Litigating Drone Attacks

Closed workshop and public event

Berlin, 17 / 18 October 2016

Venue of Workshop: European Center for Constitutional and Human Rights (ECCHR), Zossener Str. 55-58, Building D, 5th floor, 10961 Berlin-Kreuzberg

Outline:

Asymmetric conflicts worldwide are increasing, in particular within the context of the US and European counter-terrorism strategies. From Afghanistan and Pakistan to Yemen, from Northern Africa to Syria and Iraq: Special operations and air warfare play a crucial role in these conflicts and drones have become one of their symbols. Indeed, an increasing number of countries have acquired and are now using armed drones to conduct so-called ‘targeted killings’ operations, the lawfulness of which is highly disputed. There is thus an urgent need to comprehensively address this topic, including the different experiences of actors in the many countries involved, in order to develop legal strategies.

Focusing on the severe human rights violations committed in the course of these conflicts – particularly with the involvement of the US and European forces – necessarily entails addressing the use of drones to conduct lethal operations against ‘suspected terrorists’; operations which have a major impact on the local civilian populations.

In the workshop and conference organized by ECCHR, we shall thus focus on the following questions:

(i) How do international legal standards set a legal framework for countering international terrorism?

(ii) What are the challenges in holding perpetrators accountable for drones operations, in particular with regard to uncertain legal standards under IHL to define contemporary, asymmetric armed conflict situations, and the dramatic lack of transparency by governments?

(iii) How can international law be used strategically in litigation of drones operations, including creative transnational litigation opportunities, involving local actors, in order to define legal standards and to impact state policies on the use of drones?

Closed Workshop - Programme

Monday, 17 October 2016

Session 1, 11-13h:

State of the art 2016 – use of armed drones globally, developments since 2002, future perspectives, situation of countering international terrorism – and litigation
The use of armed drones is proliferating – following the lead of the US, Israel and, since 2015, the UK. Currently several other states are poised to acquire and use armed drones - all in the context of fighting international terrorism across borders. The introductory session seeks to get all participants up to speed on the global use of armed drones, international terrorism as well as on ongoing drone litigation worldwide.

Input: Chris Woods
Moderation: Andreas Schüller

13-14h: Lunch

Session 2, 14-16h:
Documenting drone strikes, access to information on the ground and drone logistics

The second session puts the focus more on the ground, and includes the views of individuals living in regions of armed drone activities. Such regions are generally difficult to access which poses a number of questions with regard to obtaining sufficient information on strikes. Drone operations also need significant logistic capacities, including a number of collaborating states. We will discuss how drones operate and to what extent third party states provide support.

Input: Shahzad Akbar and Baraa Shiban
Moderation: Patrick Kroker

16-16:30h: Coffee Break

Session 3, 16:30-18:30h:
Legal framework

In this session, we will focus on issues such the thresholds of armed conflicts and law enforcement in international law. What are the consequences of such a determination, e.g. when it comes to internationalized non-international armed conflicts? Which information is necessary, e.g. on the structure of the non-state actor? And what is the legal importance of determining whether the use of force (i.e. waging the war) was in accordance or in breach of the UN Charter and international law?

Input: Christian Schaller and Robert Heinsch
Moderation: Chantal Meloni
Tuesday, 18 October 2016

Session 4, 10-11:30h:
Litigation strategies

In the first session of the second day, we will discuss litigation strategies in the affected countries, in collaborating states and at regional and international courts. With the broad background of participants, we will aim to develop new ideas for litigation based on experiences of the participants regarding specific countries or factual scenarios.

Input: Jennifer Gibson
Moderation: Andreas Schüller

11:30-12h: Coffee Break

Session 5, 12-13:30h:
State policies and legal positions - advocacy strategies

In the fifth session we will turn to states' positions on drones. As drone use spreads, state policies have a great power to expand or limit the illegal use of armed drones. We will discuss key aspects of known state positions, in part to be able to argue for avoiding mistakes by states still setting up their drone policies.

Input: Srdjan Cvijic and Brett Kaufman
Moderation: Patrick Kroker

13:30h: Lunch

Public Event

From Washington via Ramstein to Sanaa: How the drone war impacts law and society

Venue: Theater im Aufbau-Haus (TAK), Prinzenstr. 85 F, near Moritzplatz, Berlin-Kreuzberg
Programme:

17-17:15 Introduction by ECCHR and Statement of Faisal Bin Ali Jaber (t.b.c.)

17:15-18:45: The negative impact of drone strikes in countering international terrorism

Jeremy Scahill, The Intercept
Shahzad Akbar, FFR
Jennifer Gibson, Reprieve
Chris Woods, Airwars
Moderation: Sarah Harrison

18:45-19: Break

19-20:30: State policies and international law - a German perspective

Oliver Fixson, MOFA
Wolfgang Kaleck, ECCHR
Andreas Zimmermann, University of Potsdam
Moderation:

20:30-21:30: Reception
Participants Workshop:

Shahzad Akbar, FFR
Peter Becker, Lawyer Germany
Faisal Bin Ali Jaber, Client drone litigation Germany and US (t.b.c.)
Srdjan Cvijic, OSEPI
Anthony Dworkin, CFR
Carsten Gericke, ECCHR, Lawyer Germany
Jennifer Gibson, Reprieve
Julia Hall, Amnesty
Robert Heinsch, Leiden University
Sönke Hilbrans, ECCHR, Lawyer Germany
Laurens Hueting, ICJ
Wolfgang Kaleck, ECCHR
Brett Kaufman, ACLU
Lisa Klingenberg, OSF Consultant
Maria La Hood, CCR (t.b.c.)
Andrea Saccuchi, Lawyer Italy
Christian Schaller, SWP
Jack Serle, TBIJ
Baraa Shiban, Reprieve
Göran Sluiter, Lawyer The Netherlands
Anna Thomas, APPG (or APPG researcher) (t.b.c.)
Chris Woods, Airwars