

## THE RISE OF THE DRONE: OPENING A NEW CHAPTER IN INTERNATIONAL WARFARE

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*Gone are the days when warfare was symbolized by hefty missiles and tanks, soldiers scurrying across borders and fighter jet dropping bombs everywhere. Gone are the days when international warfare was all about a show of weapons rather than an elaborate game of target practice. In 2017, warfare is defined by precision and reduction in civilian deaths, quite contrary to ordinary practice during the World War days. And this 'precision' was given a whole new meaning by the use of drones. Drones have become an indispensable method of ranging war not only due to their precision but also because they have not been expressly prohibited by international humanitarian law. Moreover, the fact that they are 'unmanned' and easier to operate have contributed to their increasing usefulness. In the words of Michael Hayden, the former director of the Central Intelligence Agency (CIA), defended the drone strikes conducted by the United States in Pakistan and Yemen by stating that targeted individuals in the drone strikes were top Al-Qaeda officials and among the estimated 532 deaths, 144 of which were expected to be those of civilians. Hayden's statement and subsequent publication in the times newspaper came at a time when the Obama administration received severe backlash from the international community for its indiscriminate use of drones and conducting drone strikes. The scope of this research article restricts itself to a brief history of drone warfare, then goes on to substantiate upon the legality of drone warfare from the perspective of law of armed conflict and details the aftermath of major drone strikes.*

### INTRODUCTION TO THE 21<sup>ST</sup> CENTURY WAR 'GADGET'

It is with certain conviction that I submit that drone warfare is the most controversial form of warfare the world has ever witnessed before. A uniquely new method of spreading destruction which balances out the fine line between International Humanitarian Law (IHL) and the Law of Armed Conflict (LOAC). Drones can be and *have been* used for a variety of purposes ranging from kinetic operations such as surveillance, target acquisition, search and rescue, delivery of humanitarian aid and transportation of equipment.<sup>1</sup> The

<sup>1</sup> Vivek Sehrawat, 'Legal Status of Drones under LOAC and International Law', (2017) 5(1) Penn State Journal of Law and International Affairs, [https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKEwiosqTKv9zWAhXJMo8KHftGBJAQFgg6MAM&url=http%3A%2F%2Flibrary.law.psu.edu%2Fcgi%2Fviewcontent.cgi%3Farticle%3D1162%26context%3Djlia&usq=AOvVaw1RKpFoycX2n\\_wr4lubev7s](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKEwiosqTKv9zWAhXJMo8KHftGBJAQFgg6MAM&url=http%3A%2F%2Flibrary.law.psu.edu%2Fcgi%2Fviewcontent.cgi%3Farticle%3D1162%26context%3Djlia&usq=AOvVaw1RKpFoycX2n_wr4lubev7s) accessed on 17<sup>th</sup> September, 2017.

alarming rate at which drones are used should not come as a surprise considering both State and Non-state actors are equally invested in the utilities that drones have to offer.<sup>2</sup> Such extensive proliferation of drones has given rise to a large-scale debate upon whether the use of drones actually; follow the principles under LOAC or not. Under IHL, the debate centres upon the fact that drones kill a substantial number of civilian non-combatants *even during targeted strikes* however, international law scholars argue that the kill count of civilians under drone warfare is much less as compared to other methods of conflict employed by the military.<sup>3</sup>

Supporters of drone warfare have sought refuge under Article 2(4) of the United Nations Charter (hereinafter, the Charter) which explicitly prohibits the use of major military force<sup>4</sup> but has failed to include *minor* uses of force such as a shot across the border or firing across the bow of a ship.<sup>5</sup> The use of drones is quite ambiguous in this regard considering drones have been primarily used for minor and more precisely targeted operations which do not *ideally* cause widespread destruction and loss of human life. The evident use of this loophole by drone enthusiasts have placed international law scholars and the United Nations under the dilemma whether there could be an *illegal cum punishable middleground* between the use of major and minor military force. Supporters of drone warfare have cited statistics from the United Nations Mission in Afghanistan (UNAMA) which state that drone strikes conducted by the United States and its allies have resulted in a 46% decrease in civilian deaths and more particularly deaths resulting from aerial attacks have gone down by 42%.<sup>6</sup> As Saletan further states '*Jet Planes. Machine Guns. Bombing. Drones aren't the problem. Bombs are the problem*'<sup>7</sup> it is quite an interesting observation whether civilian deaths should be the *only* factor whilst considering the indiscriminate use of drones. Whether the use of drones in itself is capable of escalating a *near war situation* is a question which has not yet been considered by most scholars. Adding more to the ambiguity of legalized use of drones in warfare, major treaties and especially legal instruments in the field of IHL have left out drone warfare from their scope.<sup>8</sup> More importantly distinguishing between combatants and non-combatants is not always easy and an attack must be suspended if the incidental harm to the civilian population (or civilian

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<sup>2</sup> Ibid at 167.

<sup>3</sup> Ibid at 168.

<sup>4</sup> Mary Ellen O'Connell, 'Drones under International Law', (2010) Washington University Law International Debate Series, 2, <  
<http://law.wustl.edu/harris/documents/oconnellfullremarksnov23.pdf> > accessed on 17<sup>th</sup> September, 2017.

<sup>5</sup> Ibid.

<sup>6</sup> William Saletan, 'In Defense of Drones', *Slate* (19<sup>th</sup> February, 2013), <  
[http://www.slate.com/articles/health\\_and\\_science/human\\_nature/2013/02/drones\\_war\\_and\\_civilian\\_casualties\\_how\\_unmanned\\_aircraft\\_reduce\\_collateral.html](http://www.slate.com/articles/health_and_science/human_nature/2013/02/drones_war_and_civilian_casualties_how_unmanned_aircraft_reduce_collateral.html) > accessed on 17<sup>th</sup> September, 2017.

<sup>7</sup> Ibid.

<sup>8</sup> Interview with Peter Maurer, President, International Committee of the Red Cross, 'The use of armed drones must comply with the laws' (10<sup>th</sup> May, 2013).

objects) is expected to be excessive in relation to the military objectives.<sup>9</sup> However, this is easier said than done. Pursuing military activities especially when it comes to self-defense pushes most countries to perform unspeakable atrocities and destruction upon the other State. Apart from destruction, one cannot also undermine the psychological impact upon civilian subjects that is caused by the continuous hovering of drones over a particular city/region.<sup>10</sup> The potential mental impact upon civilian subjects under the continuous presence of drones is still something that needs to be thoroughly assessed however; it is my humble submission that the implicit fear would be the same as living under any war-like situation. The lingering threat would be further enhanced in situations where people are still unaware of what drones are and what kind of destruction are they capable of. UK charity organization Medact has slammed the use of drones and has called upon the government to stop purchasing, developing and deploying unarmed aerial vehicles as the use of the same amounts to 'war crime'.<sup>11</sup> What exactly is the legal position of drones can be assessed by examining LOAC principles alongside major drone strikes.

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### WHAT EXACTLY IS A DRONE?

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The word 'drone' has been mentioned numerous times in the article so far. But what kind of machine would you call a drone and how is it different from other war machines? At the outset, a drone is *any unmanned aircraft that can fly autonomously – that is, without human control*.<sup>12</sup> But that is only in the strictest sense of the term but with the differences in the ways a drone is flown, the human element may differ.<sup>13</sup> Categorically, a drone can range from a toy helicopter to a Global Hawk military drone costing \$104 million and weighing 32,000 pounds.<sup>14</sup> The U.S. Army officially defines a drone as 'a land, sea or air vehicle that is remotely or automatically controlled'.<sup>15</sup> An important question which arises before we move on to the discussion of legality is the kind of technology that is used in drones. The key difference between human soldiers and that of automatic vehicles is that soldiers are capable of recognizing combatants and making targeting decisions instantly.<sup>16</sup> In the case of drones however, drones combine several complimentary technologies on a single platform<sup>17</sup> and are controlled by a crew often miles away from the dangers of combat.

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Zosia Kmietowicz, 'Use of drones is a war crime and must be stopped says charity', (2012) 345(7878) British Medical Journal, <<http://www.jstor.org/stable/23278951>> accessed on 17<sup>th</sup> September, 2017.

<sup>12</sup> John Vilasenor, 'What is a Drone anyway?' (*Scientific American* 12<sup>th</sup> April, 2012), <<https://blogs.scientificamerican.com/guest-blog/what-is-a-drone-anyway/>> accessed on 18<sup>th</sup> September, 2017.

<sup>13</sup> Ibid.

<sup>14</sup> Sehrawat (fn 1) at 171.

<sup>15</sup> Ibid. at 172.

<sup>16</sup> Ibid.

<sup>17</sup> James Igoe Walsh, *The Effectiveness of Drone Strikes in Counterinsurgency and Counterterrorism Campaigns* (United States Army War College Press 2013).

A drone is capable of containing highly advanced surveillance systems, live-feed video cameras, infrared cameras, thermal sensors and radar, GPS and various other types of precision munitions.<sup>18</sup> The high-tech cameras which drones are usually equipped with are capable of scanning entire cities and powerful zooming features which can collect even the most miniscule data from a height of 60,000 feet.<sup>19</sup> The simple and lightweight design of most Unmanned Aerial Vehicles (UAVs) such as that of the U.S Army's 'Predator' Aircraft allows it to carry a payload of 450 pounds (250kgs) and also fly at extremely high altitudes so as to avoid detection.<sup>20</sup> Moreover, the same aircraft has a fuselage capacity of 100 gallons which enables it to fly upto 24 hours over enemy territory if fully charged.<sup>21</sup> Cameras fitted in the aircraft are capable of giving real time imagery of the enemy position to the command troops even before troops arrive and this type of quick relay of information helps commanders make informed decisions regarding troop deployment.<sup>22</sup> Drones are also equipped with Wi-Fi crackers and can act as fake cell phone towers which allow them intercept phone calls and determine a target's location.<sup>23</sup> With emerging technologies it might also become drones to recognize faces, observe behavioural patterns and monitor individuals' conversations.

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## UNDERSTANDING THE LEGALITY OF DRONES UNDER THE PRINCIPLES OF LAW OF ARMED CONFLICT

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LOAC is the converging point of customary international law as well as treaty law. LOAC is based on four main principles as its foundation: distinction, proportionality, unnecessary suffering and military necessary.<sup>24</sup> As per the doctrine of proportionality, the scale, duration and intensity of the proposed military action should not cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof and if it does such an attack should be refrained from being carried out.<sup>25</sup> However, an important factor that is to be kept in mind whilst discussing the proportionality principle is the choice of weapons. A weapon as intended by the above provision must satisfy two basic requirements: (i) prevent unnecessary suffering and (ii) be capable of effectively distinguishing targets.<sup>26</sup> Distinguishing targets has been embodied in Article 48 of the Additional Protocol to the

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<sup>18</sup> Sehrawat (fn 1) at 172.

<sup>19</sup> Ibid.

<sup>20</sup> Robert Valdes, 'How the Predator UAV Works', (*How Stuff Works Blog*), <<http://science.howstuffworks.com/predator3.htm>> accessed on 17<sup>th</sup> September, 2017.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Sehrawat (fn 1) at 173.

<sup>24</sup> John W. Lango, 'Proportionality and Authority', *The Ethics of Armed Conflict*, (Edinburgh University Press, 2014),

<<http://www.jstor.org/stable/pdf/10.3366/j.ctt9qdrf3.11.pdf?refreqid=search%3Ad5c6a4d8d0a02d54226c585c860df1c6>> accessed on 19<sup>th</sup> September, 2017.

<sup>25</sup> Protocols Additional to the Geneva Convention and Relating to the Protection of Victims of International Armed Conflicts 1 (8<sup>th</sup> June 1977) Article 57(2).

<sup>26</sup> Sehrawat (fn 1) at 175.

Geneva Convention 1 and moreover Article 58 of the same Protocol states that States *must do everything feasible* to verify that a target is a military object and not a civilian one.<sup>27</sup> The application of distinction during the World War II era was quite straightforward in the sense that combatants wore uniforms and the civilians were generally located in residential areas (which were spared and in some case wasn't) however, with the increase in airborne drone strikes most notably against terrorist organizations civilians are experiencing 'increased intermingling' and identifying combatants separately from civilians is quite a task.<sup>28</sup> As what former fighter pilot and squadron commander Martha McSally points out in her testimony to the Senate Judiciary Sub-Committee on the Constitution, Civil Rights and Human Rights 'that once a decision is taken it is a *legal and wise strategy* to conduct a target strike, drone platform is hands down the best choice to maximize precision, persistence, intelligence, responsiveness and oversight by commanders, intelligence and legal experts.'<sup>29</sup>

Now whilst questioning *whether drones would be similar to other weapons or not* under the principles of LOAC two things need to be considered: (i) weapon law and (ii) lawful use of drones.<sup>30</sup> More importantly the proportionality principle which forms the core of LOAC states that for a strategic move to be justifiable *benefits must outweigh harms*.<sup>31</sup> For instance, as what had happened in the case of Libya where a number of Libyan tanks (which were launching an attack on the city of Misrata) were destroyed by an airstrike led by NATO forces and collaterally some non-combatants were killed (which was a previously known fact).<sup>32</sup> While assessing whether the force used by NATO was indiscriminate and violated principles of LOAC one has to weigh the deaths of combatants caused during the ambush airstrike vis-à-vis the potential damage and civilian deaths that would have been caused if the Libyan tanks had not been intercepted.<sup>33</sup> In the light of the Geneva Convention and its Additional Protocols, NATO has effectively sustained its action.

The United Nations Security Council Resolution No. 1738 reaffirmed the Geneva Convention's stance that all parties to a conflict have to bear the primary responsibility and take all 'necessary steps' to ensure the protection of civilians.<sup>34</sup> Now the question arises as to whether 'drones' would fall under the ambit of 'necessary step'? The first factor that needs

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<sup>27</sup> Sarah Kreps and John Kaag, 'The Use of Unmanned Aerial Vehicles in contemporary Conflict: A Legal and Ethical Analysis' (2012) Polity 44(2), <<http://www.jstor.org/stable/pdf/41426933.pdf?refreqid=search:6e2bee70baf880a1bf4b713bedef3264>> accessed on 19<sup>th</sup> September, 2017.

<sup>28</sup> Ibid at 265.

<sup>29</sup> Martha McSally, 'Should the United States Continue its Use of Drone Strikes Abroad?' (*ProCon*) <<https://drones.procon.org/>> accessed on 20<sup>th</sup> September 2017.

<sup>30</sup> Sehrawat (fn 1) at 175.

<sup>31</sup> Lango (fn 24) at 179.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> United Nations Security Council ["UNSC"] Res. No. 1738.

to be considered is *intensity*. The International Criminal Tribunal of Former Yugoslavia (ICTY) has given its opinion as follows:

*'the seriousness of attacks and whether there has been an increase in armed clashes, the spread of clashes over territory and over a period of time, any increase in the number of Government forces and mobilisation and the distribution of weapons among both parties to the conflict, as well as whether the conflict has attracted the attention of the United Nations Security Council and whether any resolutions on the matter has been passed.'*<sup>35</sup>

There can be various assertions to intensity as there is no set standard to what might be defined as an intense situation. In the *La Tablada case*<sup>36</sup> the Inter-American Commission on Human Rights (IAHCR) found that an armed conflict existed due to the intensity of fighting despite the fact that the violence lasted for a mere thirty hours basing their premise on the fact that it was a 'carefully, planned, coordinated and objectively executed attack'.<sup>37</sup> In spite of assertions made by the Obama administration, a large number of drone strikes conducted by the United States on the pretext of launching attacks on terrorists have been violative of international law. One such example is the continuous drone attacks against the Somalia based Al-Shabaab who has not yet carried out any form of violence in recent history.<sup>38</sup>

This brings me to the next aspect of legality which is consent. LOAC principles emphasize upon the fact that if any form of warfare is being carried out on the soil of a different nation, obtaining consent explicit or implied is absolutely necessary. This is more important in the case of non-international armed conflict (NIAC).<sup>39</sup> In various NIAC situations in Pakistan, Yemen, Iraq, Somalia and Afghanistan it has been observed that the 'host' Government has invited the United States to attack the insurgent groups/elements.<sup>40</sup> In Pakistan for example, the Pakistani government had explicitly withdrawn consent to the United States in 2013, but that did not do much to change the situation as the United States continued its surveillance drone operations in Pakistan in absolute violation of Pakistan's sovereignty.<sup>41</sup> Another example could be that of in Yemen where the war against the Al-Qaeda intensified during 2011 and although, it has been fluctuating over the years, the U.S's drone first drone strike in 2004 against the Al-Qaeda militants which was

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<sup>35</sup> International Bar Association, 'The Legality of Armed Drones under International Law' *Background Paper by the International Bar Association's Human Rights Institute* (25<sup>th</sup> May, 2017).

<sup>36</sup> Inter-American Commission on Human Rights, 'Case 11.137 Juan Carlos Abella' (13<sup>th</sup> April, 1998), available at < <https://www.cidh.oas.org/annualrep/97eng/Argentina11137.htm> > accessed on 20<sup>th</sup> September, 2017.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ashutosh Misra, 'Are Drone Strikes in Pakistan Legal?' *The Diplomat* (5<sup>th</sup> April, 2012) < <https://thediplomat.com/2012/04/are-drone-strikes-in-pakistan-legal/> > accessed on 20<sup>th</sup> September, 2017.

completely out of context in this NIAC could only be termed as illegal.<sup>42</sup> Ever since 2007, the Somali Government has waged war against the Al-Shabaab and in spite of an explicit undertaking that the strikes would only be against non-Somali fighters; numerous strikes have been confirmed targeting Somali fighters.<sup>43</sup> There have been more complexities in the NIAC against ISIS. Specifically, the USA has justified its drone strikes as a part of the NIAC it is engaged into with ISIS whereas; the UK has classified its own drone strikes as part of an ongoing armed conflict between ISIS and Iraq in which it has been invited.<sup>44</sup>

Quite ironically, the United States has cited consent in support of its extensive drone programmes and if one analyzes Article 20 of the International Law Commission's Draft Articles on State Responsibility and its Commentary; it elaborates on what a 'valid consent' would be. The Commentary asserts that a valid consent has to be 'freely given and clearly established by a legitimate Government.'<sup>45</sup> Keeping in mind the LOAC principle of unnecessary suffering and 'consent' to be explicit, one cannot help but question the brutal drone strikes that have been illegally conducted in various countries by the Western powers under the guise of 'fight against terrorism'. LOAC principles also emphasize upon the existence of legitimate military objectives in order to employ force.<sup>46</sup> Although drones by themselves are not illegal and do not qualify as banned military instruments under Regulation 8 of the Rome Statute, their indiscriminate use is a subject still not addressed under international law.<sup>47</sup>

Moreover, when taking the proportionality principle into consideration, it is evident that there will be loss of life, but IHL does not require perfection in the execution of a military attack nor does it all prohibit civilian casualties<sup>48</sup> but one cannot deny the improved mechanisms which drones possess and in sensitive situations they are quite capable of launching indiscriminate attacks against civilians and combatants alike. As has been previously mentioned, since drone strikes are one of the primary methods of flushing out terrorists, drones are in most cases incapable of identifying the target which has resulted in more civilian deaths than anticipated. The Declaration of Saint Petersburg is the first such legal document which outlines the legality of various war weapons.<sup>49</sup> And there has been no such delineation that drones are within the purview of illegal weapons as perceived by the declaration.<sup>50</sup>

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<sup>42</sup> International Bar Association (fn 35) at 23.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Article 20 Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries (2001).

<sup>46</sup> Sehrawat (fn 1) at 180.

<sup>47</sup> Rachel Alberstadt, 'Drones under International Law' (2014) 4 (221-232) Open Journal of Political Science, <[http://file.scirp.org/pdf/OJPS\\_2014101616484519.pdf](http://file.scirp.org/pdf/OJPS_2014101616484519.pdf)> accessed on 21<sup>st</sup> September, 2017.

<sup>48</sup> Ibid.

<sup>49</sup> Sehrawat (fn 1) at 182.

<sup>50</sup> Ibid.

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## AERIAL DRONE STRIKES CONDUCTED BY THE U.S.A AND THEIR COMPATIBILITY WITH PRINCIPLES OF LOAC

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The emergence of the United States as a global pioneer in targeted military killings came soon after a major cut in the Pentagon's budget. Automated killing machines were hastily developed in order to ensure America's eternal war on militant organizations is never disrupted.<sup>51</sup> H. Koh, Legal Adviser to the U.S Department of State empathetically stated that the United States is in an armed conflict with the Taliban and the al-Qaeda and as a matter of domestic law the Congress has authorized the use of all necessary and appropriate measures through the 2001 Authorization for Use of Military Force (AUMF) and therefore, the States is committed to eradicating terrorism via all means possible.<sup>52</sup>

Drones have become a staple for the American defense mechanism primarily because of their precise targets and inexpensive budgets. For drone strikes to be carried out in Pakistan, Yemen and Somalia, the U.S requires the permission of the U.N.S.C in order to ensure that they do not blatantly violate the principle of sovereignty.<sup>53</sup> However, the killing of Osama bin Laden by American forces was a blatant violation of Pakistan's sovereignty and was without any authorization from any international body. And this is just one out of the many innumerable examples of U.S brutality. In December 2009 a U.S cruise missile struck a village in southern Yemen killing forty-one members and two families half of whom were children between the ages of one and fifteen.<sup>54</sup> The purpose behind the attack was to destroy a suspected al-Qaeda affiliated training camp but data obtained from a Parliamentary committee set up by the Yemeni Govt. the geographical co-ordinates used by the American forces showed there were errors whilst detecting the location of the supposed camp.<sup>55</sup> As long as principles of LOAC are concerned it is with certain definition that I assert that drone strikes are illegal, not because they are capable of 'precise targeting' but they blatantly violate the rules of proportionality and unnecessary suffering. Examples to re-affirm the above statement are reproduced below:<sup>56</sup>

(i) Drone strike on Zowi Sidgi village in north-western Pakistan – Labourers were gathered in a tent on the edge of the Zowi Sidgi village after a long day at their usual gathering place

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<sup>51</sup> Peshan Rajeendra Gunaratne, 'U.S Drone Strikes and their Impact on International Security', (2013) 58 Journal of Royal Asiatic Society of Sri Lanka, < <http://www.jstor.org/stable/pdf/43854945.pdf> > accessed on 30<sup>th</sup> September, 2017.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Drones Team, 'Yemen: Reported U.S Covert Actions 2001-2011' Bureau of Investigative Journalism (29<sup>th</sup> March, 2012), available at < <http://www.thebureauinvestigates.com/20i2/o3/29/yemen-reported-us-covert-actions-since-2001> > last seen on 2<sup>nd</sup> October, 2017.

<sup>55</sup> Pardiss Kebriaei, 'The Distance between Principle and Practice in the Obama Administration's Targeted Killing Program: A Response to Jeh Johnson', 31 Yale Law and Policy Review (2012), < <http://www.jstor.org/stable/pdf/23735773.pdf> > last seen on 18<sup>th</sup> November, 2017.

<sup>56</sup> Larry Everest, 'The Illegality, Illegitimacy and Immorality of U.S. Drone Strikes' (*Global Research*), available at < <https://www.globalresearch.ca/the-illegality-illegitimacy-and-immorality-of-u-s-drone-strikes/5356886> > last accessed on 18<sup>th</sup> November 2017.



when four drones were overheard and soon after the sound of Hellfire missiles travelling at a speed of 950 miles an hour were dropped. Eighteen were killed that night and a further 22 injured including an eight-year old girl.

(ii) Drone strike on Ghundi Kala village in North West Pakistan – Another shower of hellfire missiles ensured a death toll but like everytime the U.S Govt. refused to acknowledge the killing of civilians much less compensate them for the loss.

The U.S Govt. on many occasions has tried to claim the ‘collateral damage exemption’ to their ultimate aim of eradicating terrorism. However, grating such an exception is contrary to any prevailing law and this is asserted under two primary methods of warfare – Depraved Indifference Warfare (DIW) where the attack shows a wanton disregard for civilian lives by executing massive attacks on towns and cities (in this case remote villages) and secondly, Reckless Endangerment Warfare (REW) where the strategy of employing overwhelming force against legal targets are under conditions that are likely to produce high levels of collateral damage.<sup>57</sup> Collateral damage as the name suggests is unintentional and incidental damage or injury caused to persons or objects that are not lawful military targets.<sup>58</sup> The conflict between military advantage and civilian immunity creates an uneasy tension and more often than not it is emphasized that a commander may not sanction a legitimate military target if he can reasonably anticipate disproportionate collateral damage to civilians.<sup>59</sup> Moreover, there is no firm measure in defining what an ‘excessive’ civilian loss is.<sup>60</sup> But in the light of the attacks carried out by the U.S.A launching of cruise missiles over rural hamlets via drones would amount to ‘excessiveness’ and would constitute a grave violation of international humanitarian law. Moreover, the principle of ‘feasible precaution’ not only requires balancing out civilian casualties alongside military targets but insists combatants to choose those methods which would be instrumental in minimizing or avoiding loss to civilian life.<sup>61</sup> As had been previously asserted drones are incapable of filtering out terrorists from civilians mostly because they are so intermingled with the civilian population. Selecting drones as means of warfare is a crucial mistake on Washington’s policies and inspite of facing backlash from n number of international organizations it looks like the drones are here to stay.

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## CONCLUDING REMARKS

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Undoubtedly, the invention of drones has changed the perspective of indiscriminate warfare in the World War II era where smokescreens and mushroom clouds were common. Drones are precise, swift, unmanned, inexpensive and finish the job in a crisp and steadfast

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<sup>57</sup> Bruce Cronin, ‘Reckless Endangerment Warfare: Civilian Casualties and the Collateral Damage Exception in International Humanitarian Law’ 50 Journal of Peace Research (2013), available at <<http://www.jstor.org/stable/pdf/23441184.pdf>> last seen on 18<sup>th</sup> November 2017.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

manner. Modern drones still suffer from the bondage of LOAC principles and has been instrumental in inflicting harm much greater than what was expected as an equivalent military advantage. Although, if drones were used in a separate context say, use of aerial and maritime drones in order to attack a fleet of naval ships on the high seas, the legality behind such an attack could be justified under humanitarian law to some extent as the possibility of civilian casualties would be next to nil. In modern day warfare when precision matters the most, use of drones would be a surefire to achieve legitimate military targets but the unfortunate circumstances in which they have been used so far has not only been a major disregard for civilian life but also a rather ineffective way of flushing out terrorist. Recent terrorist attacks in Paris, Berlin and London have all been carried out by extremists residing within the country itself therefore, waging a drone war upon small rural hamlets is nothing more than a mighty display of force at the cost of civilian life and not to mention the mental agony and fear surrounding every such drone attack.