other nations will eventually do so. The United States thus serves as an example that other nations may emulate should these countries choose to deploy lethal UAV strikes in the future.

It is not inconceivable that the Chinese, or another repressive regime, will deploy this technology against political dissidents, perhaps in other countries outside their borders, if not within their borders. In fact, it is claimed that the government of Yemen, an erstwhile ally of the United States, used an American UAV strike for this purpose.¹⁰⁷ Given that the United States

appears to have killed a Yemeni opposition leader based on false claims by the Yemeni government under then President Saleh, it is clear that the idea of using lethal UAV strikes to control or reduce political opposition has already occurred and will likely continue.¹⁰⁸ If allies do this, repressive regimes can be expected to deploy armed UAVs in a similar fashion.

Though armed UAVs rely on permissive airspace in which to operate, that is only as it stands currently. In the future, should UAVs be developed that do not need this condition, proliferation of the systems may increase. Even if the United States can be trusted to use these weapons legally, the concern that other nations will not should be a consideration in the deployment of this technology.¹⁰⁹ If authoritarian regimes engage in lethal UAV strikes, they are less likely to give considerations for issues such as concern over non-combatant deaths given that they are less respectful towards and accountable to their own citizens.

Repressive regimes may even use the United States' practice of engaging in lethal UAV strikes to their political advantage without even deploying the same technology. Some repressive governments with less respect for human rights than the United States have protested publically in the United Nations against United States UAV strikes, to include China.¹¹⁰ Allowing these countries to score political points at the expense of the United States is not beneficial to foreign policy and ceasing to engage in these targeted killings would eliminate this possibility. It is in the interest of the United States to dispel false appearances or criticism that it is a nation that does not respect human rights.

The United States stands at a crossroads in time. It stands to gain in public perception by discontinuing lethal UAV strikes outside of zones of active hostilities. The United States is an early and enthusiastic developer and user of this technology. The United States also has a history of deployment of new weapons technologies at the appropriate time only to take decisive

steps to limit, or work to eliminate, the use of that same technology by others at a later time. Nuclear weapons stand as the definitive example in this regard. Though the United States deployed these weapons seeking to bring a quicker end to World War II while reducing potential American casualties, the United States led the nonproliferation effort to provide a framework for other nations to follow in the deployment of nuclear weapons and prevent unstable and/or adversary regimes from obtaining them. Though not entirely successful in reducing their spread, these weapons have not been deployed since 1945. The United States should expect similar results upon future discontinuation of lethal strikes outside of zones of active hostilities.

If the United States takes the step of declaring that it will no longer engage in targeted killings via lethal UAVs outside of zones of active hostilities and leads the effort among the world community to get others to adhere to this principle, it will be met with international approval. Countries such as Iran, Russia, and China will continue to act in their own interest and may or may not follow the lead of the United States on this issue for themselves or their proxies. The broader group of nations can be expected to embrace this principle, as will human rights groups. It is a way to demand, and enact, greater restrictions on the proliferation of this technology. Based on the popular support within their own nations for these steps, the larger international community likely would not deploy this technology in the future.

Alternatives to Lethal UAV Strikes

There will continue to be terrorist groups that seek to harm the United States. There will be, at times, individuals outside of zones of active hostilities that will need to be captured or killed once determined to present an imminent threat. However, the current tactic of pursuit of true HVTs as well as low-level foot soldiers in terrorist and militant groups has created a significant backlash that shows no signs of improvement. Instead, the United States should only

target truly HVTs for kill or capture missions. Greater reliance should be placed upon host nation support in addressing the issue of apprehension of wanted terrorists, particularly lower level militants. Though the Pakistanis and Yemenis may not be the most willing or able of partners, as sovereign nations it is in their interest to assist the United States, and other nations, to capture wanted militants. Unless the militant is truly the leader of a terrorist organization, the resulting harm from a lethal UAV strike clearly outweighs the gains made by the elimination and deaths of these individuals, particularly when there is no shortage of others willing to take their places. In the event a so-called partner nation is unable or unwilling to capture a HVT, the best alternative would be to engage in a direct-action raid to capture or kill them. Though this places American service personnel at greater risk of harm, certain select units train specifically for these types of missions, successfully accomplishing these actions in the past. The prime example of this is the Abbottabad raid that killed Osama bin Laden on May 2, 2011. Though the raid violated Pakistani sovereignty, the rest of the world could not fault the United States for attempting to capture and subsequently killing a terrorist mastermind wanted for the deaths of over 3,000 Americans in multiple attacks staged throughout the world. It is notable that an armed UAV was not the primary means of accomplishing this mission. Putting troops in harm's way to achieve the goal of the raid was deemed essential. This should be the example followed in the future.

Conclusion

Besides improving the public perception of the United States and serving to limit the proliferation of armed UAV technology, ceasing targeted killings via armed UAVs outside of zones of active hostilities will have other significant benefits. By being more judicious about when to employ lethal force, fewer civilians will be killed. In addition to the improvement of the

image of the United States throughout the world, a cessation will take away a cause of significant anger towards the United States, weakening the recruiting ability of extremist groups. Though militants will likely continue to twist everything the United States does to fit their agenda, they will no longer be able to use the images of new civilian casualties for propaganda purposes. If this weakens the strength of their argument even to a degree it is worth pursuing.

Terrorism will never end but the United States can lower its potential for damage to American personnel and interests. To do so, lethal UAV strikes should be discontinued outside of zones of active hostilities. The United States cannot use UAVs to kill its way out of this problem. Some individuals will have to be killed when the US is unable to capture them. Other means must be employed in these instances, even when killing may be necessary. Outside of zones of active hostilities, the blowback from lethal UAV strikes outweighs the gain achieved from their deployment. Other measures must be relied upon, after greater discrimination in target selection, and then only if and when the affected nation is unable or unwilling to capture these individuals and surrender them to the United States.

Attachment A



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¹⁰⁷ Greg Miller, “U.S. Drone Target in Yemen Raise Questions,” *WashingtonPost.com*, June 2, 2012, https://www.washingtonpost.com/world/national-security/us-drone-targets-in-yemen-raise-questions/2012/06/02/gJQAP0jz9U_story.html?utm_term=.d65b04794327.

¹⁰⁸ Megan Braun, “Predator Effect: A Phenomenon Unique to the War on Terror,” in *Drone Wars: Transforming Conflict, Law, and Policy*, ed. Peter L. Bergen and Daniel Rothenberg (New York, NY: Cambridge University Press, 2015), 274.

¹⁰⁹ Joyner.

¹¹⁰ Ed Pilkington and Ryan Deveraux, “US defends drone strikes as ‘necessary and just’ in face of UN criticism,” *theguardian.com*, October 25, 2013, <https://www.theguardian.com/world/2013/oct/25/un-drones-us-policy-debate>.

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