



November 11, 2013

Human Rights Now

7F Creative One Akihabara Bldg. 5-3-4 Ueno

Taito-ku, Tokyo, JAPAN 110-0005

<http://hrn.or.jp/eng/>

Statement: Human Rights Now urges immediate action to disclose investigation results of drone strikes and to establish international standards that regulate the use of drones in accordance with international human rights law and humanitarian law.

1 In September 2013, Mr. Ben Emmerson, who is the Special Rapporteur of Promotion and protection of human rights and fundamental freedoms while countering terrorism at the United Nations Human Rights Council, submitted an interim report on the investigation on the use of remotely piloted aircraft in counter-terrorism between 10 January and 8 August 2013 (A/68/389). In the same month, Mr. Christof Heyns, the Special Rapporteur on extrajudicial, summary or arbitrary executions, also focused on the use of drones and the right to life and submitted a report based on his investigation of the problems regarding international human rights and international humanitarian law (A/68/382). Human Rights Now expresses its concern on the drone attacks which have high possibility of violating international human rights law and international humanitarian law, and it welcomes the reports of Mr. Emmerson and Mr. Heyns.

2 The report of Mr. Emmerson reveals the actual conditions under which the use of drones has expanded continuously and the number of civilians that have become victims of drone strikes since 1999 when drones were first introduced into combat.

According to Mr. Emmerson's report, the number of recorded drone strikes in the Federally Administered Tribal Areas of Pakistan since 2004 reaches up to 330, based on the statistics of Pakistani government. The report also finds that, out of 2200 victims in the drone strikes, 400 were civilians and 200 were probably non-combatants.

In Afghanistan, the United States Air Force conducted 294 strikes in 2011 and 447 by November 2012. British forces are also considered to have conducted 405 drone strikes by July 2013.

According to the report of United Nations Assistance Mission in Afghanistan (UNAMA), drone strikes caused 16 deaths and 5 injuries in 2012 and 15 deaths and 7 injuries in the first half of 2013 among civilians.

According to the report of Mr. Emmerson, the United States Air Force conducted 29 drone strikes by the end of 2011 in Yemen, as well as confirmed 48 strikes it conducted in Iraq between 2008 and 2011.

In Libya, it is reported that NATO has had drone strikes 145 times.

Although the United States and the United Kingdom have reported that there were civilian casualties owing to the drone strikes, the result of investigation on the number of casualties in detail and actual causes of such incidents have not been clarified.

Drones are remotely controlled in an operation base which is located away from a battle field, and they discharge weapons against targets based on a command from the base. However, it results in uses of force in territories of other countries, and the violation of sovereignty is considered to be a problem. The Pakistani government has made their position clearly that they do not allow drone strikes and request a cessation of the use of remotely piloted aircraft; however, the extensive strikes by drones still continue.

International humanitarian law (the Geneva Conventions) prohibits attacks against non-combatants (civilians, medical personnel, etc.) as well as private properties, and purposeful attacks against civilians are considered as a war crime.

A growing number of civilian victims by drone strikes and the lack of accountability by the operators exposes the principles of the protection of civilians based on international human rights law and international humanitarian law at risk.

The report of Mr. Heyns strongly indicates the possibility of a violation of international human rights law guaranteeing the right to life if there is a loss of civilian life as a result of air strikes in other countries. Also, it emphasizes the problems caused by drone strikes regarding the distinction between combatants and non-combatants as well as proportionality in conflicts in light of requests under international humanitarian law.

Strikes by remotely piloted aircrafts are easily abused and have high potential to cause illegal murders of innocent civilians. Drone strikes can fall into a state of lawlessness unless rules and regulations of their use are clearly agreed on in the international society.

3 The United States released “U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities” in May

2013.¹ The document requires that the United States should respect the sovereignty of other countries and international law, and fulfil the following criteria in using Lethal Force:

1. Near certainty that the terrorist target is present;
2. Near certainty that non-combatants will not be injured or killed;²
3. An assessment that capture is not feasible at the time of the operation;
4. An assessment that the relevant governmental authorities in the country where action is contemplated cannot or will not effectively address the threat to U.S. persons; and
5. An assessment that no other reasonable alternatives exist to effectively address the threat to U.S. persons.

However, these standards are much easier to be met than the fundamental requirements by international humanitarian law such as the distinction between combatants and civilians, proportionality and prevention. They do not meet the strict demands of international humanitarian law.

Moreover, although the United States alleges that it respects these procedures, there are serious discrepancies between its allegations and the damage which have been actually reported.

Unless the United States reveals information on all cases which caused civilian casualties by drone strikes, it cannot be said that the United States respects international law in using drone strikes during countering terrorism operations. Incidents of drone strikes which have caused civilian victims may include serious cases that constitute war crimes. The United States and the United Kingdom should conduct investigations on civilian casualties, including the possibility of war crimes, and achieve accountability.

¹ Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities
<http://www.whitehouse.gov/the-press-office/2013/05/23/fact-sheet-us-policy-standards-and-procedures-use-force-counterterrorism>

² The United States defines non-combatant as an individual who is not a combatant in armed conflicts, does not participate in hostilities directly and also “an individual who is targetable in the exercise of national self-defence.” This definition is very vague.

4 Human Rights Now calls on the governments of the United States and the United Kingdom

- to conduct comprehensive and highly transparent investigations on civilian victims by drone strikes until now, investigate the rules of targeting, the procedures of attacks, the command structure of operations, the causes of civilian casualties and the possibility of war crimes, and disclose the results to international society.

- to pursue justice and secure accountability in the case that a violation of international humanitarian law is acknowledged. In that case, liability of commandants should not be shirked either.

- to provide the families of killed civilians adequate reparations.

- to fully and immediately stop drone strikes without consent of the host states.

And it calls on the United Nations

- in consideration of civilian casualties by the drone strikes, to adopt a resolution which calls for the establishment of international standards in accordance with international human rights law and humanitarian law, transparent investigations by the states that use drones, and reparations for victims.

- to cooperate with the United Nations Human Rights Council and immediately establish international standards that regulate the use of drones in accordance with international human rights law.