

Global Ambitions for Armed Drones

In early 2016, the United States initiated the Joint Declaration, aiming to improve the control on export and subsequent use of the armed or strike-enabled unmanned aerial vehicles, better known as drones. The process grew out of growing concerns over proliferation and possible misuse of armed drones by States and non-State actors. Following the Joint Declaration's launch, States that signed the document agreed to a process to continue to develop a process to draft international standards with the aim of creating stricter controls on drones. Civil society organizations and human rights experts have expressed serious concerns regarding the content of and process for the drafting of these standards. PAX urges States to develop a strong, legally binding instrument that aims to effectively regulate the use and export of armed drones and addresses key concerns over the use of armed drones in relation to international legal principles. Such a process should be undertaken in a transparent and inclusive manner. This policy paper provides a background to the wider discussion of developing drone standards and provides recommendations on the content of and process for building these international norms.

Context

The use of armed drones in *and* outside the battlefield has witnessed a sharp increase since the first strike in 2001 in Afghanistan. The use of drone strikes in clandestine operations by the CIA in Pakistan, Somalia and Yemen as part of the US counter-terrorism strategy created fierce opposition by local communities and international human rights organisations. Although not often acknowledged, significant numbers of civilians have been killed in U.S. drone strikes, at the same time that the legal basis for killing terrorism suspects outside the battlefield has never been fully clarified. The lack of legal clarity and moral ambiguity has raised serious concerns over current and future use of armed drones and the potential for widespread misuse.

Drones, in all shapes and sizes, also have become a common tool for armed forces to use on the battlefield as means of close-air-support, intelligence, surveillance, target acquisition and reconnaissance (ISTAR). Due to the absence of risk

for their own personnel, lower costs and ability to hover over remote areas has provided new options for the armed forces to deploy them. Moreover, these unique features could likely lower the threshold for the use of lethal force by States as risks to personnel diminish. New drone technology will likely lead to the production of smaller, cheaper, stealthier drones, including swarm capability, which creates new threat models. Other unmanned (armed) ground, underwater and surface water systems will likely also see novel applications on the battlefield.

These systems are not only the domain of State militaries. In the last three years, non-state armed groups and terrorist organisations have utilized commercial and dual-use drone technology for military purposes by equipping them with bombs for attacks or using them in ISTAR operations. As States develop international standards, they need to ensure that these new technologies are included and agreements are future proofed to exert relevant controls.

Analysis

The Joint Declaration process, initiated by the Obama administration in 2016, was an attempt to deal with the growing challenges of drone proliferation and potential misuse. However, the process lacked strong, unambiguous language that prevents misuse of existing armed drones, sets comprehensive and useful international export controls, and is not being developed in a transparent and inclusive manner. At the time, States argued that they were presented fixed text with limited opportunity to discuss and change the content and that it would be fixed as the process continued. In addition, civil society was absent from the process, despite their leading role in raising awareness on this issue over the last ten years and expertise on specific issues related to export controls, weapon technologies and human rights.

The language of the Joint Declaration fails to make strong commitments on enshrining international legal principles from humanitarian law and human rights law in, ensuring that a robust assessment based on these legal principles are guiding the decision-making process. As it stands, the text contains many loopholes, relies on voluntary commitments, and fails to clarify how current States' practices on use of armed drones can be held accountable.

Political relevance

Working towards strong international standards on the use and export of drones is certainly needed to counter any future misuse. Such standards could provide States the opportunity to clarify their position regarding the use of lethal force outside areas of active hostilities, present useful recommendations regarding transparency over targeted drone strikes policies and function as an international platform for multilateral stakeholder discussions over application

of law and practice regarding these emerging weapon technologies.

Historic processes on the use and export of certain weapons, be it prohibitions on landmines in the Ottawa Convention and cluster munitions through the Oslo Process, or creating global rules on exports of conventional weapons in the Arms Trade Treaty (ATT), were reliant on strong civil society participation. Non-governmental groups have played a crucial role in these processes as both the driver and active contributor by giving voices to affected communities, provide expertise input and creating public awareness on the issues debated. Referring to the ATT, the Dutch Minister of Foreign Affairs stated that the collaboration between civil society and governments was '*a model for future cooperation between government and non-governmental organisations*'. PAX shares this assessment and has constructively engaged with the Dutch government to support international dialogue on armed drones in the UN.

Research by civil society organisations on the use of armed drones has enforced a strong national and international public debate over the legality of these drone strikes, for which there are strict legal standards that should be met as a very last resort of the use of lethal force. Current covert drone strikes fail to pass that threshold. The disputed use of armed drones in combination with rapid proliferation poses serious threats to existing legal and moral principles and has created a dangerous precedent for other States to follow.

PAX acknowledges the need to move towards strong international norms on the use and export of armed drones and has drafted the following recommendations for building strong international standards.

Recommendations

1. Acknowledgement of the serious threats posed by unrestricted use of lethal force with drones, in particular outside areas of active hostilities. States willing to build international norms should clarify their national position on the use of armed drones and outline the concerns regarding the expanding use of armed drones on and outside the battlefield. They could voice these concerns and outline their positions in statements and during discussions in multilateral forums e.g. the UN General Assembly or regional Parliamentary Assemblies.

2. Set ambitious goals for any process on strengthening international norms. In order to achieve a meaningful outcome States must set high benchmarks on key issues regarding the use and export of drones. Such standards must include strong references to human rights and humanitarian law to ensure proper use, a clearly outlined need for transparency over current and future drone strikes and the policies that permit them, accountability mechanisms for civilian harm and victim assistance, and robust assessment procedures for export license for drones and related technology.

3. Building on existing norms and principles. Any new standards on export and use must build on existing legal frameworks and norms regarding the use of lethal force on and outside the battlefield. This also includes the sharing of data collected by drones with third-state parties to prevent misuse. States which are party to existing arms export agreements must uphold the highest standards of such agreements as well as for their national policies.

4. Establish a strong implementation regime. International standards should be effectively implemented through agreements that includes: a) monitoring of drone export and use policies; b) exchange of information among signatories on denials of export licenses, reported misuse of exported drone technology and transparency over strikes carried out by States. New relevant unmanned technologies should be included in the control list; c) annual meetings to discuss and review progress, developments and relevant policies regarding the implementation of the agreement.

5. Ensure an inclusive and transparent negotiation process. Broad participation of various stakeholders strengthens transparency and the legitimacy of an international process to develop standards on drone export and subsequent use. This includes an important role for civil society and industry to provide expertise input on the objectives, content and implementation of any agreement. an open negotiation process.

About the Drone program

PAX advocates on issues surrounding armed drones in its Humanitarian Disarmament program and is the Coordinator of the European Forum on Armed Drones. More information at www.paxforpeace.nl and www.paxforpeace.nl/media/files/efad-call-to-action.pdf

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