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The Use of Lethal Drones in Counter-Terrorism Operations

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I. Introduction

Since 2002, remotely piloted aircraft (drones) have been used to target and kill terrorists outside the scope of a traditional armed conflict.¹ The most common forms of weaponized drones include the Heron and Hermes systems used by the Israeli military, and the Predator and Reaper systems used by the United States of America (U.S.) and the United Kingdom (U.K.).² Drones can be armed with a range of precision-guided munitions, and have been deployed to target and kill suspected terrorists in Afghanistan, Pakistan, Yemen, Libya, Iraq, Somalia, Gaza, and Syria.³ The use of drones for the targeted killings of suspected terrorists violates the right to life and other human rights. States should thoroughly investigate the potential damage caused by a drone strike before and after an attack to minimize human rights violations. Furthermore, the legal principles governing the use of lethal drones need to be clarified to avoid undermining the protection of international human rights law. This report will discuss the various human rights violations that occur as a result of armed drone use and conclude with recommendations for States and the Human Rights Council.

¹ United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns*, A/HRC/26/36 (1 April 2014), para. 135.

² United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para. 26.

³ United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para. 26; United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while Countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 39-69; United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/HRC/34/61 (21 February 2017), para. 26.

II. The use of armed drones violates the right to life

1. The use of drones for the targeted killings of suspected terrorists violate the freedom from the arbitrary deprivation of life

The right to life is a fundamental human right, a right from which all other human rights arise.⁴ The right to life is recognized in widely ratified global and regional human rights treaties.⁵ Article 6 of the International Covenant on Civil and Political Rights (ICCPR)⁶, Article 4 of the American Convention on Human Rights (ACHR)⁷, and Article 4 of the African Commission on Human and Peoples' Rights (ACHPR)⁸ all guarantee the right to be free from arbitrary deprivations of life.⁹ The right to life is a rule of customary international law and *jus cogens*.¹⁰ The principle 'soft law' sources protecting the right to life are the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989), and the UN Economic and Social Council's Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty (ECOSOC Safeguards) (1984).¹¹

The right to life has two components. The first and material component is that every person has a right to be free from the arbitrary deprivation of life.¹² An "arbitrary" deprivation of life

⁴ United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, A/HRC/26/36 (1 April 2014), para. 42.

⁵ Id.

⁶ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [accessed 21 February 2019].

⁷ Organization of American States (OAS), *American Convention on Human Rights, "Pact of San Jose", Costa Rica*, 22 November 1969, available at: <https://www.refworld.org/docid/3ae6b36510.html> [accessed 21 February 2019]

⁸ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <https://www.refworld.org/docid/3ae6b3630.html> [accessed 22 February 2019].

⁹ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 175.

¹⁰ Id. at 176.

¹¹ Moeckli, supra note 8.

¹² United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, A/HRC/26/36 (1 April 2014), para. 46.

means using lethal force without complying with internationally accepted limitations.¹³ One limitation that States must comply with is the requirement of a sufficient legal basis.¹⁴ This requirement is not met if lethal force is used without authority in domestic law, or if it is based on domestic law that does not comply with international standards.¹⁵ The use of drones to kill suspected terrorists in foreign countries does not have a sufficient legal basis because there is still no universal definition of terrorism.¹⁶ Without a universal definition of terrorism, States can arbitrarily deprive anyone they label a terrorist of their life, even if that person would not be labeled a terrorist elsewhere.

Furthermore, drone strikes arbitrarily deprive life when their use does not comply with principles of necessity, precaution, and proportionality. It is “necessary” to deprive someone of life if the use of lethal force is not avoidable, the amount of force used does not exceed that which is required to achieve the objective, and the target presents an immediate threat.¹⁷ The principle of precaution urges States to avoid situations where they would have to use lethal force, and if they do use lethal force, to contain the damage as much as possible.¹⁸ The principle of proportionality requires that States balance the interest protected against the threat posed, and to only use as much force as necessary to complete an objective.¹⁹

There are many examples where drone strikes have not complied with the principles of necessity, precaution, and proportionality. For example, on September 7, 2013, a drone reportedly under the control of ISAF (International Assistance Security Force), was used to strike

¹³ United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, A/HRC/26/36 (1 April 2014), para. 55.

¹⁴ *Id.* para. 56.

¹⁵ *Id.*

¹⁶ Alex P. Schmid, *The Routledge Handbook of Terrorism Research*, Taylor & Francis, February 25, 2011, 39.

¹⁷ United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, A/HRC/26/36 (1 April 2014), para 60.

¹⁸ *Id.* para. 63.

¹⁹ *Id.* para. 65.

a vehicle in the Watapur district of Kunar province, Afghanistan.²⁰ Six combatants and ten civilians were reportedly killed in the attack, and one civilian (a 4 year-old-girl) was injured.²¹ A report by UNAMA (United Nations Assistance Mission in Afghanistan) investigated the incident and concluded that the failure of international forces to identify the presence of a group of women and children in the vehicle prior to the strike, and the failure to confirm the identity and status of the men accompanying the fighter targeted, suggested negligence and a failure to take sufficient precautionary measures.²² This is just one example out of many where a drone strike failed to comply with the principles of necessity, precaution, and proportionality.

2. The lack of transparency surrounding drone use violates the procedural component to the right to life

The second component of the right to life requires a proper investigation and accountability where there is a reason to believe an arbitrary deprivation of life may have occurred.²³ Data on drone strikes is scarce and rarely released to the public. In 2014, the Human Rights Council passed a resolution which called upon States to be transparent when using drones and to conduct prompt, independent, impartial investigations when there are indications of a violation to international law.²⁴ This call to transparency has not been met, and without transparency, there can be no accountability. Thus, this issue must be revisited.

The U.S. government admits to some civilian casualties but has not released much data on its drone strikes. The U.S. released a report in July 2016 which provided the range of combatants

²⁰ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014), para. 46.

²¹ *Id.*

²² *Id.*

²³ United Nations, General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, A/HRC/26/36 (1 April 2014), para. 46.

²⁴ United Nations, General Assembly, *Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law*, A/HRC/RES/25/22 (15 April 2014).

killed (2,372-2,581) and the range of non-combatants killed (64-116) resulting from 473 strikes against terrorist targets outside areas of active hostilities from January 2009 through 2012.²⁵ This effort to be transparent is still insufficient because non-governmental organizations consistently find more civilian casualties than the U.S. and other States admit.²⁶

The leading organizations for counting U.S. drone strikes are: The Bureau of Investigative Journalism, The Long War Journal, and The New America Foundation. In 2017, the Long War Journal counted 12 drone strikes in Libya, 35 drone strikes in Somalia, 131 drone strikes in Yemen, and 8 drone strikes in Pakistan.²⁷ For Yemen in 2018, The Bureau of Investigative Journalism counted 36 air and drone strikes, 31-42 total reported killed, and 8-15 civilians reported killed.²⁸ For Somalia in 2018, the Bureau of Investigative Journalism counted 33 U.S. air and drone strikes, 234-232 total people killed, and 0-5 civilians reported killed.²⁹ However, these recent drone strike figures cannot be fully trusted. According to a study by Columbia Law School's Human Rights Clinic, the leading organizations reporting U.S. drone strikes have underestimated drone strike casualties.³⁰ Thus, more data about drone strikes is needed to ensure transparency and accountability.

²⁵ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/HRC/34/61 (21 February 2017), para. 29.

²⁶ *Id.*

²⁷ Roggio, Bill and Alexandra Gutowski, "2017: a record year for US counterterrorism strikes," *The Long War Journal*, 3 January 2018, available at: <https://www.longwarjournal.org/archives/2018/01/2017-a-record-year-for-us-counterterrorism-strikes.php> [accessed 22 February 2019].

²⁸ "Yemen: Reported US Covert Actions 2018," *The Bureau of Investigative Journalism*, available at: <https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2018#strike-logs> [accessed 22 February 2019].

²⁹ "Somalia Reported US actions," *The Bureau of Investigative Journalism*, available at: <https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-actions-2018#strike-logs> [accessed 22 February 2019].

³⁰ Human Rights Clinic at Columbia Law School, *Counting Drone Strikes*, October 2012.

III. Armed drone use violates other human rights

1. The use of armed drones hinders the exercise of civil and political rights

The use of armed drones hinders the exercise of civil and political rights, namely the right to assembly. The right to assembly is a widely recognized civil and political right, which is protected by Article 21 of the ICCPR and Article 20 of the Universal Declaration of Human Rights (UDHR)^{31,32} The right to assembly has also been codified in regional human rights treaties as well such as the European Convention on Human Rights (ECHR)³³ and the American Convention on Human Rights (ACHR).³⁴ Specific types of assemblies, such as religious assemblies are additionally protected by Article 18 ICCPR, as are private assemblies in one's home by Article 17 ICCPR.³⁵ The right of assembly protects non-violent organized gatherings in public and private, both indoors and outdoors.³⁶

The use of armed drones frequently violates the right to assembly when social and political gatherings are targeted. For example, on March 17 2011, armed drones under the control of the U.S. allegedly launched missiles at a tribal council meeting taking place in an open space adjacent to the Nomada bus depot in Datta Khel, North Waziristan, Pakistan.³⁷ The meeting had reportedly been convened for resolving disputed claims concerning the rights to a chromite mine.³⁸ The local authorities had been notified in advance of the meeting, which had begun the

³¹ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 21 February 2019].

³² Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 228.

³³ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: <https://www.refworld.org/docid/3ae6b3b04.html> [accessed 22 February 2019].

³⁴ Moeckli, supra note 32.

³⁵ Id.

³⁶ Id.

³⁷ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 50.

³⁸ Id.

previous day.³⁹ The most reliable estimates suggest that 43 people were killed and 14 injured as a result of the strike.⁴⁰ Reports indicate that the overwhelming majority of those killed or injured were civilians, and included tribal elders and government officials.⁴¹ Therefore, States should refrain from targeting large gatherings in public spaces because it will likely kill many civilians besides the target and it will hinder the community's ability to exercise their civil and political rights.

In addition, the fear of armed drones hinders the exercise of civil and political rights. Residents in Pakistan where armed drones are frequently used reported to Amnesty international that they avoided meeting in large groups, including community meeting spaces such as the household guestroom and the mosque, out of fear of being caught in a drone strike.⁴² Therefore, the fear of an arbitrary death created by armed drones can also hinder the exercise of civil and political rights because it scares the community from ever assembling in public or private.

2. The use of armed drones prevents the free exercise of economic, social, and cultural rights

a. The right to education

The use of armed drones can prevent individuals from exercising their right to education and work. Articles 13 and 14 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)⁴³ guarantees individuals a right to education.⁴⁴ When States deploy armed drones to launch missiles near schools they prevent individuals from exercising their right to education.

³⁹ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 50.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Amnesty International, *"Will I Be Next?" US Drone Strikes in Pakistan*, London, Amnesty International Publications, 2013, 32.

⁴³ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 22 February 2019].

⁴⁴ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 233.

For example, on 27 December 2008, missiles fired from an armed drone allegedly under the control of Israel struck an outdoor location opposite the Gaza Technical College in Gaza City.⁴⁵ Twelve people were confirmed to have been killed in the strike, and all but one were civilians.⁴⁶ Nine of those killed were reportedly students at the college.⁴⁷

In addition, on 30 October 2006, an armed drone under the control of the U.S. was used to attack a religious seminary in the Bajaru tribal region in Pakistan.⁴⁸ Up to 80 people were killed instantly in the attack, and as many as 69 of the dead were under the age of 18.⁴⁹ Eyewitnesses allege that the majority of those killed had been pupils at the seminary and were non-combatant civilians.⁵⁰ Thus, States should refrain from targeting suspected terrorists near educational facilities like colleges and seminaries. Depriving individuals of their right to education also has a negative impact on the realization of other economic, social, and cultural rights.

b. The right to work

In addition, the use of armed drones can deprive people of their right to work. There are many global and regional human rights instruments that guarantee and protect the right to work. The ICESCR and ICCPR contain articles that relate to the protection of the right to work.⁵¹ In Europe, the Revised European Social Charter (1996) and The Charter of Fundamental Rights of the European Union aim to protect the rights of workers.⁵² In Africa, Article 15 of the ACHPR provides that every individual shall have the right to work in equitable and satisfactory

⁴⁵ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 63.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 47.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 243.

⁵² *Id.* at 244.

conditions.⁵³ In the Arab Charter on Human Rights⁵⁴, Article 34 provides that the right to work is a natural right.⁵⁵

When States use armed drones to target and kill laborers at their place of work, they prevent individuals from exercising their right to work. For example, on 6 July 2012, an armed drone allegedly under the control of the U.S. fired missiles at a tent in which a group of workers had gathered at the end of their working day, in Zowi Sidgi village in North Waziristan, Pakistan.⁵⁶ The strike killed eight of the tent's occupants. A second strike reportedly occurred shortly afterwards, killing a number of first responders. A total of 18 people were reportedly killed in the strikes and a further 22 injured.⁵⁷

When armed drones target areas near schools or places of work, not only does it affect the right to education and work, it impacts the realization of related human rights such as the right to an adequate standard of living.⁵⁸ When people are able to safely work without fear of being arbitrarily killed, they can gain access to food, medical care, housing, and education for themselves and their family.

c. Social and cultural rights

Drones strikes which target peaceful social gatherings can violate people's social and cultural rights. Article 15 of the ICESCR has been interpreted to protect a right to culture, not only as intellectual and artistic expressions, but also as a way of life.⁵⁹ The Committee on Economic, Social, and Cultural rights clarified the content of the right to participate in cultural life protected

⁵³ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 244.

⁵⁴ League of Arab States, *Arab Charter on Human Rights*, 15 September 1994, available at: <https://www.refworld.org/docid/3ae6b38540.html> [accessed 21 February 2019].

⁵⁵ Moeckli, supra note 53 at 245.

⁵⁶ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para. 53.

⁵⁷ Id.

⁵⁸ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 250.

⁵⁹ Id at 281.

by Article 15 ICESCR in its General Comment 21.⁶⁰ General Comment 21 distinguished three components within the right to culture: participation, access, and contribution.⁶¹ The right to participate in cultural life means the right to freely choose one's identity and engage in one's own cultural life. The right to access cultural life encompasses the right to know one's culture and that of others through education and information.⁶² The right to contribute to cultural life refers to the right to be involved in creating the spiritual, material, intellectual, and emotional expressions of the community.⁶³

Drone strikes can interfere with people's right to participate in cultural life when they target groups of people participating in social customs such as weddings and funerals. On 23 June 2009, an armed drone under the control of the U.S. reportedly discharged missiles at a large funeral ceremony in Lattaka, South Waziristan, Pakistan, following the death of Khwaz Wali, a local Taliban leader, who had been killed earlier that day.⁶⁴ Eyewitnesses confirmed that there were a significant number of civilians present.⁶⁵ Reports suggest that up to 83 people were killed, and that 10 children and 4 tribal elders were among the dead.⁶⁶ Additionally, on 12 December 2013, an armed drone allegedly under the control of the U.S. fired missiles at a convoy of vehicles en route to a wedding celebration outside the city of Rad'a in Al-Bayda province, Yemen.⁶⁷ Between 12 and 15 individuals were reportedly killed, and at least 10 other individuals

⁶⁰ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 283.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para 48.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.* at para. 60.

sustained non-fatal injuries, including the bride.⁶⁸ Initial reports indicate that the majority of the victims may have been civilians.⁶⁹

In summary, drone strikes which target and destroy schools, places of worship, places of work, or social and cultural gatherings directly prevents people from exercising their economic, social, and cultural rights by killing civilians trying to exercise their rights or by destroying the buildings which make the fulfillment of these rights possible. Furthermore, research indicates that the use of armed drones creates an atmosphere of fear within the community which prevents people from seeking education or healthcare or entering the public sphere for religious or cultural practices.⁷⁰

III. Ambiguous legal principles currently justifying armed drone use challenges human rights law

It is still unclear which international legal standards apply when armed drones are used. This is due in part to the secrecy in which States use armed drones and the difficulty in determining the scope of an armed conflict.⁷¹ International human rights law is applicable outside of situations of armed conflict and has more stringent requirements on the use of force.⁷² Outside a situation of armed conflict, State authorities must demonstrate that intentional lethal force was only used when necessary to protect life, no less harmful means was possible, and the use of force was proportionate given the circumstances.⁷³ Within a situation of armed conflict, international

⁶⁸ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson, A/HRC/25/59 (11 March 2014) para. 60.

⁶⁹ *Id.*

⁷⁰ United Nations, General Assembly, *Summary of the Human Rights Council Interactive panel discussion of experts on the use of remotely piloted aircraft or armed drones in compliance with international law*, A/HRC/28/38 (15 December 2014). Para. 7.

⁷¹ Amnesty International, *“Will I Be Next?” US Drone Strikes in Pakistan*, London, Amnesty International Publications, 2013, 43.

⁷² *Id.* at para 60.

⁷³ Amnesty International, *“Will I Be Next?” US Drone Strikes in Pakistan*, London, Amnesty International Publications, 2013, 43.

human rights law continues to apply but the test of whether the killing is arbitrary is analyzed under international humanitarian law.⁷⁴ Under international humanitarian law, drone operators must abide by the principles of distinction and unnecessary suffering.⁷⁵ The principle of distinction requires that combatants be distinguished from civilians, and civilian objects be distinguished from military objectives.⁷⁶ The principle of unnecessary suffering prohibits the use of means and methods of warfare that cause suffering or injury beyond that which is required for its military purpose.⁷⁷ Therefore, it is important to define when a situation of armed conflict arises and delineate the geographical scope of the armed conflict to determine applicable legal standards.

However, the lack of international consensus on whether non-international armed conflicts must have geographic limitations makes it difficult to determine applicable legal standards and hold States accountable. The classic formulation for deciding whether a non-international armed conflict has come into existence focuses on the intensity of the conflict and the degree of organization of the parties.⁷⁸ This view has traditionally assumed a territorial limitation, but States engaged in armed conflicts with terrorist groups may not recognize any geographical scope. For example, the United States considers itself to be engaged in a non-international armed conflict with Al-Qaida that is transnational in character.⁷⁹ This position may undermine the purpose of international humanitarian law and the protections of international human rights law. The ICRC holds the view that international humanitarian law does not permit the targeting of persons directly participating in hostilities who are located in non-belligerent States because to

⁷⁴ United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para 61.

⁷⁵ Moeckli et al. *International Human Rights Law*, New York, Oxford University Press, 2018, 504.

⁷⁶ United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para 61.

⁷⁷ *Id.*

⁷⁸ *Id.* para. 63

⁷⁹ *Id.* at para. 62.

hold otherwise would mean the whole world is potentially a battlefield.⁸⁰ Therefore, States should define the geographical scope of their armed conflicts with terrorist groups because territorial limitations the law would permit proportionate civilian casualties in areas that are free from hostilities, a result which undermines the purpose of international humanitarian law; to protect civilians and civilian objects from the effects of hostilities.⁸¹

In addition, the current ambiguity regarding a State's ability to legally use extraterritorial force in self-defense on non-State groups makes it difficult to hold States accountable. States who use drones, such as the U.S., claim that the international legal principle of "self-defense" gives them the right to use lethal force outside areas of active hostilities without the consent of the host State.⁸² However, this policy conflicts with established norms of international human rights law and international humanitarian law.⁸³ International human rights law rarely permits the use of lethal force outside a situation of armed conflict due to the prohibition against arbitrary killings and the exceptional circumstances where it is permissible for a State to deprive someone of life.⁸⁴ In addition, the use of extraterritorial force on a non-State group without the host State's consent violates the host State's sovereignty.⁸⁵ Thus, in order to guide States to use armed drones in a way that follows international legal standards, it is important to reach a consensus on when and where States can use extraterritorial force on non-state groups in self-defense.

⁸⁰ United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para. 64.

⁸¹ *Id.* para. 63

⁸² United Nations, General Assembly, *Promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/68/389 (18 September 2013), para. 55.

⁸³ *Id.* at para. 59.

⁸⁴ *Id.* at para. 60.

⁸⁵ *Id.* at para. 55

Therefore, it is important to reach a consensus on clearly defined legal principles to guide lethal drone use because the current justifications advanced by States do not comply with established legal standards.⁸⁶

IV. The use of armed drones is not the most effective counter-terrorism strategy

Drone strikes are not the most effective counter-terrorism strategy. Killing members of terrorist organizations can decrease their capability to function, but the use of armed drones kills many more civilians than terrorists. The disproportionate and unnecessary number of civilian deaths has caused so much resentment and outrage among the local population that States may be creating more terrorists than they are killing.⁸⁷ Individuals who have lost family or friends to drone strikes may easily become radicalized against the state using drones in their community. If drone strikes are not an effective-counter-terrorism strategy than using drones to kill terrorists is not a necessary or legitimate objective. Therefore, States should refrain from using armed drones and should pursue a more human-rights based approach.

V. Conclusion and recommendations

The use of drones by States for the targeted killing of terrorists violates the right to life and other human rights. As a result, States need to collect data before and after strikes to minimize human rights violations. Finally, the legal controversies surrounding the use of drones need to be resolved in a manner that will protect human rights.

⁸⁶ United Nations, General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/HRC/34/61 (21 February 2017), para. 25.

⁸⁷ Kilcullen, David and Andrew McDonald Exum, "Death From Above, Outrage Down Below," *New York Times*, May 16 2009.

Human Rights Advocates urges:

- The Human Rights Council clarify that international human rights law is the primary source of law governing lethal drone use outside a situation of armed conflict;
- States to delineate the geographical scope of their armed conflict against terrorist groups;
- States to not use armed drones outside situations of armed conflict;
- States to gather sufficient data before and after a drone strike to minimize human rights violations; and
- States to release more data on their use of armed drones to increase transparency and accountability.