

**DISSERTATION ON**

**The Legality and Ethics of Targeted Killings: A Study of Drone  
Strikes under Public International Law and International  
Humanitarian Law**

**Course Title: Supervised Dissertation**

**Course Code: LAW 406**

**Submitted To:  
Sayeed Hossain Sarwar  
Senior Lecturer,  
Department of Law,  
East West University**

**Submitted By:  
Tanjil Khan Sakib  
ID: 2018-3-66-046**

**Date of Submission:  
10.01.2024**



## CONSENT PAPER

The dissertation titled “**The Legality and Ethics of Targeted Killings: A Study of Drone Strikes Under Public International Law and International Humanitarian Law**” prepared by **Tanjil Khan Sakib**, ID- **2018-3-66-046**, submitted to **Sayed Hossain Sarwar**, Senior Lecturer of Department of Law, East West University for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date:

## **Acknowledgement**

**I want to express my heartiest gratitude to the Almighty and to all of my teachers from Department of Law, East West University for allowing me to research on this topic. Also, I am very thankful to my research supervisor Sayeed Hossain Sarwar sir, Senior Lecturer, Department of Law, East West University, he was very supportive throughout the project. He always guided and supported me throughout the journey and provided his valuable thoughts and instructions. I owe him a huge debt of gratitude. I want to thank my parents and friends who helped me with their immense support for completing the research paper. The research paper has helped me to explore and gather knowledge about my topic. I am sure the topic will be helpful to my future purpose.**

## **Declaration**

**I, Tanjil Khan Sakib, ID# 2018-3-66-046, hereby declare that this research paper titled “The Legality and Ethics of Targeted Killings: A Study of Drone Strikes under Public International Law and International Humanitarian Law” is original work of mine and has never been submitted to anywhere. This research aims to finish my Undergraduate degree as a course. A list of references has been inserted.**

.....

**Signature of the Student**

**Date:**

# The Legality and Ethics of Targeted Killings: A Study of Drone Strikes Under Public International Law and International Humanitarian Law

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## **Abstract**

Under the context of Public International Law (PIL) and International Humanitarian Law (IHL), targeted killings particularly those carried out by drone strikes exist in a morally and legally ambiguous region. The complexity surrounding the morality and legality of such acts is examined in this part. PIL calls into question the legitimacy of extraterritorial targeted killings since it pits the right to self-defense against the notion of state sovereignty. Legal analyses are made more difficult by the ambiguous concept of an "imminent threat" and the arbitrary use of self-defense. The ideas of necessity, distinction, and proportionality are crucial to IHL. Following these guidelines will help to reduce the number of civilian deaths and collateral damage from targeted killings. But there are serious moral conundrums when it comes to telling soldiers from civilians, particularly in asymmetric conflict. The purpose of this study's conclusions is to shed light on the current discussion surrounding the moral and legal parameters that regulate targeted killings, with the ultimate goal of advancing the conversation about improving responsibility and adherence to global legal standards.

# **Chapter One: Introduction**

## **1.1. Introduction:**

Shortly after, the US national media began covering the "War on America," signaling the commencement of the worldwide war on terror. First, the grief became angry, and then it resolved right away. Congress passed three days after the 9/11 attacks to give the President permission to use all "necessary and appropriate force" against any element that he determined, planned, authorized, carried out, or assisted in the attacks, or that provided shelter to terrorist individuals or organizations. The war on Afghanistan swiftly ensued after the Authorization for Use of Military Force (AMUF) was approved into law in less than a week. The conflict that followed quickly extended into Pakistan's adjacent tribal areas. Not only was the terrain exceedingly arduous and mountainous in these rough tribal lands, but the adversary was also undefined. The Bureau of Investigative Journalism (BIJ) estimates that there have been at least 381 drone attacks inside Pakistani territory since 2004. The first drone assault is said to have occurred there in 2004. Though at first seen as highly beneficial, they subsequently brought into question the effectiveness of the military effort. This paper's goal is to evaluate the effectiveness of drone attacks and targeted killings which also affect the non-targeted killings in war and continuous fight on terror during the past years. The study would contend that, in spite of tactical successes, the employment of drones has harmed international human rights more strategically.

## **1.2. Objective of the Research:**

The primary goal of the research paper is to examine whether the non-targeted individuals are affected by the drone strike or not. The entire research will cover drone warfare, violation of



human rights under international law, and the legal safeguards provided through Geneva Convention according to international humanitarian law to stop the abuse of drones. There will be a comparison discussion presented. In addition, the United Nations Convention on the eligibility of use of drones in war will also be reviewed. In order to provide proper protection to the non targeted individuals in the war from drone attacks with appropriate legal protection, the Geneva Convention has urged prevention and guaranteed justice.

### **1.3. The Scope and Limitation of the Research:**

The research on how the international laws prevent the use of drones on non-targeted killings has been simplified. Abuse of drones can refer to various forms of maltreatment or endangerment to the non targeted people. In addition to violating state laws and endangering the physical and emotional well-being of the non-targeted individuals, these kinds of behaviors have created barriers to the human's protection and rights. Along with other laws, several international laws that are highly trustworthy in preventing drone attacks have been described below, according to the United Nations Convention on the limitation of the use of the drones from both an international and the perspectives of International Humanitarian Law under Geneva Convention. the prevention of drone attacks under the laws of international law and International Humanitarian Law; whether or not these laws are sufficient to stop drone attacks on non-targets; and whether or not additional legislation is required to address this issue under the United Nations Security Council. As a result, one of the paper's limitations is its limited ability to locate relevant legal precedents and other workable journal papers regarding the precise prevention of drone attacks in the setting of International laws. But If the research on this topic is given more time, the paper may be able to produce greater results. The constraints I encountered when writing this paper included a shortage of instances, conflicting biased viewpoints, restricted access to information, and difficult data collection. I also ran out of time and words to finish the research.

#### **1.4. Research Questions:**

1. How do different countries' interpretations of self-defense impact the legality of targeted killings through drone strikes?
2. What ethical considerations arise from the use of drones on targeted killings particularly concerning civilian casualties and collateral damage to the non-targets?

#### **1.5. Research Methodology:**

The primary focus of the study is drone attacks, which has impeded the development of a just use of drones and how to protect the non-targets on the term of killing targets. The qualitative study has been published in national and international journals, papers, websites, and blogs to shed light on the use of drones in war that have occurred and how to stop it killing non-targets. The methodology used in this paper will be qualitative. The extant laws serve as the main sources of data. Secondary data sources are used in the study's analysis. Books, scholarly publications, online journals, newspaper articles, case laws, media reports, and public documents are all cited in this study.

#### **1.6. Literature Review:**

The use of drones raises a number of problems. Even while the U.S. military has carried out a noticeably higher number of drone attacks since the early 2000s, the majority of these concerns about the morality and legality of drones are brought up by the CIA's clandestine drone programme.<sup>1</sup> This research aims to address the concerns brought up by drones carrying out

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<sup>1</sup> "The New Way of War: Is There a Duty to Use Drones?" Gross, Oren (2015)  
<<https://scholarship.law.ufl.edu/flr/vol67/iss1/1/>> Florida Law, Page 15. accessed on December 31, 2023.

targeted killing outside of declared combat zones, which are definable both spatially and temporally. This paper investigates whether drone strikes could be permitted by international humanitarian law (IHL) and the international law of self-defense, operating under the framework put forth by the United States that an armed conflict exists between it and Al-Qaeda and its affiliates. In order to determine whether drone strikes in Yemen and Pakistan may be permitted under IHL despite the fact that they occur outside of the zones of active hostilities in Afghanistan and Iraq, the first chapter of this thesis examines the principles of distinction and proportionality under IHL. International human rights law (IHRL) generally governs conduct taken outside of an area of active hostilities, which is controlled by IHL. IHRL expressly prohibits the arbitrary deprivation of life. In this paper the use of international humanitarian law (IHL) will be analyzed to examine the legality of drone strikes in Yemen and Pakistan. Since Al-Qaeda and its affiliates are heavily represented in Yemen and Pakistan, presume for the purposes of this analysis that the United States and these groups are engaged in armed conflict. As a result, IHL will apply to members of these groups in those nations. This armed conflict combines elements of both the international armed conflict (IAC) and the non-international armed conflict (NIAC) categories found in the Geneva Conventions, rather than neatly fitting into either one. Since the US bases its drone strikes on both IHL and the international law of self-defense, here also examine the legitimacy of drone strikes under this legal framework. An outline of the ethical concerns brought up by drone strikes is provided in this paper.

## Chapter Two: Definition & Effectiveness of Drone Strike

### 2.1. Introduction:

In this chapter the main focus is on the definition and the effectiveness of the drone strike. What is actually a drone strike? This chapter will show the exact reform of this. On the other the effectiveness will represent how it has reflect on the drone strike victims and those reflection was legal or not?

### 2.2. Definition:

It occurs when a bomb dropped by a drone strikes a location.<sup>2</sup> According to international law, using unmanned aerial vehicles (UAVs) to target and kill particular people is known as a drone strike.<sup>3</sup> Nonetheless, the legality and interpretation of drone strikes can vary greatly depending on the situation, the area targeted, and whether or not they adhere to the standards of necessity, proportionality, and distinction found in international humanitarian law.<sup>4</sup>

The drone may be equipped with machine guns, autocannons, guided bombs, cluster bombs, incendiary devices, air-to-surface, air-to-air, anti-tank guided missiles, or other precision-directed weapons. The majority of US military drone operations in countries like Afghanistan,

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<sup>2</sup> Cambridge Dictionary, "Drone Strike", <<https://dictionary.cambridge.org/dictionary/english/drone-strike>> accessed on 19 November, 2023.

<sup>3</sup> Jaume Saura, "Implications of the use of drones in international law", International Catalan Institute For Peace, <<https://www.icip.cat/perlapau/en/article/implications-of-the-use-of-drones-in-international-law/#:~:text=On%20the%20other%20hand%2C%20apart,attack%20attributable%20to%20a%20state%20%E2%80%94%94>> accessed on 19 November, 2023.

<sup>4</sup> Ibid

Pakistan, Syria, Iraq, Somalia, and Yemen have been conducted using air-to-surface missiles since 2000. Drone strikes are used by many countries to carry out targeted executions. Only the United States, Israel, China, Iran, Italy, India, Pakistan, Russia, Turkey, and Poland are known to be involved as of 2019 which had produced functional unmanned aerial vehicles. Weaponized commercial unmanned aerial vehicles (UAVs) can carry out drone attacks by exploding above or crashing into targets that are susceptible to harm, or by carrying deadly payloads. They can also throw other weapons, such as hand grenades. Payloads may contain biological, chemical, radiological, or explosive threats, as well as shrapnel. A "drone swarm attack" is an attack by several drones at once.<sup>5</sup>

Drones without weapons, for example, might be utilized to find and rescue persons in danger during natural catastrophes.<sup>6</sup> It could also be used to drop pallets of humanitarian aid to places that are inaccessible by conventional means because of inadequate transportation or other hazardous situations that make physical presence impossible.<sup>7</sup> These purposes are correlated with the range of drone sizes and shapes, from tiny planes to more recent models that may be as small as insects.<sup>8</sup>

### **2.3. The Effectiveness and effective incidents of Drone Strike:**

#### **2.3.1. The Effectiveness:**

The officials stress by Americans that the precision provided by drone technology reduces the possibility that noncombatants will be struck by drone attacks while simultaneously increasing the probability that rebels will be eliminated. They assert that they exclusively target those who,

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<sup>5</sup> Ibid

<sup>6</sup>The article "Drones under International Law" by Rachel Alberstadt was published in the Open Journal of Political Science in Volume 04, No. 04 (2014). It has 11 pages and may be accessed at < [https://www.scirp.org/html/4-1670156\\_50570.htm](https://www.scirp.org/html/4-1670156_50570.htm) > on November 19, 2023.

<sup>7</sup> Ibid

<sup>8</sup> Ibid

based on trustworthy intelligence, pose a serious threat to the United States—that is, when capturing them is impractical and a strike is unlikely to cause civilian casualties.<sup>9</sup>

In comparison to other forms of violence, it seems that drone strikes are selective in Pakistan, the nation that has seen the greatest number of them. solely on material from Pakistani media outlets, they calculate that for every confirmed civilian death, more than 26 militants are slain. Using both Pakistani sources, this ratio drops to 19 militants killed for every civilian.

Almost sixty Al-Qaeda Central commanders and middle-ranking individuals have been slain by drones. Al Qaeda has only had a few hundred members in total since its founding, even during the time it spent hiding out in Taliban-controlled Afghanistan.<sup>10</sup>

The primary targets of drone strikes have been high-ranking members of the Taliban and al Qaeda. Drone strikes continue to target Al Qaeda leadership, but starting in 2010, they also target lower-level terrorist organisation members who are not identified. Instead of concentrating on particular terrorist leaders like Byman, these so-called "signature strikes" target people who participate in terrorist activity.<sup>11</sup>

Signature strikes raise the possibility of collateral damage but give the U.S. more discretion over when and where to launch attacks—a move that may improve drone strikes' capacity to disrupt terrorist networks. As a result, both Pakistanis and the international community become more resentful.<sup>12</sup>

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<sup>9</sup> The paper "The Effectiveness of Drone Strike One Strikes in Counterinsurgency and Counterterrorism Campaigns" was written by James Igoe Walsh Dr. and published on January 8, 2013. It can be accessed at [https://www.google.com/search?sca\\_esv=583659685&q=effectiveness+of+Drone+strike+in+counterinsurgency+and+counterterrorism+campaigns&spell=1&sa=X&ved=2ahUKEwj9na-mtc6CAxVUyDgGHVIB6AQkeECKAB6BAgJEAI](https://www.google.com/search?sca_esv=583659685&q=effectiveness+of+Drone+strike+in+counterinsurgency+and+counterterrorism+campaigns&spell=1&sa=X&ved=2ahUKEwj9na-mtc6CAxVUyDgGHVIB6AQkeECKAB6BAgJEAI) >accessed on 19 November, 2023.

<sup>10</sup> Javier Jordan, "The Effectiveness of the Drone Campaign against Al-Qaeda Central. A Case Study", *Journal of Strategic Studies*, Vol. 37, No. 01(2014), pp 4-29. <<https://www.ugr.es/~jjordan/AlQaedaDronesPakistan.pdf>> accessed on 19 November, 2023.

<sup>11</sup>Berlin, Jake (2016) "Effective but Unpopular? Sigma: Journal of Political and International Studies, Vol. 33, Article 11. <<https://scholarsarchive.byu.edu/sigma/vol33/iss1/11> > reached on November 19, 2023.

<sup>12</sup> Ibid

Drones have the potential to significantly lower the rate of terrorism in some areas and nations as well as globally. Instead, this finding just implies that, from a purely moral standpoint, it could be preferable for American officials to abstain from strategically utilising drones in the event that strikes lack international clearance and control.<sup>13</sup>

The United States wants the strikes to reduce the possibility of a significant al-Qaeda attack on American soil. Since the bombings in London in July 2005, there hasn't been an attack of this nature in the West or the United States since September 2001. Almost definitely, the response is no. The primary explanation for this is that since 9/11, the US has significantly bolstered its counterterrorism defences, intelligence-sharing, and law enforcement cooperation initiatives.<sup>14</sup>

### **2.3.2. The Effective Incidents:**

The majority of the targets in Afghanistan and Pakistan are militant leaders of Al-Qaeda and the Taliban in Northwest Pakistan's Federally Administered Tribal Areas (FATA). Furthermore, Pakistan opposes the use of drones because of the "collateral" civilian fatalities they frequently inflict and the possibility of Taliban retaliation against civilians, even in cases where major Taliban commanders have been slain by them. For instance, in March 2009, the leader of Tehrik-e-Taliban Pakistan, Baitullah Mehsud, claimed that the terrorist attack at a police academy in Lahore, which claimed the lives of eighteen people, was "in retaliation for the continued drone strikes by the United States in collaboration with Pakistan on our people."<sup>15</sup>

Ayman al-Zawahiri, one of the masterminds of the 9/11 attacks that killed over 3,000 people in New York, the Pentagon, and Pennsylvania, was finally brought down by American drones, according to President Joe Biden. The assault happened in Afghanistan's capital. Following Osama bin Laden's death in Abbottabad, Pakistan, on May 2, 2011, Zawahiri assumed leadership

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<sup>13</sup> David Serman, "Endless War Challenges Analysis of Drone Strike Effectiveness", Journal of National Security and Policy, 6 May, 2023. <<https://jnslp.com/2023/05/06/endless-war-challenges-analysis-of-drone-strike-effectiveness/>> accessed on 19 November, 2023.

<sup>14</sup> Law Fare, June 2, 2022; <<https://www.lawfaremedia.org/article/drone-strikes-and-evidence-based-counterterrorism>> , accessed November 19, 2023; Mitt Regan, "Drone Strikes and Evidence-Based Counterterrorism."

<sup>15</sup> BBC, 31 March 2009, "Lahore 'was Pakistan Taleban op'," <[http://news.bbc.co.uk/2/hi/south\\_asia/7973540.stm](http://news.bbc.co.uk/2/hi/south_asia/7973540.stm)>, accessed 08 January, 2024.

of the al-Qaida terrorist group. Zawahiri served as bin Laden's deputy and was involved in the planning of terror attacks against the United States and Americans abroad. These attacks included the 2000 attack on the USS Cole in Yemen, which resulted in the deaths of 17 sailors and numerous injuries, as well as the August 1998 attacks on US embassies in Tanzania and Kenya, which caused 224 fatalities and more than 4,500 injuries.<sup>16</sup>

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<sup>16</sup> Jim Garamone, "U.S. Drone Strike Kills al-Qaida Leader in Kabul", DOD News, 2 August, 2022, <<https://www.defense.gov/News/News-Stories/Article/Article/3114362/us-drone-strike-kills-al-qaida-leader-in-kabul/>> accessed on 8 January, 2024.



# Chapter Three: International Legal Framework for Use of Drone

## 3.1. Introduction:

The whole chapter shall be described about the legality of the drone under the Public International Law. The focus of the chapter is to discuss the legality of drone under the United Nation Charter.

## 3.2. Legality of drone under Public International Law:

### 3.2.1. Legality under UN Charter:

The use of force or threat of force against the territorial integrity of another state is prohibited by Article 2(4) of the United Nations Charter. Drone strikes are undoubtedly included under this since it would be clearly against Article 2(4) to use them on the territory of another state.<sup>17</sup> However, there are situations where using force is permissible: when the territorial state gives its approval (for instance, if an armed non-state group is present on or operating out of its territory); in self-defense (on either an individual or group basis); or with the UN Security Council's approval (known as Chapter VII behaviors). The jus ad bellum is the legal foundation that specifies when states may employ force.<sup>18</sup>

It is crucial to review the pertinent legal documents in order to gain a better understanding of the legality of targeted drone strikes under international law. States are allowed to employ military

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<sup>17</sup> "THE LEGALITY OF ARMED DRONES UNDER INTERNATIONAL LAW", BACKGROUND PAPER BY THE INTERNATIONAL BAR ASSOCIATION'S HUMAN RIGHTS INSTITUTE, 25 May, 2017, [https://www.ibanet.org/MediaHandler?id=b0b8af88-fd20-44f8-a920-634484645113#:~:text=Article%20\(4\)%20of%20the,of%20Article%20\(4\).](https://www.ibanet.org/MediaHandler?id=b0b8af88-fd20-44f8-a920-634484645113#:~:text=Article%20(4)%20of%20the,of%20Article%20(4).>)> accessed on 3 December, 2023.

<sup>18</sup> Ibid

force in self-defense against an armed attack under the terms of the UN Charter. This implies that states have the right to employ armed force to protect themselves from a state or non-state entity that poses an immediate threat. But only as much force as is required to neutralize the threat may be used.<sup>19</sup> Lastly, the use of drones has been the subject of multiple resolutions approved by the UN Security Council. These resolutions have made the legal foundation for drone use clear and created standards for their use. The Security Council has placed particular emphasis on the requirement that governments adhere to international law, particularly international humanitarian law and international human rights law, when utilizing drones.<sup>20</sup>

### 3.2.2. The Legality of Using drones at war by the Legal Permission from the States:

Since the prime minister has *de jure* authority and the president serves as the symbolic head of state in Pakistan, the prime minister is primarily able to approve drone operations. Moreover, the president appointed the chief of army staff on the basis of the prime minister's suggestion,<sup>21</sup> may be able to give consent, however it has been proposed that, in cases where there is disagreement, the view of The decision is made by higher officials.<sup>22</sup> Yousuf Raza Gilani, the prime minister, ratified in secret in 2008. Despite vocal resistance to drone attacks.<sup>23</sup> This permission was in place until 2013, when Prime Minister Nawaz Sharif and Pakistan's foreign ministry withdrew it.<sup>24</sup> Thus, in the instance of Pakistan, approval has been granted by a designated official.<sup>25</sup>

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<sup>19</sup> Marcin Frackiewicz, "The Legal Implications of Drone Strikes in International Law", The Drones News, 23 March, 2023, <<https://ts2.space/en/the-legal-implications-of-drone-strikes-in-international-law/>> accessed on 3 December, 2023.

<sup>20</sup> Ibid

<sup>21</sup> Constitution of the Islamic Republic of Pakistan (2010), Art 243(1)(b)

<sup>22</sup> UN General Assembly, UN Doc A/68/382 [82], C. Heyns, "Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions" (September 13, 2013).

<sup>23</sup> The Wikileaks article "Kayani Wanted More Drone Strikes in Pakistan" from February 21, 2013, may be viewed at <[https://wikileaks.org/gifiles/docs/30/3049919\\_-\\_os-uspakistan-mil-ct-wikileaks-kayani-wanted-more-drone.html](https://wikileaks.org/gifiles/docs/30/3049919_-_os-uspakistan-mil-ct-wikileaks-kayani-wanted-more-drone.html)>

<sup>24</sup> "Secret Memos Reveal Explicit Nature of US, Pakistan Drone Agreement," by G Miller and B Woodward (October 24, 2013) The Washington Post, <[www.washingtonpost.com/world/national-security/top-pakistani-leaders-covertly-supported-cia-drone-campaign-cloaked-documents/2013/10/23/15e6b0d8-3beb-11e3-b6a9-da62c264f40e\\_story.html?utm\\_term=.e14a589c8ae9](http://www.washingtonpost.com/world/national-security/top-pakistani-leaders-covertly-supported-cia-drone-campaign-cloaked-documents/2013/10/23/15e6b0d8-3beb-11e3-b6a9-da62c264f40e_story.html?utm_term=.e14a589c8ae9)> reached on December 3, 2023.

<sup>25</sup> Ibid

Regarding Yemen, it has been stated that President Hadi has given his approval to every strike.<sup>26</sup> Furthermore, there has been a suggestion of general consent.<sup>27</sup> As long as the administration remains correct, this will continue, and there is no reason to doubt the validity of this consent in terms of international law.<sup>28</sup>

Iraq's permission of broad military operations, such as drone strikes, has been documented in letters from Minister of Foreign Affairs Ibrahim al-Ushayqir al-Ja'fari to the UN Security Council, proving that the consent came from a legitimate official. The 2012 strategic partnership agreement with President Hamid Karzai permits general military activities in Afghanistan, including drone strikes. Unauthorised drone strikes have occurred in Libya and Syria. Consequently, more justifications under jus ad bellum are needed.<sup>29</sup>

### **3.3. Consent and Obligations under International Law:**

IHL and IHRL regulations nevertheless apply to both states that use force and those that give permission to intervene. Therefore, a territorial state "cannot lawfully allow attacks that would violate applicable human rights or humanitarian law norms, since it does not itself enjoy such authority." A territorial state "may only grant consent to operations that it could itself legally conduct," as is widely understood.<sup>30</sup> The consenting state also needs to make sure the helping

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<sup>26</sup> "Secret Memos Reveal Explicit Nature of US, Pakistan Drone Agreement," by G Miller and B Woodward (October 24, 2013) The Washington Post, < [www.washingtonpost.com/world/national-security/top-pakistani-leaders-covertly-supported-cia-drone-campaign-cloaked-documents/2013/10/23/15e6b0d8-3beb-11e3-b6a9-da62c264f40e\\_story.html?utm\\_term=.e14a589c8ae9](http://www.washingtonpost.com/world/national-security/top-pakistani-leaders-covertly-supported-cia-drone-campaign-cloaked-documents/2013/10/23/15e6b0d8-3beb-11e3-b6a9-da62c264f40e_story.html?utm_term=.e14a589c8ae9) > reached on December 3, 2023.

<sup>27</sup> Human Rights Watch, 'A Wedding that Became a Funeral: US Drone Attack on Marriage Procession in Yemen' (February 2014), < [www.hrw.org/sites/default/files/reports/yemen0214\\_ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/yemen0214_ForUpload_0.pdf) > accessed 3 December, 2023.

<sup>28</sup> Ibid

<sup>29</sup> Ibid

<sup>30</sup> MN Schmitt, Clearing the "Fog of Law" on "Drone Attacks under the Jus ad Bellum and Jus in Bello" (2010) 13 Yearbook of International Humanitarian Law, 311, 315.

state is abiding by the relevant laws by taking appropriate measures.<sup>31</sup> Therefore, even though several governments have approved the use of drones, this only affects the legality of using them for the first time not the way they are utilized.<sup>32</sup>

Regarding drone strikes, the International Court of Justice has also expressed opinions. According to the court, drone use should only be permitted in circumstances where there is an obvious risk to the state. Furthermore, the court has maintained that close supervision of drone use is necessary to prevent unwarranted harm or civilian casualties.<sup>33</sup> Moreover, states are required by international human rights law to take all reasonable precautions to keep civilians safe. This means that while utilizing drones for targeted strikes, authorities have to examine how their actions may affect civilians. Drone usage must also adhere to international humanitarian law and be restricted to targets that provide an immediate threat.<sup>34</sup>

In general, the laws governing the use of drones to carry out targeted attacks are intricate and constantly changing. There are those who contend that using drones is against international law, while others maintain that it is legal. Until further legal clarification is obtained, the legitimacy of targeted drone strikes will probably remain a topic of discussion.<sup>35</sup>

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<sup>31</sup> C Heyns, 'Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions' (13 September 2013) UN General Assembly, UN Doc A/68/382 [82].

<sup>32</sup> Ibid

<sup>33</sup> Marcin Frackiewicz, "*The Legal Implications of Drone Strikes in International Law*", The Drones News, 23 March, 2023, <<https://ts2.space/en/the-legal-implications-of-drone-strikes-in-international-law/>> accessed on 3 December, 2023.

<sup>34</sup> Ibid

<sup>35</sup> Ibid

## **Chapter Four: Legality & Ethics of targeted killings under the perspective of International Humanitarian Law**

### **4.1. Introduction:**

The use of military drones sparked a contentious debate in academia and the media. The question of whether the problem is legal & ethical in character will be the main emphasis of this chapter. Here will be approached from the standpoint of international humanitarian law (IHL). Under this framework, Firstly, it will address legal concerns that arise from drone use for targeted killings, which is by far the most common use for them. Secondly, here will talk about the situations in which IHL applies.

### **4.2. Drones and International Humanitarian Law:**

The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions that target killings in general has said that such executions violate the right to life. However, there may be rare situations in which targeted killings are acceptable.<sup>36</sup> Stated differently, the principles governing the conduct of hostilities, including proportionality, distinctions, and precautions during strikes, must be adhered to by drone attacks.<sup>37</sup>

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<sup>36</sup> *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur (2019)*, New York: Human Rights Council, < <https://www.ohchr.org/en/special-procedures/sr-executions> > accessed on 16 December, 2023.

<sup>37</sup> Greenwood, C. (2003). International law and the pre-emptive use of force: Afghanistan, Al-Qaida, and Iraq. *San Diego International Law Journal* , 25. < <https://digital.sandiego.edu/ilj/vol4/iss1/3/> > accessed on 16 December, 2023.

#### 4.2.1. Legality of Drones as Weapon for targeted killings:

Without a doubt, the legality of a newly discovered weapon will be the subject of discussion. The foundation of *Jus in Bello* is widely recognised to be the ideas of "properly assess the risk of excessive harm to civilians" and "distinguishing between civilian and military objects".<sup>38</sup> Unmanned aerial vehicles, sometimes known as drones, appear to have a sophisticated sensory system that will allow them to launch targeted strikes.

As per the provisions of Article 36 of the Additional Protocol I to the Geneva Conventions, a weapon must satisfy certain requirements in order to be deemed compliant with international humanitarian law. These requirements include:

- would already be forbidden by a particular treaty on armaments;
- would be considered a weapon of mass destruction;
- would be among nature to inflict needless harm or suffering, or to seriously harm the environment broadly over an extended period of time;
- would be at odds with "public conscience" or "principles of humanity."<sup>39</sup>

#### 4.2.2. Rule of Proportionality:

Articles 51 (5)(b) and 52 (a)(iii) of the Additional Protocol I 1977 of the Geneva Conventions state that the subject of proportionality is connected to the techniques of combat that are legitimate and those that are not. States are prohibited by the IHL Customary Rules from employing weapons and tactics in battle that injure civilians excessively. State policy should, in

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<sup>38</sup> (2003) Greenwood, C. Afghanistan, Al-Qaida, and Iraq: international law and the preemptive use of force. <<https://digital.sandiego.edu/ilj/vol4/iss1/3/>> San Diego International Law Journal, 22. accessed on December 16, 2023.

<sup>39</sup>(2013) Bobillier, S. General Assembly: Drone usage in counterterrorism operations. University of Geneva, Geneva.

other words, refrain from inflicting needless misery.<sup>40</sup> Draw attention to the direct relationship between proportionality and the expected military advantage. The CIA has occasionally used the anticipated military advantage of targeting Batullah Meshud to justify the use of sixteen drone strikes that resulted in the deaths of over 321 civilians, as evidenced in the 2009 killing of Meshud.

### **4.3. Ethics in Targeted Killings under International Humanitarian Law:**

Targeted killing is lawful in states when it is part of a legitimate act of self-defense or armed conflict, provided that the killing satisfies the standards of necessity, proportionality, and distinction. However, targeted killings that take place in times of peace are prohibited.<sup>41</sup> As was previously said, states operating in times of peace (as opposed to those involving armed conflict and self-defense) and adhering to the human rights framework are required to restrict the use of deadly force to circumstances in which human life is in immediate danger. Furthermore, a targeted killing is by definition unlawful under the human rights paradigm as killing might not be the only goal.

When there is an immediate threat to the civilian population, law enforcement officials in a State may legitimately use targeted killing techniques in certain situations. However, this is only acceptable if the mission's primary objective is to prevent deaths.<sup>42</sup> It's interesting to note that O'Connell asserts that since drones employ force, they "are therefore lawful only in armed conflict hostilities,"<sup>43</sup> without mentioning the few instances in which they might be justified in the face of immediate danger. She might be responding to state drone usage with her point. At

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<sup>40</sup>Ibid.

<sup>41</sup> O'Connell Remarks, *supra* note 61, at 599; Michael N. Schmitt, State Sponsored Assassination in International and Domestic Law, 17 YALE J. INT'L L. 609, 614 (1992).

<<https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1191&context=djil>> accessed on 17 December, 2023.

<sup>42</sup> Alston Report, *supra* note 35, 11 9 (citing NILS MELZER, TARGETED KILLING IN INTERNATIONAL LAW 4-5 (2008)). <<https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1191&context=djilp>> accessed on 17 December, 2023.

<sup>43</sup> Ibid

the moment, states frequently use drones to carry out targeted murders in situations where there is no immediate threat.

The "general human right to freedom from arbitrary deprivation of life" is not violated by a state's extraterritorial targeted killings of individuals because such actions "will only be applicable with respect to those persons who are within the jurisdiction, actual power, or effective control of the state or other entity using a drone." No matter what their real power, jurisdiction, or level of control over an individual may be, states are required to defend their right to life. Therefore, targeted murders by States, including those conducted with the use of weaponized drones, that take place while no one is in immediate danger and outside the parameters of lawful self-defense or armed conflict are implicated in human rights breaches.<sup>44</sup>

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<sup>44</sup> Ibid



## **Chapter Five: How the International Community has failed to protect the non-targeted victims from drone attacks**

### **5.1. Introduction:**

According to the Security Council, the international community is failing to uphold its obligations to safeguard people during armed conflict. During a day-long open debate, speakers presented priority action areas for protecting the survival, security, and dignity of civilians. It urged for greater respect for international humanitarian law through action and accountability. The UN Security Council asked States to step up efforts to avert violence, maintain peace, and find political solutions to war because it is taking lives all across the world.

### **5.2. Failure of protecting the non-targeted victims:**

It is concerned that certain States' alleged legal justification for using deadly drone strikes against terrorist targets is not well-founded in established norms of international law. What is even more concerning, though, is the apparent trend in recent years of States seemingly depending on their discretionary policies regarding the targeted killing of terrorists who do not comply with human rights obligations, without even providing a formal legal justification for such actions in accordance with established international legal doctrines.<sup>45</sup> It is noteworthy that counterterrorism drone strikes are not legally grounded in cases where States have previously provided specific justifications for lethal armed drone strikes under Article 51 of the Security

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<sup>45</sup> "Legal uncertainty in relation to the interpretation of important rules on the international use of force presents a clear danger to the international community," stated Prof. Christof Heyns in his 2014 report to the General Assembly. Such significant regulations being left up for interpretation by various parties could set unfavourable precedents where States have broad authority to take lives with little chance of accountability. [137] A/HRC/26/36 (1 April 2014).

Council, citing them as exercises of the right to self-defense. Additionally, military strikes other than drone strikes against terrorists are regularly reported to the Security Council.<sup>46</sup>

States using drone strikes against terrorist targets have repeatedly failed to verify or refute the existence of targeting lists or the criteria for selecting targets, and have declined to subject such policies to legislative or public examination. The Special Rapporteur is concerned that some governments that seem to be using drones for targeted killings do not have formal procedures for conducting post-mortem investigations and have not verified the existence of a "kill list" of terrorist targets, which would shield drone strikes from legislative scrutiny.<sup>47</sup>

Prior to any US drone operation, President Obama stated in 2013 that "there must be near-certainty that no civilians will be killed or injured". The study casts doubt on the United States' capacity to fulfil the "near-certainty" criteria in real-world scenarios as well as its adherence to international law. The nine case studies in this paper provide credible evidence that civilian casualties and fatalities in Yemen have been caused by US airstrikes. These examples include one where a drone attack killed 12 people, including a pregnant mother and her three children, and another where the United States struck a residence that had 19 people, including women and children.<sup>48</sup>

The United States has not formally acknowledged any of these strikes or the civilian deaths they caused. None of the victims are aware that the strikes are being investigated, and most did not receive substantial compensation. Many survivors claim the strikes are useless and encourage Yemenis to join al-Qaeda.<sup>49</sup>

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<sup>46</sup> the US government's notification of strikes against facilities in Syria and Iraq in June 2021. Letter dated 29 June 2021 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council, S/2021/614 (30 June 2021). *General Comment 36*, [12]-[13] and [28]-[29].

<sup>47</sup> UK Parliament Intelligence and Security Committee, 'UK Lethal Drone Strikes in Syria' (2017), [72], <[https://isc.independent.gov.uk/wp-content/uploads/2021/01/20170426\\_UK\\_Lethal\\_Drone\\_Strikes\\_in\\_Syria\\_Report.pdf](https://isc.independent.gov.uk/wp-content/uploads/2021/01/20170426_UK_Lethal_Drone_Strikes_in_Syria_Report.pdf)> accessed on 17 December, 2023.

<sup>48</sup> "Death by Drone", Civilian Harm Caused by U.S Targeted Killings in Yemen, Executive Summary, <<https://www.justiceinitiative.org/publications/death-drone>> accessed on 17 December, 2023.

<sup>49</sup> Ibid

Despite official efforts to conceal the bombings, this study exposes the suffering of individuals who were directly affected by US airstrikes. These victims include parents who witnessed their children being slain, families who lost their main breadwinner, innocent people who were burned alive, and traumatized communities that still live in constant fear of drones. This report, which is based on the testimonies of eyewitnesses and survivors, provides a direct, thorough assessment of the harm caused to civilians by American airstrikes.<sup>50</sup>

### **5.3. What will be the measures on protecting the non-targeted victims:**

Drones could be employed as weapons with more precision, and as such could qualify as taking preventive measures to prevent excessive casualties, although war crimes could still emerge from miscalculations or a disdain for events on the ground.<sup>51</sup> Drone attacks have the potential to result in war crimes, including acts that inflict excessive damage (Article 8 (2) (b) (iv)) and murder (Article 8 (2) (a) (i)). IHL requires that the attacker take reasonable procedures for verification and that the strike be terminated or suspended in situations where the legality of the strike's objective is in doubt, as stated in Additional Protocol I, Article 57(2).<sup>52</sup> This negates the requirement to evaluate proportionality, which states that harm to civilians must be avoided and that the strike must have a real, demonstrable military advantage rather than merely a theoretical or hopeful one.<sup>53</sup>

As was previously said, target verification using technologies like images and loitering capabilities is one example of the cautious measures that can be used with drones. Several authorities can assess the data thanks to the drone's camera's visual input. This ultimately means

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<sup>50</sup> Ibid

<sup>51</sup> Robinsin, D., Cryer, R., Friman, H., & Wilmshurst, E. (2007). A Comprehensive Overview of International Criminal Law and Procedure, Second Edition. The URL <<http://dx.doi.org/10.1017/CBO9780511801006>> was accessed on December 17, 2023, from Cambridge: CUP.

<sup>52</sup> Zegveld, L., and F. Kalshoven (2011). Limitations on the Provocation of War: An Overview of International Humanitarian Law. 18 December 2023, available at <<http://dx.doi.org/10.1017/CBO9780511995231>>, Cambridge: Cambridge University Press.

<sup>53</sup> (2010) Gill, T. D., and Fleck, D. The International Law of Military Operations Handbook. Oxford University Press.

that "many sets of eyes, including those of lawyers trained to assess proportionality, can make a proportionality determination at the time of weapons release thanks to the drone's sensors".<sup>54</sup>

It has been suggested that drones do have mechanisms that allow for greater discrimination features for warfare, but in situations where civilians are present or where it is difficult to identify the targets, drone operators and commanders must use their judgement to decide when to launch an attack.<sup>55</sup> The commander and operator must, if at all feasible, minimise potential harm to civilians and civilian objects prior to the results.<sup>56</sup> If collateral damage is reasonable, it is permissible. Targeting, as stated in *Air Force Operations* (2009), is essentially a command function task that requires "commander oversight and involvement to ensure proper execution." As a result, this describes the commanders' responsibilities under Article 28 of the Rome Statute for drone-related war crimes.

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<sup>54</sup>M. W. Lewis (2012). *The Boundaries of the Battlefield: Drones and Their Impact*. *Texas International Law Journal*, 47, 299–300.

<sup>55</sup>Vogel (2011) p. 91. *Drone Warfare and the Law of Armed Conflict*. *International Law and Policy*, *Denver Journal*, 39, 101.

<sup>56</sup>Zegveld, L., and F. Kalshoven (2011). *Limitations on the Provocation of War: An Overview of International Humanitarian Law*. 18 December 2023, available at <<http://dx.doi.org/10.1017/CBO9780511995231>>, Cambridge: Cambridge University Press.

## **Chapter Six: Findings, Recommendations & Conclusion**

### **6.1. Introduction:**

By examining this paper, many issues surrounding this controversial topic, this inquiry hopes to clarify the legal history, changing social mores, and moral conundrums surrounding targeted murders. In addition, it makes an effort to provide incisive suggestions that successfully negotiate the difficult balancing act between security imperatives, human rights considerations, and international legal obligations. This will hopefully lead to a better informed discussion and possibly even direct future policy frameworks in this complicated area.

### **6.2. Findings:**

1. The use of force against a state's political independence or territorial integrity is forbidden by Article 2(4) of the UN Charter but against an armed attack, Article 51 allows the use of force in self-defense. There is ongoing discussion on the definition of an imminent threat and the parameters of self-defense.
2. Targeted assassinations frequently take place in states against their will, which raises questions regarding sovereignty violations. The defence of one's self against non-state actors within the borders of other sovereign territories conflicts with the ideal of non-intervention in domestic affairs.
3. PIL contains Human Rights Law, which prioritises due process and the right to life. These rights are violated by extrajudicial executions, including those carried out by targeted drone strikes, especially when the victims are not fighters involved in hostilities.

4. IHL requires implementing safety measures to prevent or reduce injury to civilians. To confirm the target's identity and status and to ensure that the strike is executed precisely in order to minimise collateral damage, reliable intelligence is needed. Ethical questions are raised by the decision-making process's lack of transparency and the absence of explicit accountability procedures. In order to evaluate adherence to legal requirements and ethical issues, transparency is essential.
5. Targeted killings raise concerns about their long-term efficacy and ethical ramifications because they may start a cycle of violence and jeopardise attempts to impose peace and stability.

### **6.3. Recommendations:**

1. Make sure that any targeted killings including those carried out by drone strikes comply with the UN Charter, sovereignty, and self-defense principles.
2. Particularly in instances of armed conflict, drone strikes must adhere to the standards of necessity, proportionality, distinction, and humanity.
3. Under international law, targeted killings could be acceptable if they are carried out in self-defense against direct threats. Strict adherence to the proportionality and necessity standards is required. Parties to an armed conflict are required to abide by IHL, which makes a distinction between combatants and civilians. Killings intended to kill should only be carried out against fighters or those actively engaged in fighting.
4. Provide clear regulations and laws controlling the use of targeted murders, particularly with drone attacks. Make sure these instructions are available to the

- public and comply with international law and also ensure that, regardless of the mode of execution, targeted killings uphold essential human rights, such as the right to life.
5. Have to provide military personnel and decision-makers who approve and carry out targeted executions thorough training. Teach children about their responsibilities under the law, morality, and the consequences of their behavior.
  6. It is necessary to give diplomatic and peaceful means of resolving disputes top priority in order to lessen the need for targeted executions. To reduce the necessity for such measures, long-term initiatives should concentrate on resolving the underlying causes of disputes.

#### **6.4. Conclusion:**

It is clear that this technique poses difficult moral and legal issues in the divisive discussion around targeted executions by drone attacks within the parameters of public international law and international humanitarian law. Critics frequently draw attention to the possible violations of sovereignty, the lack of transparency, and the worries about civilian casualties, even as supporters of the measures contend that they are necessary to counteract immediate threats to national security. Legally speaking, the legitimacy of targeted killings depends on following the fundamentals of international law, such as the UN Charter's Article 51 right to self-defense, respect for international human rights legislation, and observance of the laws of armed conflict. The ways in which these laws are interpreted and applied in the context of contemporary warfare, particularly with regards to developing technologies like as drones, continue to be contentious and necessitate close examination and supervision. Maintaining the core values of international law and ethics while balancing national security imperatives is necessary. It is crucial to have accountability systems, transparency, and strong oversight to guarantee that targeted killings are carried out in accordance with the law and moral principles. In an ever-changing global scene, the appropriate use of targeted assassinations requires constant

discussion, assessment, and adherence to established legal frameworks. In the end, resolving the difficulties posed by the use of drone strikes for targeted assassinations requires an all-encompassing strategy that puts security and basic human rights first.



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