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Legality of Drone Strikes under International Humanitarian and Human Rights Law

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Abstract

The recent emergence of unmanned aerial vehicles (UAVs) or drones in contemporary warfare has reshaped the character of military conflict and has provoked significant legal and ethical issues. Although the use of drone technology is effective in targeting attack and lessening harm to military personnel, its use as cross-border targeted killings has undergone scrutiny that contradicts the provisions of the international laws. In this paper, the author analyzes the legality of drone strikes by applying two conceptions to the issue the International Humanitarian Law (IHL) and the International Human Rights Law (IHRL). It discusses the possibility of such operations to be justified within the framework of jus ad bellum and jus in bello, especially concerning such notions as sovereignty, distinction, proportionality, necessity. The paper uses the case studies of Pakistan, Yemen and Afghanistan in particular and based on the pertinent treaties, customary law and case studies to assess how states understand self-defence and counterterrorism mandates to justify the use of extraterritorial force. It also explores a clash between state security prerogatives and the right to life, showing a lack of accountability in the case where there is no effective oversight mechanism. This paper demonstrates, based on the analysis of the doctrinal legal texts and critical consideration of the UN reports and the academic discussions, that the majority of drone attacks are somewhere in the grey zone of law, which appears to be the failure of the existing international standards to govern the new types of remote conflict. At the end of the paper, a recommendation will be given to develop a general law framework that will make the system more transparent, accountable and adherent to the international requirements.

Keywords: *Drone warfare, International Humanitarian Law, Human Rights Law, Targeted killing, State sovereignty, Jus ad bellum , Jus in bello , Accountability*

1. Introduction

The accelerated development of the drone technology has radically changed the nature of the latest war and international security.

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The current use of unmanned aerial vehicles (UAVs) that began as surveillance and reconnaissance tools has grown to becomes a deadly weapon that has been deployed in counterterrorism efforts to kill targets. United States, especially, has been using the use of drone strikes in the countries of Pakistan, Yemen, Somalia and Afghanistan in many instances using the guise of self-defence and necessity. Such a development of warfare provokes the serious doubts on the congruity between drone activities and South Punjab, in particular, the districts of Multan and the principles of the international law (both International Humanitarian Law (IHL) and International Human Rights Law (IHRL)) governing the organization of hostilities and the right to human life protection.

The fundamental issue in this discussion is whether the interests of state security can be aligned to the international law requirements. Supporters believe that drone attacks are legitimate ways of responding to non-state actors involved in transnational terrorism and thus, they are precise and can cause lower collateral damage. The opponents, though, argue that this enigmatic characteristic of the operations, most of which are executed without the consent of the host state, infringes upon sovereignty and contravenes the rules of international law which was enforced under the United Nations Charter, especially on Article 2(4) which declared the prohibition of the use of force toward the territorial integrity or the political independence of any state (Charter, 1945a). The grey area in defining an armed conflict and geographical area of an armed conflict is another issue that contributes to the difficulty in defining drone strikes using the legal provisions (Blank, 2010).

Another area where IHL and IHRL intersect is the driving force behind drone warfare to be considered legal or illegal. IHL which is applied in armed conflict regulates the use and the manner of warfare by ensuring that there is a distinction between combatants and civilians and observing proportionality and necessity. IHRL, on the contrary, is applicable during both peaceful and war-related situations and focuses more on the right to life as spelled out in Article 6 of the International Covenant on Civil and Political Rights (ICCPR) (Joseph, 2016)**.** The answer to the question therefore becomes, can the states also use wartime exceptions as a justification to engage in extraterritorial drone strikes or are the acts illegitimate arbitrary deprivation of life in human rights law?

One such aspect of the discussion is over sovereignty and extraterritorial jurisdiction. It has been extensively criticized that the use of drones on the territory of another state, even without express consent, such as U.S. attacks in the Federally Administered Tribal Areas (FATA) in Pakistan, is a violation of the sovereignty of the host state (O'Connell, 2009). In addition, these operations frequently are based on confidential intelligence and independent verification, which makes it difficult to account under the international law. The UN Special Rapporteurs on extrajudicial, summary, or arbitrary executions, among them Philip Alston and Christof Heyns, have consistently encouraged the states to publish the legal justification, targeting standards and victims of the drone programs in order to be more transparent and adhere to the IHL and IHRL (Alston, 2010a).

Irrespective of such issues, the global community is still divided on the issue of legality and legitimacy of drone strikes. Other scholars say that current norms in jus ad bellum (law for the recourse of force) and jus in bello (law for action in war) are adequate but need a more consistent application. Others argue that drone warfare is a new type of warfare, which reveals the weakness of the old structures that were intended to work in case of state to state warfare (Jenks, 2009). The uncertainty of whether to classify the drone operators as a combatant or a civilian also makes the application of IHL more difficult particularly in terms of responsibility in cases of unlawful killings.

The paper uses a doctrinal and analytical approach, relying on treaties, customary law, UN reports and literature in order to assess the legality of the use of drone strikes as per international law.

It seeks to explain how IHL and IHRL intersect when it comes to extraterritorial counterterrorism operations and determine whether the present practices of states are in conformity with the principles of sovereignty, distinction, proportionality and accountability. It is based on case studies in Pakistan, Yemen and Afghanistan where drone warfare has yielded both operational achievements along with humanitarian scandals.

Finally, the paper maintains that drone strikes are in a legal grey area, with states taking advantage of interpretative grey areas to use force extraterritorially. Although these kinds of operations might be effective in reaching the tactical goals, they threaten to undermine the normative premises of the international law, especially the prohibition of the use of force and the right to human life. Such a requirement of the existence of a coherent legal and institutional regime is thus urgent not only to control the application of drones but to maintain the integrity of the international legal regime and hold those who break it accountable.

2. Legal Framework – Jus ad Bellum and Jus in Bello

The use of drone strikes should be analyzed in the two-pronged context of under the international law of jus ad bellum, which is the law of the resorts to the use of force and the international law of jus in bello, the law of war conduct. These structures are largely based on the United Nations

Charter and the Geneva Conventions; they are aimed to reconcile sovereign equality of states and humanitarian demands of war. The factual application and engagement of these principles have been more controversial in the context of drone strikes, especially when done across borders and targeting non-state actors.

2.1 Jus ad Bellum: The Right to Use Force

Article 2(4) of the UN Charter regulates the employment of force by the use of force between states and so enumerates the use of force as categorically owing to the threat or use of force against the territorial integrity or political independence of any state (Charter, 1945b). The only known exceptions are in Articles 51, that allows the right to self-defence in the event of an armed attack and Article VII, that authorizes the United Nations Security Council to sanction a collective military action to uphold international peace and security. In reality, states that have resorted to the use of drone attacks in other lands have oftentimes used Article 51 as a way to legitimize their actions as a way of self-defence against terrorist groups.

However, In the case of Nicaragua v. the International Court of Justice (ICJ), the court decided that the US had breached the right to self-determination. The case of United States, it was held that self-defence can only be given when there is an armed attack which can be attributed to another state (Justice, 1986a). However, following the September 11 attacks, some states, such as the United States and the United Kingdom, submitted claims to the right of self-defence but with a wider interpretation in that a non-state actor has the right to do so in case the host state is unwilling or incapable of disrupting their activities (Deeks, 2011). This doctrine of unwilling or incapacity has not been universally well accepted and is accused of weakening the sovereignty of the territories of weaker states especially where strikes are launched without the permission of the Security Council or even without their approval.

The U.S. drone attacks in Pakistan tribal areas are the perfect example of a conflict between self-defence and sovereignty. Such strikes have been repeatedly condemned by both Pakistan as a violation of its territorial integrity and the UN Charter and justifiably by United States as being required to counter imminent threats by non-state actors whose actions have been initiated on the territory of Pakistan (O'connell, 2008). The absence of openness in determining the impending nature also adds complexity in the determination of legality.

Article 51 has been broadened in time by the concept of anticipatory or pre-emptive self-defence, whereby force is employed to stop an imminent attack, but this is a controversial area of interpretation both in the academic and judicial versions(CMG, 2005).

Necessity and proportionality is a principle of the jus ad bellum that any defensive application of force must be restricted to what is necessary to repel an armed attack and what is proportionate to the threat posed (Carcelén, 1989). Drones operations tend to boast of adherence to these principles because of their accuracy and specificity; nevertheless, civilian casualties and collateral damage are often used to refute these claims. Intelligence and post-strike checks and balances complicate the issue of establishing intelligence and the measurement of post-strike performance, which highlights the tension between expediency of operation and the law.

2.2 Jus in Bello: Conduct of Hostilities

After the line of armed conflict has been crossed, the legal system of the International Humanitarian Law (IHL), which is reflected by the Geneva Conventions of 1949 and their Additional Protocols, takes over the interaction of hostilities. There are three cardinal principles on which Jus in bello is founded and these are distinction, proportionality and precaution. These principles focus on harm reduction to civilians and curb unwarranted suffering. The principle of distinction requires the parties engaged in an armed conflict to distinguish between combatants and civilians and, therefore, to attack only the former (McDonald & Swaak-Goldman, 2000). This is however not usually the case with drone strikes especially where the targets are people suspected to be terrorism in unconventional battlefields. Signature strikes: strikes run according to behavioral patterns but not according to certain identities run the danger of violating this principle because they presuppose combatant status without adequate verification (Melzer, 2008a). Moreover, due to the distance the drone warfare imposes epistemic uncertainty because those who execute the drone warfare depend on aerial imagery and signals intelligence that may be insufficient to ascertain the presence or purpose of the civilian.

The proportionality principle forbids attacks that will produce disproportionate civilian casualties when compared to the anticipated military benefit (Rose & Oswald, 2016a). Regardless of the accuracy of the technology, civilian deaths caused by drone strikes have often been reported, raising the complaint of using excessive force. The Bureau of Investigative Journalism and UN Special Rapporteurs reports have implied that hundreds of civilians have been killed in drone attacks, especially in Pakistan and Yemen and this begs the question of proportionality legality (Ranson, 2022). On the same note, the principle of precaution requires that every possible step be taken to prevent or reduce the incidental damage to civilians. The absence of transparency and independent inquiry after the strike is a question about whether proper precaution is always taken.

The other legal issue is the issue of categorizing the drone operators. Most of the drone pilots are located military bases located thousands of miles away, in many cases, as civilian contractors, not as formal armed forces. This makes one question their combatant status under IHL and their right to the protections of prisoners of war in the event of their capture (Watkin, 2004a). In addition, the mechanized and computerized character of drone works can water down the sense of personal responsibility, making it difficult to connect the illegal murders to certain group forces or state power.This overlap between jus ad bellum and jus in bello in drone warfare confers a new accountability gap. States use self-defence (jus ad bellum) to justify the use of drones when they state that they are acting in IHL conforming to strikes (jus in bello). However, in reality, the two claims tend to work individually and states can get away with not undergoing the full legal review (McNab & Matthews, 2010). The current frameworks, despite their theoretical soundness, are unable to control a type of warfare that goes beyond the conventional concept of a territorial conflict and time frames.

Therefore, the drone strikes can be justified as a reasonable use of self-defence or legal actions in wartime, but their legality is highly disputed. The connection between sovereignty, the meaning of armed conflict and the limits of self-defence remains an indication of the weakness of the existing legal order in dealing with the problems of remote, transnational warfare.

3. Drone Strikes and International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) is an international body of rules that regulates the behavior of hostilities as an armed conflict has already been determined, aimed at sacrificing military necessity to humanitarian concerns. The most significant issue that can be raised about drone strikes is whether it complies with IHL-principles, in particular, the principles of distinction, proportionality and precaution and whether this practice is based on the accepted parameters of armed conflict when directed towards non-state actors in other non-traditional battlefields. Drone warfare has also erased traditional areas of legal difference between states, through the effect of allowing states to carry out deadly actions in legally ambiguous situations and which are spread geographically and challenges the applicability of IHL.

3.1. Applicability of IHL to Drone Operations

The initial legal issue is whether IHL applies to drone strikes beyond the declared war zones. Common Article 2 of the Geneva Convention states that IHL will be applicable to armed conflicts occurring between states and that Common Article 3 will just offer partial protection to non-international armed conflicts (NIACs) (Gutteridge, 1949). The U.S. and its allies frequently claim that their operation of drones is a part of a non-international armed conflict in the world without a state against transnational terrorist groups like al-Qaeda or ISIS. Such a reading overemphasizes the historic meaning of NIACs, which tends to presuppose a clear geographical range and recognizing actors (Schmitt, 2010).

The legality of the drone strikes is directly influenced by the circumstances set. In case the drone missions take place in a known NIAC (e.g., Afghanistan), the IHL regulates the targeting and rules of behavior. Nevertheless, in instances where strikes take place in a non-party state to such conflict, e.g. Pakistan, Somalia or Yemen, the tenuous point on which IHL may apply. International Committee of the Red Cross (ICRC) has argued that IHL is only applicable in situations when violence has escalated to the level of protracted armed conflicts, with organized armed forces that have enough control (Melzer, 2009). The numerous drone attacks in the regions where violence is infrequent, therefore, arguably do not qualify under the IHL and instead should be judged under the framework of the human rights law.

3.2. The Principle of Distinction

IHL is fundamentally based on the principle of distinction, which means an obligation on the part of belligerents to discriminate between combatants and civilians and only attack legal objects. Violations of this principle are grave breaches of the Fourth Geneva Convention and Additional Protocol I. Drone technology, as it is usually touted, is very precise; however, the evidentiary and practical facets of compliance with distinction are challenging. Remote surveillance, pattern-of-life analysis and electronic intelligence (tracking SIM cards) may cause the identification of legitimate targets to be mistaken. An example of this threat is signature strikes, in which people are targeted due to a behavioral pattern and not based on an established identity (U. N. G. Assembly & Heyns, 2014).

The distinction issue is acuter in the situations when combatants are in close proximity with civilians e.g. tribal or urban areas. This is because the absence of ground confirmation raises the chances of false identification which causes civilian deaths. Moreover, there is the obscurity of the decision to target people, which has been worsened by the state secrets of the intelligence and therefore it is almost impossible to independently determine whether IHL is being adhered to or not. Although states state that drones are more precise than a traditional airstrike, the lack of transparency provokes the loss of confidence in the statements of lawful distinction.

3.3. Proportionality and Precaution

Besides distinction, proportionality and precaution are necessary restrictions of the hostilities conduct. Additional Protocol I, article 51(5)(b), does not permit attacks that are likely to harm civilians disproportionately to the actual and direct military benefit projected (Rose & Oswald, 2016b).

Despite the ability of drones to make time intensive decisions and surgical attacks, the reality on the ground shows that civilian deaths continue to be a major characteristic of a drone attack. The Bureau of Investigative Journalism estimates that hundreds of civilian deaths including women and children occur as a result of the U.S. drone strikes in the context of Pakistan alone between 2004 and 2018, which questions the adherence to the proportionality requirement (Bano & Ruby, 2025).

Article 57 of Additional Protocol I is known as the principle of precaution, which entails all possible actions by the parties to reduce the civilian casualties. Practically, this rule is not easily followed due to the distance aspect of drone operations. The operators rely on computer images and algorithms and not eye sight, which restricts their ability to confirm civilians are present before making any move. Moreover, the lack of post-strike investigation and repair mechanisms is indicative of a wider institutional dysfunction in the institutionalization of precautionary duty.

3.4. Accountability and Transparency under IHL

The lack of accountability is one of the most extensive criticisms of drone warfare. IHL demands that the states should inquire about the alleged breaches and prosecute individuals who cause serious violations. The vast majority of drone programs are however conducted in secrecy most commonly veiled by national security secrets. Transparency in relation to the criteria of targeting, evaluation of the number of casualties, chain of command and so on has not been effective and this point was stressed by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heynes (Alston et al., 2008). Such invisibility does not only dilute the validity of the lawful targeting arguments but it also causes corruption of the IHL system as a whole. Also, drone warfare has made it difficult to draw the conventional line between combatants and non-combatants. Distant operators located thousands of miles away, which is usually civilian contractors, can be directly involved in hostilities and this aspect questions their status and responsibility under IHL (Watkin, 2004b). By targeting decisions becoming civilian operators, civilian operators will lose their immunity when being directly attacked and the employing state will be legally liable to all unlawful actions.

3.5. The Humanitarian Paradox of Drone Warfare

Although the precision and ability to target with high accuracy and reduce exposure on the battlefield have made drone technology a solution to the so-called humane warfare, it is also normalizing the routine violence of perpetual distanced violence. According to Grégoire Chamayou, drone warfare makes the battlefield a field of unidirectional surveillance and kill, one party has no counter-threat (Mitchell, 2017).

This asymmetry is in opposition to the spirit of IHL that presupposes a certain degree of reciprocity of exposure to the law of armed conflict. Humanitarian rhetoric of drones, therefore, obscures the further loss of accountability and human compassion in the context of warfare. In conclusion, the use of drone strikes by the IHL is a pointer to the flexibility and susceptibility of the humanitarian principles of international system. Even though technically drone can enhance compliance by its accuracy, their facts, such as opaque targeting, killing civilians and cross-national application tend to damage the principles of IHL. As long as states are not determined to be transparent, to maintain independent control and even to be guided by proportionality and distinction, drones will remain in a queasy place between legality and moral trade-off.

4: Drone Strikes and International Human Rights Law (IHRL)

On the one hand, the International Humanitarian Law (IHL) governs the actions in the armed conflict, whereas the International Human Rights Law (IHRL) is applied at all times, during the peacetime and the armed conflict. The Drone strikes are mainly evaluated in terms of the right to life, due process and state accountability as the elements of legality under IHRL. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) forbids arbitrary deprivation of life, which establishes a high threshold on the lawful use of lethal force in other circumstances other than the active hostilities (Clark, 2020).

According to IHRL, the use of lethal force is only lawful in case it is strictly essential to protect life and the less harmful alternative is not found. The drone attacks, especially those that are carried out in the non-conflict regions like Pakistan, Yemen and Somalia, do not tend to comply with these requirements. Philip Alston, who used to be the UN Special Rapporteur on extra-judicial killings, says that many of the targeted killings using drones constitute extrajudicial killings since they fall outside the process of due judicial procedural and due to lack of adequate evidence of imminent threat (Alston, 2011). This understanding brings to light a major tension between justifications of counterterrorism and the human right principle of the sanctity of life.

One of the key legal issues is the extraterritorial nature of the human rights treaties. According to the international court of justice (ICJ), in its Advisory opinion on the Legal consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), the state has a moral duty to the territory and individuals under its effective authority, even outside of its borders (Evans & Breau, 2005). Therefore, even in cases where the state (like the United States) deploys drone attacks to foreign nations, it is not absolved of the IHRL application to the intended targets. Yet, often states disagree with this stance and claim that the drone activities can be deemed under the exclusive application of the IHL, which is an armed conflict and thus cannot receive human rights.

The other significant issue is associated with transparency and accountability. The confidentiality of the targeting conditions, intelligence assessments and casualties, does not allow an independent assessment of whether the drone attacks are in line with human rights mandates. Article 2(3) of the ICCPR has made it clear that states must guarantee adequate reparation of victims of wrongful killings, such as open investigations and reparation (1). However, such accountability is not always possible due to the lack of clarity of drone programs. The habitualization of the death of drones, as was cautioned by another UN Special Rapporteur in a report to the Human Rights Council, Christof Heyns, can foster the creation of an international battlefield whereby states will assume that they have a free mandate to kill anyone in any part of the world(Heyns, 2013).

Some legal experts, such as Nils Melzer, believe that the growing use of drones in non-combat areas is a threatening undermining of human rights safeguards. Melzer argues that drone warfare tends to replace the rule of law with the rule of force and the universality and indivisibility of human rights are compromised (Melzer, 2008b). The same issues have been reiterated by the UN Human Rights Council that requested that every state operating armed drones needed to develop clear and transparent and reviewable legal frameworks that met both the IHL and IHRL norms (Heyns, 2013).

To sum up, drone warfare needs to be reconciled with IHRL by means of a strong international framework that would guarantee the principle of strict necessity, proportionality and accountability of using lethal force. States need to guarantee the publicly reported cases, investigated by independent bodies in different cases of civilian deaths and compensations to the families of victims. These measures remain absent, which means that drone strikes will continue to question the very premises of the human rights law and damage the respect to the right to life worldwide.

5: Legal Accountability and State Responsibility

The rising popularity of drone attacks as a means of counterterrorism and cross-border action has brought about controversy over the responsibility of the state and the responsibility of an individual under the international law. Although the use of technology has made it possible to be more precise, there are still questions about how the responsibility is placed when drone attacks have breached the rules of the international humanitarian or human rights. The legal framework under such accountability has mostly been based on the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) approved by the International Law Commission (ILC) in 2001 (Commission, 2001).

Article 2 provisions of ARSIWA provide that a state is internationally liable to an act when attributable to the state and breaches an international obligation. In cases of civilian losses in drone attacks, violation of sovereignty and extrajudicial executions, the actions can be considered a wrongful behavior due to international law. The ownership issue is complicated when joint intelligence sharing or multinational operations are involved e.g. U.S. and NATO missions to Afghanistan or multinational operations in Pakistan.

The principle of good control laid down in the Nicaragua case (ICJ, 1986) can be used to determine the state responsibility even in such situations whereby it must be shown that a state instructed or controlled the particular operation (Justice, 1986b).

The principle of accountability is further strengthened in a number of ways at an international level. The war crimes and crimes against humanity that the ICC jurisdiction is under the Rome Statute (1998) theoretically include illegal drone strikes. Article 8 (2)(b) (i) of the Statute includes intentional attacks on civilians in the criminal offenses, whereas Article 28 includes command responsibility and the military and political leaders are liable to prevent or punish the violations (U. G. Assembly, 1998). Nevertheless, it cannot be effectively enforced in practice, with key drone-using countries, including the United States, the non-member of the ICC, which restricts the jurisdiction of the Court.

In addition to the ICC, other influential bodies that have been in the forefront of investigating and reporting drone-related atrocities are the UN Human Rights Council (UNHRC) and UN Special Rapporteurs. Philip Alston (2010) and Christof Heyns (2013) reports stressed the absence of transparency and judicial control of drone programs as a source of accountability reduction and a culture of impunity (Alston, 2010b). The UN General Assembly Resolution 68/178 (2013) shared these conclusions and requested the state to make sure that the use of drones does not violate the international law and the victims of unlawful killings can have an access to effective measures (Scheinin & Secretary-General, 2009).

Secrecy, immunity claims; and national security doctrines usually impair accountability on a domestic level. Using the example of Pakistan, the United Kingdom and the United States, efforts to prosecute cases in any court have been unsuccessful, at least in part, because of the problem of justiciability and the problem of state immunity. According to the Peshawar High Court (Pakistan, 2013), U.S. drone attacks in the tribal regions of Pakistan were illegal and equated to the crime of war and the government should take the issue before the UN and ICC (Quddus, 2019). However, these judgments have not been widely applicable in real practice, because they rely on political will and international co-operation to be implemented. The other significant aspect of state responsibility is the issue of compensation in case of victims. The Article 31 of the ARSIWA provides that a state that is the cause of an internationally wrongful act must make full reparation possibly in the form of restitution, compensation, or satisfaction. However, in the majority of the drone strikes cases victims and their families have not been granted any remedies or even official recognition. The secrecy in the drone operations, as Agnes Callamard, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions noticed, is a denial of justice to the victims and undermines the rule of law in the world (Alston, 2010c). To conclude, although the provisions of the state responsibility and individual responsibility are quite well-developed within the international law, the norms of their application to the drone warfare are inconsistent and limited in terms of political aspect. The current legal systems are likely to be rather symbolic without open inquiries, access to remedies and global supervision. There has to be a binding international system on drone responsibility such that technology should not supersede the laws and ethics.

6: Policy and Legal Reforms

The increased use of drone warfare has revealed the major loopholes in the legal and policy frameworks of the existing international system. Although drones provide states with greater efficiency in their operations and lower troop death rates, the fact that these drones are not strictly regulated has put fundamental principles of states sovereignty, human rights protection and the laws of armed conflict to the test. In this part, the researcher suggests policy and legal changes at international and domestic levels to promote transparency, accountability and adherence to the set standards. One of the key suggestions that are being pursued by researchers and the UN specialists is the creation of a new international treaty or code of conduct that will directly control the use of armed drones. This kind of tool must establish clear provisions about the authorization of strikes, targeting processes, the transparency requirements and redress provisions. Lack of a formal international framework has been argued by the UN Special Rapporteur Christof Heyns as a means of states taking advantage of a loophole in the existing laws and effectively tolerate the act of extrajudicial killings in the name of counterterrorism (Heyns, 2013b). A treaty would therefore create a lex specialist, a specific regime that would bring together the principles of the International Humanitarian Law (IHL) and International Human Rights Law (IHRL) in the face of the new military technologies.

Besides treaty-making, the United Nations (UN) ought to enhance control as a means of monitoring by its currently available bodies. The UN human rights council (UNHRC) might be required to have a centralized reporting system of drone attacks with the states required to provide information concerning legal grounds and targeting, civilian deaths and investigations after the attacks. This would be in accordance with Article 2(3) of the ICCPR, which imposes on the states the duty to offer appropriate remedies to the breach of the right to life (Joseph, 2019). Moreover, the UN Security Council might implement resolutions to explain when and how drones may be legally deployed during cross-border operations under the Article 51 of the UN Charter especially in case of non-state actors who are acting within the territory of the other states without their consent (Schrijver, 2006).

n the regional basis, regional organizations, like the European Union (EU), African Union (AU) and Organization of Islamic Cooperation (OIC), may consider the guiding principles or model laws that govern the drone operations in accordance with the regional human rights instruments. In one example, the Resolution of the EU Parliament in 2014 encouraged the EU member states to avoid the unlawful targeted killings and guarantee that intelligence-sharing frameworks do not violate international standards (Parlament, 2014). Regional frameworks would be able to complement international endeavors in terms of promoting transparency and harmonization of domestic laws across jurisdictions.

The internal legal changes are also important. The use of Parliamentary and judicial review needs to be incorporated in the decision making by the states that employ the usage of the drones. The legal boundaries of the use of drones should be spelled out through national laws and there should be independent review bodies as well as ensuring compensation to civilian victims of the illegal strikes. The recommendation of the UK All-Party Parliamentary Group on Drones (2018) to cover details of reporting and post-strike examination to measure adherence to IHL and IHRL was suggested to be included in the national framework (Dunn et al., 2023). Likewise, in the nations which often experience drone operations like Pakistan and Yemen, the national laws may provide that any foreign military action must undergo parliamentary review and judicial approval to ensure the preservation of the national sovereignty and protection of civilians. Another area of reform is linked with the establishment of international accountability mechanisms. It can be proposed that the formation of an independent inquiry body under a UN mandate, such as the Independent International Fact-Finding Mission on Myanmar, would investigate alleged illegal drone strikes, gather evidence and propose reparations. This would assist in combating the long-term impunity issue in drone strikes and would assist in the creation of international jurisprudence on remote warfare. Finally, the ethical and technological aspects of drone warfare are also to be addressed in terms of reform efforts. The application of autonomous weapon systems (AWS) and artificial intelligence in the process of targeting choices creates grave moral and legal issues. According to the UN Group of Governmental Experts (GGE) on Lethal Autonomous Weapons Systems (2021), it is important to note that the use of lethal force should always be centralized on human control (CCW, 2019).

Any other framework that arises in the future must then bar any purely autonomous targeting mechanisms that will act without any significant human control. To sum up, the process of the drone warfare regulation requires the multi-level solution involving the establishment of international treaties, the control over drones by the UN, the coordination of the process by the region and the reform of the domestic legislation. In the absence of these, the proliferation of drones will undermine the principles of international law, the protection of human rights worldwide and create a bad precedent in the development of technologies of war of the future.

7: Conclusion

The introduction of drone warfare is one of the most significant changes in the modern way of hostility conduct. Although the use of drones has helped states to carry out precision attacks never witnessed before, it has also caused the erosion of the legal and ethical distinctions between armed attack, law enforcement and counterterrorism. The discussion in this paper indicates that drone attacks are commonly used in an area of grey zone in the international law, which puts in existence major tensions between international sovereignty, humanitarian protection and human rights responsibility.

In the framework of International Humanitarian Law (IHL), drone strikes should be carried out in accordance with the principles of distinction, proportionality and necessity. But the experience in the wars of Pakistan, Yemen, Afghanistan and Somalia shows that these principles are often breached, particularly that the proper distinction between combatants and civilians is not made, as well as that excessive force is inflicted on populated territory. Also, lack of transparency in target selection and assessment of the casualties hinders verification of the compliance with the Geneva conventions and customary IHL norms.

At the same time, according to the international human rights law (IHRL), drone attacks present serious issues in the light of Article 6 of the ICCPR, entitled to life and the latter that claims against arbitrary deprivation of life. The extraterritoriality of drone attacks is an issue that pushes the human rights treaty territorial restrictions to their limits, but human rights jurisprudence by the International Court of Justice and the UN Human Rights Committee confirm that states have a duty to adhere to their human rights law whenever they control a person or a territory that is not their sovereign. The ongoing refusal to acknowledge responsibility and implement effective redress measures to the victims is indicative of a systematic subverting international legal order and sabotaging the international human rights regime.

The most important issue in the debate of legality is the accountability and responsibility of the state. The Articles on the Responsibility of States in the event of internationally wrongful acts (2001) offers an obvious legal basis within which incidents of violations of sovereignty and civilian loss can be attributed to states, but there are still no effective and consistent enforcement mechanisms. The unwillingness of key users of drones to surrender themselves to the ICC jurisdiction or even to collaborate with UN investigations only increases a culture of impunity.

The future needs an all-encompassing legal and policy framework that is able to balance technological innovation and some of the core humanitarian and human rights values. The resident normative gap, accepting the existence of specific guidelines on authorization, targeting, transparency and reparation, could be addressed by establishing a special international treaty or code of conduct on armed drone usage. Additional reforms in the UN, the regions and the domestic levels are also crucial to promote oversight, reporting and accountability.

Finally, the effectiveness of drone warfare cannot be evaluated in the context of its ability to mitigate the threat only. It also has to be assessed in contrast to the eternal principles of the international law, respect to human dignity, sovereignty and preservation of civilian life. The uncontrolled proliferation of remote warfare will continue to legitimize the extrajudicial assassinations and destroy the principles of world peace and justice unless the international community is decisive in regulating drone activities.

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