DRONE OPERATORS – LEGAL RESPONSIBILITY

Andrei-Alexandru STOICA*

Abstract

*Drones or unmanned or remote vehicles represent a new generation of devices that were designed to help mankind achieve better results in areas that were proven to hazardous. By developing drones, new areas of economic activities have been unlocked for better exploitation, but at the same time, the lack of a proper legal system to back-up the new technology allowed a new wave of gray-lined uses of drones that must be tackled. As the Director of the 21st Century Defense Initiative at the Brookings Institute[1] explains in an interview in 2012 that "*a revolutionary technology is a game-changing technology on a historic level. It is technology like gunpowder, or the steam engine, or the atomic bomb*". With this in mind, drones mark the revolution to carry out strikes from thousands of kilometers away, while also ensuring a permanent eye in the sky for both military and also law enforcement operations. The aforementioned facts are just small percentages of what a drone is truly capable of and its full potential will only be unlocked once artificial intelligence will become an integral part of robotics.*

Keywords: *drones, operators, International Criminal Court, strike, man-in-the-loop.*

1. Introduction

Until the development of autonomous or intelligent weapons reaches a new milestone, the concept of *man-in-the-loop*[1], that is a human being doing the decision-making authority and not the robot. A typical drone, or for a better illustration a Reaper drone used by the United States of America's Military, requires at least one pilot and a team comprised of flight-coordinators, intelligence gathering teams on the ground, military and civilian analysts and commanders, each, being in most cases, located in different bases around the world and trying to process information in real time. The U.S. Air Force admitted in 2011 that for just one Predator drone to be operational for 24 hours, they required 168 people in different key areas in the continental United States[2]. This may have changed since then do to more technological advancements, but the fact remains, current drone operations require a large amount of manpower and current trends show that this type of work environment is very demanding on the human psyche so drone operators are

* Ph.D. Candidate, Faculty of Law, University Nicolae Titulescu (e-mail: stoica.andrei.alexandru@gmail.com).

[1] Interview with Peter W. Singer, Director of the 21st Century Defense Initiative at the Brookings Institution, Washington, United States of America, International Review of the Red Cross, Vol. 94, Number 886, Summer 2012.

[1] Dan Saxon, International Humanitarian Law and the Changing Technology of War, Martinus Nijhoff Publishers, Leiden, 2013, p. 71.

[2] R. Johnson, US Civilians are now helping decide who to kill with military drones, Bussiness Insider, 30 December 2011.

leaving in scores[3]. Drone operators, such as Brandon Bryant[4], spoke to the media about the difficulties of being a military drone pilot and the psychological impact it had on him when he was doing targeted killings from thousands of kilometers away.

This type of public outcry caused the policy makers to shift from the *man-in-the-loop* to a new policy, the *man-on-the-loop*[5], a situation where the drone uses an algorithm to function independently up to the point of acquiring a target and take a preliminary decision on how to act. The human pilot and the team behind him still have the final decision regarding the action that the drone must take and also, with this type of system, the human team can monitor more than one drone.

The paper will focus on defining and acknowledging that drone operators are viable military targets and can be prosecuted for their actions under international law, while also showcasing how drone operators are more frecvent from private companies rather than be under a governmental agency. The importantance of the paper is marked by the fact it will entertain an explanation on how recent trends in the area of unmanned vehicles have evolved, while also trying to speculate on whether the push for more control over drone missions can be achieved or if still lacks legal guidelines. In doing so, the study will be undergone by analyzing real cases and understanding the milestones that drone technology achieved in the last ten years. Unfortunately, since the area of military drone operations is only recently being made public, the level of information that can be made public or used without backlash for using sensitive information is still restricted to reports by different organizations or public figures

2. Drone operators as subjects of the Rome Statute

2.1. Drone operators and the international crime of genocide

*T*he classic theory of criminal responsibility that the Rome Statute and the International Criminal Court Elements of Crimes, as adopted by the General Assembly of the Member States to the Rome Statute[6], enshrines the necessity to have both an international liability but also a criminal law oriented one. But, while having a clear legal framework for the traditional organized military and armed groups, applying the Rome Statute and other international criminal law tools in the context of drone warfare could prove to be more difficult as technology evolves.

The crime of genocide is defined by the Convention on the Prevention and Punishment of the Crime of Genocide[7] as "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such : a) Killing members of the group; (*b*) Causing serious bodily or mental harm to members of the group; (*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (*d*) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.". While this definition is a general statement that the

[3] Murtaza Hussain, Former Drone Operators say they were "horrified" by cruelty of assassination program, theintercept.com, 19 November 2015.

[4] Helen Pow, Did we just kill a kid?, Dailymail.co.uk, 17 December 2012.

[5] A Shalal-Esa, Future drone pilots may fly four warplanes at once, Reuters, 24 December 2011.

[6] Adopted on 17th of July 1998 and entered into force on 1st of July 2002. As of 2016, 124 states are party to the Rome Statute – according to the untreatycollection website (treaties.un.org).

[7] United Nations, 9th December 1948.

alleged offender could be any person, the question that arises is whether or not a drone operator could be convicted of such a crime or if drones could even prevent genocide.

In the first case, a drone operator acts as a military personnel and as such he is entitled to both the possibility to be liable or to have his commander liable for the decision he imposed in the military chain of command. But in the second thesis, regarding the prevention of genocide by using drones, the situation is more of a hypothetical issue, since no genocide has been conducted in very recent history and drones only started to become relevant in military and police operations only just now.

Ever since 2008, when General Atomics started shifting production from Predator drones to Reaper drones and as such a global fast reaction force to stop genocide could be considered as consisted.

In an interview[8] with a former journalist and genocide investigator for U.N.I.C.E.F., Keith Harmon Snow, information that a global reaction force from the United States of America, Israel and its allies started adopting drones as a means and methods of preventing and intervening in situations that could become genocide or war crime, yet he reporter stated that such a possibility was only to protect assets from AFRICOM, while also contributing to the crime itself. Such a thesis has been promoted more recently in the ongoing conflict between Yemen and Saudi Arabia[9], where anti-war activists said that Saudi Arabia is using its own drones and also U.S. drones to target and kill civilians and military members of the dissident faction, while also doing it in a systematical and with the intent to destroy the group.

Interesting enough, this type of intervention from the United States of America is based on a doctrine that the Pentagon developed in 2012 and it is entitled as the Mass Atrocity Response Operations[10], a doctrine regarding peace operations that require a massive fleet of surveillance gear and information gathering-interception devices, but also gear that could intervene faster than a human group[11]. This doctrine could help protect key elements of the civilian population, while also forming a strong deterrent or imposing psychological pressure on possible perpetrators.

This doctrine did however cause moral damages, as Professor Francis Boyle[12]points out, since the doctrine focuses more on certain religious or ethnical groups, like the Muslim group, and as such the Central Intelligence Agency would be a key violator of human rights and humanitarian law, since it causes more civilian casualties in an operation than it wants to admit. The Professor goes on and notes that in a speech to the Rotary Club in 2013, the U.S. Senator Lindsey Graham outlined no less than 4 700 killed in the drone program, most being comprised of civilians and from this group, a lot of minors.

These statements, while interesting, seem to be countered by the fact that the United Nations mission in the Democratic Republic of Congo used a part of the Satellite Sentinel Project[13] that allowed the U.N. mission to monitor both the rebels and the civilians using drones and to provide early warning and early assessment. This

[8] Ann Garrison, Predator drones to "stop genocide"?, globalresearch.ca, 2th May 2011.
[9] presstv, Saudi Arabia ethnically cleansing Yemenis: Activist, 16th September 2015.
[10] Steven Aftergood, dod Releases doctrine on Mass Atrocity Response Operations, Fas.org, 6th June 2013.
[11] Spencer Ackerman, Pentagon: Drones can stop the next Darfur, Wired, 2st November 2011.
[12] Sherwood Ross, Obama Drone Campaign "verges on genocide", interview with professor Francis Boyle from University of Illinois, Globalresearch.ca, 16th February 2014.
[13] Daniel Sullivan, 5 successes in genocide prevention in 2013, Endgenocide.org, 30th December 2013.

project also had the possibility to gather and develop algorithms in preventing mass atrocities. The Sentinel Project allows a three pronged initiative to predict, prevent and mitigate[14] atrocities, by using a small drone for patrolling areas that had been designated as a risk of mass atrocities. Drones can also create communication networks and help implement and document legal tools in combating and preventing genocide similarly to how satellites helped document the human rights violations in Sudan, Syria and Burma.

As such, drone operators can be both the cause of genocide and also a preventive tool to it. Voices such as that of the journalist Daniel Greenfield[15] issues an outcry on the lack of action against extemist armed groups that cause massive atrocities, such as Daesh, and also that on September 10, 2001, Bill Clinton said that he could have had Bin Laden taken out if not for the collateral damage in Kandahar. As a result of his inaction, 3,000 people in the United States and countless civilians in Afghanistan died.

2.2. Drone operators in crimes against humanity and war crimes

Seeing as how UAVs are more useful in combating genocide than causing it, could the usage of drones be considered a crime against humanity or war crime? The truth is that shady politics and legal frameworks of the United States and its allies could create this impression that it does not follow international law. The American lawyer and Nazi investigator for the Nuremberg Trials, Benjamin B. Ferenzc[16], stated that "*the illegal use of armed force knowing that it will inevitably kill large numbers of civilians is a crime against humanity, and those responsible should be held accountable by national and international courts*," and as such the act to use a weapon that will unavoidably kill a disproportionate number of civilians is considered inhumane and should be held liable. The Rome Statute outlines crimes against humanity as any of the acts enshrined in article 7, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Sadly, the report of the Office of the Prosecutor from 2013 entitled *Report on Preliminary Examination Activities*[17] does not address the usage of drones by coalition forces, however it does address targeted killings as an activity used by Taliban forces and Governmental forces in their search for collaborators. Based on this report, the British Reprieve organization tried to call to justice a series of armed drone using states in almost 156 cases, but most national courts dismissed the cases while the last judiciary line stands with the International Criminal Court[18].

This idea is further strengthened by the report of U.N. special rapporteur[19] from the 21st of June 2012 in Geneva, where it had been brought to the attention of the United

[14] Adrian Gregorich, Drones for Social Good, The Sentinel Project.org, 22th October 2013.

[15] Elizabeth Ruiz, Daniel Greenfield: You can't stop genocide without killing civilians, David Horowitz Freedom Center, 13th October 2014.

[16] Roger Armbrust, Ferencz Condemns Drone Attacks: "A crime against humanity", Clydefitchreport.com, 21th June 2012.

[17] Accessible at this link: https://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Documents/OTP%20Preliminary%20Examinations/OTP%20-%20Report%20%20Preliminary%20Examination%20Activities%202013.PDF.

[18] Candice Bernd, Complaint at World Court Alleges NATO Members Complicit in War Crimes, Truth-out.org, 21th February 2014.

[19] Christof Heyns, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Resolution A/HRC/20/22, 10th April 2012.

Nations that the tactics employed by the United States of America were considered serious crimes under international law since they targeted civilians and first response medical teams. The report was further backed by the Pakistani r and Swiss ambassador, but unfortunately the United States of America dismissed the issue since they already publicly stated that the war on terror is governed by the law of armed conflict and as such these tactics are legitimate[20].

As such, while Central Intelligence Agency and Pentagon agents could technically be trialed for war crimes and crimes against humanity, the fact that the United States of America is not a member state of the Rome Statute and as such would be difficult to seize the Court as per article 13[21] of the Rome Statue since the United States of America is still a permanent member of the Security Council of the United Nations and could block deferrals and other seizures for 12 months, but also shows how the Court lacks a police system to arrest persons outside state cooperation.

Lately, a national judge in the United States of American, Judge Andrew Napolitano, stated that the latest drone operations could be labeled as war crimes if they target American citizens abroad[22], but such statements seem to be unfounded and lack clear guidelines in American legal system, as the case of Anwar al-Awlaki and others proved[23]. The case involved a dual citizenship individual who was killed by a drone strike in the Arabian Peninsula for alleged recruitment and training individuals for specific acts of violence linked with terrorism. The case tried to pull-in the legal responsibility for the U.S. for violations of the U.N. Charter and other human rights conventions. The idea was that the drone strike contradicted article 2 paragraph 4 and article 51 of the U.N. Charter, but the fact that both Yemen and Pakistan consented on the usage of force by a foreign state on their sole removed the liability[24] of the U.S. since 2010 reports showed that C.I.A. convinced the Yemeni President to agree to such strikes, while also proving that Pakistan had tacit consented to strikes even thou strong public protests.

While the *International Review of the Red Cross*[25] issues a warning that not all situations fall under the material field of application of international humanitarian law, the Anwar case proves that the threshold needed to carry out lethal strikes against targets has indeed been lowered. What the case also tried to do is to create a precedent in criminal liability for those that command and operate drones but sadly, the national judges deferred this case to

[20] Jack Serle, UN expert labels CIA tactic exposed by Bureau ”a war crime„ thebureauofinvestigativejournalism.com, 21th of June 2012.

[21] The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if: (a) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14; (b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or (c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

[22] Tina Nguyen, Fox's Judge Napolitano: War Crime for Obama Drone Strikes to have killed Americans, mediaite.com, 24th April 2015.

[23] Robert Chesney, Who May Be Killed? Anwar al-Awlaki as a Case Study in the International Legal Regulation of Lethal Force, Yearbook of International and Humanitarian Law Vol. 13, 2010, University of Texas Schoof of Law, published in 2011.

[24] William Banks, Counterinsurgency law: New Directions in Asymetric Warfare, Oxford University Press, 2013, p. 169-174.

[25] Sylvian Vite, International Review of the Red Cross, Geneva, Switzerland, 2009, p. 70.

unsolvable as drone operators are protected by the secrecy of state matters[26]. Other cases have yet to be brought up in the United States, Great Britain or Israel, even though such crimes could be prosecuted in any state due to the universality principle enshrined in customary law. Recently, Professor David Glazier[27] stated that CIA operatives are not actual combatants but rather are civilians taking part in armed conflict and as such do not benefit of privileges, under this view CIA drone pilots are liable to prosecution under the law of any jurisdiction where attacks occur for any injuries, deaths or property damage they cause.

2.3. Drone operators and the crime of aggression

The International Criminal Court defined aggression as the "use of armed force by one State against another State without the justification of self-defense or authorization by the Security Council"[28], a definition that was already largely accepted from the text of the United Nations General Assembly Resolution 3314[29]. This concept has yet to be implemented since it lacks an operative mechanism to use it, while also the resolution provides that the court will have jurisdiction over aggression subject to a decision to be taken after 1 January 2017. This means that while we now have a definition of the crime of aggression, jurisdiction over the crime it is put off for future decision, which means we have a crime without any means of punishment before the ICC. Empowered by the UN Charter, the Security Council determines the existence of any act of aggression[30].

This however can be a troublesome approach as drone operations have been up until now subject of a defensive doctrine based on self-defense as per article 51 of the Charter rather than an active and classic approach to armed conflict. Resolution 3314's drafting history, however, further undermines the suggestion that American drone strikes against al Qaeda fighters in Pakistan constitute acts of aggression. Resolution 3314 identifies acts of aggression depending, inter alia, on their "consequences" and "gravity," along with "other relevant circumstances"[31].

Until 1st of January 2017 one can only speculate if the crime of aggression could be attributed to drone strikes that have been used in Yemen, Pakistan, Somalia, Syria or Libya since drone operations have been used as an excuse to bypass article 2 para. 4 of the Charter, while also being done with the consent of the state that has terrorist cells operating on its territory[32].

Discouraging as it may be, drone strikes and by extent, drone operators have yet to be held criminally liable for their actions since they have a *license to kill*[33] without the fear of going to court due to the secrecy shrouding the program, thus allowing them to be able to target and kill anybody that is a suspect of terrorism and

[26] Mark Mazzetti, How a US Citizen came to be in Americas cross hairs, nytimes.com, 9th March 2013.

[27] Nathan Hodge, Drone pilots could be tried for war crimes, law prof says, Wired.com, 28th April 2010.

[28] International Criminal Court [ICC], Assembly of States Parties, The Crime of Aggression, Annex I, art. 8, ICC Doc. RC/Res.6 (advance version June 28, 2010).

[29] G.A. Res. 3314 (XXIX), Supp. No. 31, U.N. Doc A/9631 (Dec. 14, 1974).

[30] Michael J. Glennon, The Blank-Prose Crime of Aggression, 35 Yale Journal of International law Vol. 71, 2010, p. 108– 109.

[31] Andrew C. Orr, Unmanned, Unprecedented, and Unresolved: The Status of American Drone Strikes in Pakistan under International Law, Cornell International Law Journal Vol. 729, 2011, p. 741-744.

[32] Coalition for the International Criminal Court, Delivering on the promise of a fair, effective and independent Court > The Crime of Aggression.

[33] Amnesty International, Will I be next? US drone strikes in Pakistan, 22st October 2013, p. 43-50.

any type of activities that can be linked to terror.

3. Drone operators as military objectives

3.1. Defining a military objective

A military objective is limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage[34]. This definition of military objectives is set forth in Article 52(2) of Additional Protocol I, to which no reservations have been made. The definition has been used consistently in subsequent treaties, namely in Protocol II, Amended Protocol II and Protocol III to the Convention on Certain Conventional Weapons, as well as in the Second Protocol to the Hague Convention for the Protection of Cultural Property.

As per article 52 paragraph 2 of the aforementioned Protocol, attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

These situations arising from the interpretation of article 52 and rule 8 enshrine the idea that a key factor is whether the object contributes to the enemy's war fighting or war sustainability capability, and so a military benefit or advantage should derive from the neutralization or capture of the objective[35].

By definition of international humanitarian law, a member of an armed forces is considered a combatant under rule 3 of the ICRC Customary Study and this status only exists in international armed conflicts. A drone operator must comply with the rules that are provided for governmental armed forces, meaning that they could be taken out any time, even if they are thousands of kilometers away from the battlefield. For example, a drone operator sitting in a base in Nevada may control a drone buzzing over Afghanistan. Though the operation may be conducted within a military compound, far removed from civilian populations, the problem arises when a drone operator completes a shift and goes home.

As combatants, drone operators are targetable at any time. On the battlefield, a combatant does not acquire immunity when he or she is eating, sleeping, or picking up children from school. And that is the key, because on traditional battlefields, there are no children, and there are no schools. International law does not allow combatants to kill in the morning and then enjoy immunity later in the evening. It is not a light switch. War has never worked that way[36]. Although the operators of remote-controlled weapons systems such as drones may be far from the battlefield, they still run the weapon system, identify the target and fire the missiles. They generally operate under responsible command; therefore, under

[34] Rule 8 of the ICRC Customary Law Study Vol. I, Jean-Marie Henckaerts and Louise Doswald-Beck, Cambridge, 2009, p. 29-32.

[35] University Centre for International Humanitarian Law Geneva, report expert meeting "Targeting military objectives", 12th May 2005, p. 3-5.

[36] Aroop Mukharji, Drone operators: Soldiers or civilians?, TheAtlantic.com, 28th March 2013.

international humanitarian law, drone operators and their chain of command are accountable for what happens. Drone operators are thus no different than the pilots of manned aircraft such as helicopters or other combat aircraft as far as their obligation to comply with international humanitarian law is concerned, and they are no different as far as being targetable under the rules of international humanitarian law[37].

3.2. Drone operators as military objectives stationed in another state or in their origin state

In an article published by Professor Ryan Goodman[38], it had been stated that that a violation of the maxim does not necessarily entail criminal liability and the maxim could be formulated to include (or exclude) a proportionality analysis. This sparked the possibility of regular army operations or Special Forces operations to either kill or capture a target, based on the instructions or rules given to them by laws of armed conflict and state manuals. The legal right to use armed force is limited to the objective of rendering individuals hors de combat (taken out of battle) or, in the collective sense, to defeating enemy forces. Parties have a right to kill enemy combatants during hostilities, but that right is constrained when killing is manifestly unnecessary to achieve those ends. The author also supports the idea of restraint use of force for any type of combatant, thus for drone operators as well, but this study lacks relevant state practice to uphold the rule.

While current U.S.A. drone bases are known to be only on American soil, the strike on Anwar al-Alwaki was done from a different military installation on Saudi Arabia territory[39] close to the Yemen border. Other bases have been confirmed in Djibouti[40], Ethiopia[41] and other key locations such as the Seychelles or Qatar. Recently, the base in Saudi Arabia has been closed in partial thanks to the recent conflict between the House of Saud and the Yemeni Shiite Rebels[42], a situation that shows how important drone operations and how valuable drone pilots are to the program.

Targeting drone operators in foreign establishments is similar to that of targeting a member of the armed forces of a foreign government inside another state, similarly to how Europe and the United States of America have military bases established in Iraq, Afghanistan or Mali. Consistent with the principle of distinction, attacks may only be conducted against military objectives, including members of the armed forces and other organized armed groups participating in the conflict. By the "use" criterion, civilian objects may become military objectives when the enemy employs them for military ends. Analogously, civilians may be targeted should they "directly participate in hostilities."[43].

This further is outlined in situations such as the peacekeeping operations, where personnel from United Nations peace-keeping forces are not armed forces raised by the Security Council by virtue of Articles 43 and 47 of the United Nations Charter, nor

[37] Interview with the President of the ICRC, Peter Maurer, in 2013, 10th May.

[38] The Power to Kill or Capture Enemy Combatants, The European Journal of International Law Vol. 24 no. 3, 2013, p. 821.

[39] Noah Shachtman, Is this the secret U.S. drone base in Saudi Arabia?, Wired.com, 2nd July 2013.

[40] Telesur, Secret U.S. drone base rapidly expanding in Djibouti, Globalresearch.ca, 21th October 2015.

[41] Nick Turse, America's Secret Empire of Drone Bases, TheWorldCantWait.com, 16th October 2011.

[42] AssociatedPress, U.S. Evacuates key drone base as storm brews in Yemen, 22th March 2015.

[43] Michael N. Schmitt, Targeting and International Humanitarian Law in Afghanistan, International Law Studies – Vol. 85, US Naval War College, Newport, Rhode Island, p. 311-315.

are they organized by the States Members on the basis of an invitation (as in Korea in 1950) or of an authorization by the Security Council (as in the Gulf in 1990, and Somalia in 1992). Both these categories are empowered to use coercive measures to restore international peace and security (or adequate security conditions) in the region concerned[44]. Such a mission would be the MONUSCO[45] mission established through the United Nations Security Council Resolutions 1279 and 1291, which requires a force of over 20 000 to achieve a persistent control over the civil war torn state. The forces stationed there have started, from 2013, to use drones to supervise troop movements, but in 2014 and again in 2015[46], MONUSCO had drones crashes into remote areas or farmlands due to technical issues and never repairing the damages these crashes caused, neither did drone operators or commanders admitted to being at fault for damages caused to civilians in the usage of military drones.

Even the National Guidelines for the Coordination between Humanitarian Actors and MONUSCO adopted in 2006 and revised in 2013 fail to address how drones should be handled in both military and humanitarian areas of activity, while also covering the aspect of surveillance operations with clauses of secrecy to humanitarian actors that work alongside the MONUSCO forces.

Drone operators and commanders that are assigned to such instances, like the one in the Democratic Republic of Congo, will face targeted attacks from the dissident armed forces in a state that has similar issues to the Democratic Republic of Congo. Issues similar to targeted attacks or asymmetric warfare against peacekeeping forces or foreign forces present in a civil war torn state could be resolved by applying the *Kigali Principles*[47], which called for an early assessment of "potential threats to civilians" and the proactive undertaking of steps to mitigate such threats. By applying the Kigali Principles, drone operations could be deployed in advance to counter possible attacks from rebel armed forces against civilian targets or foreign peacekeepers. This of course could count as a law enforcement operation and as such, drone operators would not face the heavy conditions established by international humanitarian law in such an operation. Rule 33 of the ICRC Customary Study also enforces the idea that members of the Peacekeeping Mission are protected by international law and as such attacking them would constitute a war crime[48].

On the other hand, drone operators stationed at home have a similar statute, meaning that they are still protected as members of the armed forces when active and that civilian drone operators (hobbyists and policemen) are protected by municipal laws. For example, in the U.S.A. a woman had a 1 year prison sentence given to her for attacking and beating a civilian drone operator[49] for using it in a public space. Such

[44] Umesh Palwankar, Applicability of international humanitarian law to United Nations peace-keeping forces, Review of the ICRC, 30th June 1993.

[45] United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, established in 1999.

[46] Siobhan O'Grady, How a U.N. drone was promptly forgotten, ForeignPolicy.com, 9th October 2015; AFP, UN surveillance drone crashes in eastern DR Congo, 20th October 2014.

[47] An emerging principle that was conceived in a High-level International Conference on the Protection of Civilians in Kigali, from 28th-29th May 2015, based on the margins of the 69th UN General Assembly in New York.

[48] Article 8(2)(b)(iii) of the Rome Statute, 2003.

[49] Gregory S. McNeal, Woman Faces A Year In Jail For Beating Drone Operator, Assault Caught On Video, Forbes.com, 10th June 2014.

a situation tied with the fact that even uniformed drone operators can be targeted by attacks[50]and be the most efficient way to take out the mechanism, rather than just targeting the drone, which could be captured and re-used. A drone operator in the U.S.A. requires at least 12 months of training along the traditional Air Force Pilot training[51] and gets a very advantageous work benefit package, but as the legal jurisdiction issue is raised, even if they were civilian operators, they could still be punishable for their role by both domestic and international law by their own state or by a third party state, if the attack could constitute an element of crime provided by international criminal law legal documents. In the *Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*[52], for a civilian to be considered a direct participation in hostilities, 3 requirements must be fulfilled: 1) the action must be likely to adversely affect military operations or to cause damage to objects protected against direct attack (threshold of harm); 2) there must exist a link between the act to cause harm and the result (one casual step); 3) the act must cause a direct support to a party to the conflict and be in the detriment of another. As such, the CIA or the UK programs use private contractors to operate drones, and thus civilians who take part in direct hostilities.

3.3. Civilian-military partnerships as a risk towards legal strikes

While drones have been traditionally been considered a platform that only the government could deploy and use such platforms, but lately, drones have been outsourced to private civilian contractors or civilian controlled agencies. This is the case of the Central Intelligence Agency who is a civilian controlled governmental agency that coordinates drone strikes with the Pentagon. These types of cooperation, while also attributing different contracts to other private entities, has been more and more evident ever since Iraq or Afghanistan[53]. As of January 12, 2011, the Air Force has used UAS to deliver 906 Hellfire missiles and 201 GBU-12 precision guided 500 lbs. bombs against enemy targets[54], given the heavy manpower requirement, mission number growth, and demand for UAVs delivered armament, the Air Force, has greatly depended on contractors to maintain these medium and large category UAVs, and to perform intelligence data and video analysis.

A new report (*US Special Operations Command Contracting: Data-Mining the Public Record*), that analyses a US procurement database to shed light on the activities of US military special operations contracting has found that private corporations are integrated into some of the most sensitive counter-terrorism activities[55]. This report outlined that nearly 13 billion us dollars, in a 5 year period, got spent on

[50] David Cortright, Drones and the Future of Armed Conflict: Ethical, Legal and Strategic Implications, the University of Chicago Press, 2015, p. 58-60.

[51] Pratap Chatterjee, Why are drone pilots quitting in huge numbers? , Inthesetimes.com, 10th March 2015.

[52] Nils Melzer, ICRC, 31th December 2008, p. 995-996,

[53] Steven L. Schooner, Daniel S. Greenspahn, Too Dependent on Contractors? Minimum Standards for Responsible Governance, Journal of Contract Management 9, Summer 2008.

[54] 1 Lt Col Bruce Black, "The Future of Unmanned Air Power," The International Institute for Strategic Studies Conference, 20th April 2011.

[55] LeakSource.info, 9th September 2014, report accessible at the following link: http://leaksource.info/2014/09/09/ussocom-outsourcing-surveillance-drone-interrogation-psychological-operations-to-private-contractors-remote-control-report/.

projects from companies such as Lockheed Marti, L-3 Communications, Raytheon or Shee Atika, who had to either provide components or provide intelligence, surveillance and reconnaissance services or on-spot translation services.

Such situations show the growing extent of how private military and security and other intelligence, surveillance and reconnaissance companies have become vital in U.S.A. foreign policy decisions. It even went to the extent of hundreds of private sector intelligence analysts are being paid to review surveillance footage from U.S. military drones in Central Asia and the Middle East, according to a new report from the Bureau of Investigative Journalism[56]. By using contractors, the government can rotate military personnel from active duty to leave permissions, but this also means that private companies gets access to private and sensitive information, that may or may not be protected by privacy laws. The latest outsourcing will be done by the USA to India's Genpact LTD[57] and by this outsourcing, the company will get training for targeting and intercepting enemies and to do intelligence gathering operations, all while being under supervision of the US Department of Defense.

If the entire drone program will be outsourced to private companies then the ability to prosecute crimes will be forever diminished, similar to how the US handled private contractors in Iraq with the famous *Order 17*[58] which gave them immunity from Iraqi law, however, ever since 2007, Uniform Code of Military Justice was amended to allow for prosecution of military contractors who are deployed in a "declared war or a contingency operation". Other incidents that went unprosecuted were Abu Ghraib, the 2005 Trophy Video incident[59] and lately, STTEP International involvement in Nigeria[60]. Most of these incidents would fall under international law, which places legal obligations on states in areas under their jurisdiction or control to provide effective legal remedies for persons who have suffered violations of their fundamental rights. This includes state responsibility to investigate and prosecute serious human rights violations and violations of the laws of war by private persons and entities as well as by government officials and military personnel. Unfortunately, the US is the largest supplier of private defense companies in the world and it is also a state that is not a party to the Rome Statute, meaning that only national legislation could prosecute these contractors. While indeed the US Senate has laws pending to give the Federal Bureau of Investigation powers to investigate contractors that are activating abroad, the current legal framework prohibits the prosecution of civilians by military courts[61].

[56] Abigail Fielding-Smith, Crofton Black, Reaping the rewards: How private sector is cashing in on Pentagon's 'insatiable demand' for drone war intelligence, TheBureauofInvestigativeJournalism.com, 30th July 2015.

[57] Adam Carlson, CIA to outsource Drone Operations to India, NationalReport.net, 18th October 2015.

[58] Christopher Kinsey, Private Contractors and the Reconstruction of Iraq, Contemporary Security Studies, Routledge Publishing, 2009, p. 119.

[59] Steve Fainaru, Blackwater Employees Were Involved in Two Shooting Incidents in Past Week, Washington Post Foreign, 27th May 2007, p. A01, available on https://wikileaks.org/gifiles/docs/36/369911_-os-us-iraq-blackwater-s-earlier-scandals-coalition.html.

[60] Colin Freeman, Nigeria hired South African mercenaries to wage secret war on Africa's deadliest jihadist group, Business Insider, 15th May 2015.

[61] Human Rights Watch, information accessible at this link: https://www.hrw.org/legacy/english/docs/2004/05/05/iraq8547.htm#_ftn4.

4. Should the military have a monopoly on drone intelligence and armed strikes?

4.1. Why it should only be a military monopoly

Drone operators that operate under the US and its allies seem to also fall under international humanitarian law obligations, but lately the Russian Federation has been implementing carbon copies of the rules and regulations that the western states had until now, this being evident in the new drone regulation bill that Russia is expected to implement by the end of 2016[62] which states that: "*people or companies who own and use unmanned aircraft systems (also known as drones) must also appoint a crew and a commander responsible for flight safety. In addition, users of registered drones will have to write a flight plan and submit it to the regional body that coordinates air traffic. Just as with conventional piloted aircraft, once the flight plan is agreed the crew must follow it, with the right to conduct an emergency landing only in cases when public safety is under threat*."

Such actions are evidence that the western states have developed an influence in how the legal framework for drones will look under a global initiative, even thou a drone treaty is still to be drafted and adopted. In regards to military operations, armed drones should remain under regular armed forces since these types of weapon platforms wield different load outs that could not be possible for civilian usage. Case and point the new *Kanyon*[63] drone, a submergible drone that can is powered by a nuclear reactor and has the capability of nuclear armament. While the International Court of Justice Advisory Opinion on Nuclear Weapons[64] does not prohibit the owning of nuclear weapons it did however enforce the idea that such weapons must respect the law principles and customary norms of international humanitarian law and by doing so only lawful combatants could use such a platform. This is further nuanced seeing as how starting from 2013[65] and continued in 2015, after the accidental killing of aid workers[66] in April 2015 in Pakistan, the Obama administration reviewed the drone program to ensure that key elements are now governed by the Pentagon.

Back in 2005 the US had a power struggle inside its armed forces when the Navy and Army blocked a provision that was to be added in the national military program[67] regarding the oversight of the Air Force for any drone that could fly higher than 3 500 feet. The provision never made its way in the program, but currently the Air Force has the intention to revisit the decision and develop a centralized operation that would allow 90 drones to be flown in the same time under its direct control, while offering smaller drones to contractors, Special Forces and the Army.

Another reason to have a centralized agency governing drones is to have capable personnel apply the rules of international humanitarian law in a more direct and professional fashion, as opposed to how the CIA and Pentagon collaboration handled it until now[68]. This means that a committee of

[62] Kelsey D. Atherton, Russia's new drone rules look a lot like America's, Popsci.com, 4th January 2016.

[63] Bill Gertz, State official: Russian Nuclear-Armed drone sub threatens US, FreeBeacon.com, 2st December 2015.

[64] ICJ Legality of the threat or use of nuclear weapons Advisory Opinion of 8 July 1996.

[65] RussiaToday, Obama to hand over some CIA drone operations to the Pentagon, 21th May 2013.

[66] Jim Acosta, Obama to make new push to shift control of drones from CIA to Pentagon, CNN, 27th April 2015.

[67] Marcus Weissberger, Should one US service rule the military's drones?, Defenceseone.com, 24th August 2015.

[68] Micah Zenko, Transferring CIA Drone Strikes to the Pentagon Policy Innovation Memorandum No. 31, Council of Foreign Relations, April 2013.

the Parliament, or in the case of the US, the Senate (Select Committee on Intelligence), could handle reports much better and not have different committees handle the same reports in such a way that could cause a bureaucratic slowdown. This means that in the case of the US this can only be accomplished by the Department of Defense operations, because the foreign relations committees cannot hold hearings on covert CIA drone strikes. Such a solution was already drafted in 2004, as the 9/11 Commission recommended that the "*lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department*" to avoid the "*creation of redundant, overlapping capabilities and authorities in such sensitive work*."

4.2. Conclusions - Drone operators brought before courts

Current drone programs around the world lack any relevant case laws that could make or break the program, but even so, there are lots of cases based on the Freedom of Information Act from the USA that request the Office of Legal Counsel to issue opinions and memos regarding the legal status of targeted killings of people suspected of ties to terrorist groups[69]. Unfortunately, most of these lawsuits ended up with the *Glomar response*, meaning that courts did not confirm nor denied the existing of legal documents that can verify the orders and justification for drone strikes. In the case of the ACLU versus CIA[70], district court Judge Collyer issued ruling that even summaries of the drone program could compromise CIA structure, interests and involvement and as such could lead to disclosure of sensitive information. Later, the D.C. Appeal Court rejected the CIA sensitive information case as President Obama admitted the CIA implications in drone strikes and as such the court forced the CIA to release documents or at least the admittance that they exist.

While the current Presidential Administration requests that the CIA should release more information on how its drone program functions, more and more quasi-judicial activities have started to open up, starting from Philip Alston report in 2005[71] and ending with the *May Revolution*[72], as it has been dubbed, the US started shifting its position from constantly blocking any action against its drone program to a more transparent policy where it can be asked through the Freedom of Information Act some issues regarding the legality of the program, it still failed to capture the sentiment that a court could hold accountable a pilot for his or hers actions, but also failed to point out an executive office or branch that is overseeing these drone strikes. While indeed, the U.N. Special Rapporteur, Ben Emerson[73], did see the US drone program in a new light, he did still outlined a lot of serious issues that the speech did not tackle now that it acknowledged that drone strikes have been undertaken. As a further plea for commitment, the same Judge Collyer who sided with the CIA, requested a memorandum from the Government explaining relevant information on the

[69] Derek Jinks, Applying International Humanitarian Law in Judicial and Quasi-Judicial Bodies, Asser Press, 2014, p. 83-86.

[70] Cody M. Poplin, D.C. District judge sides with CIA in Drone FOIA Case, Lawfareblog.org, 19th June 2015. Civil Action No. 10-436 (RMC)

[71] Derek Jinks, see supra note 70, p. 90.

[72] Barrack Obama U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities, Speech, May 2013.

[73] OHCHR.org, UN Special Rapporteur urges more clarity on Obama's counter-terrorism policies, 7th June 2013.

targeted strikes it carried in the Anwar al-Awlaki.

These types of lawsuits must not be looked upon as regular litigations, but rather be analyzed from a procedural stand point. A procedure to try and obtain information, even if it's just a denial or dismissal as it shows how the policies are relevant in such covert operations.

However, if one could seize the International Criminal Court to investigate alleged crimes committed by drone operators, then there are safeguards built into the Rome Statute which will protect the United States. The Court may return the issue to U.S. national courts because of the principle of complementarity. Additionally, the "gravity threshold"[74] may prevent the Court's jurisdiction[75]. Also, there is less clarity as to how the CIA's chain of command enforces the laws of war. If the CIA's chain of command does enforce the laws of armed conflict, then the CIA drone operators are combatants, entitled to the combatants' privilege but also liable to be targeted at all times. If the CIA's chain of command does not enforce the laws of war then the CIA drone operators are unprivileged belligerents. They could potentially face domestic criminal prosecution in places like Yemen or Pakistan, and they would remain targetable at all times as continuous combat functionaries rather than as combatants.[76]

While indeed Spain[77] and Italy[78]both tried to prosecute American soldiers for alleged crimes both abroad and inside their boundaries, both of them had to dismiss the cases, despite public outcry, due to the refusal of the US to offer cooperation in these matters.

These are just samples to how prosecution of drone operators could easily be dismantled in future cases against the drone program. This is further outlined in the recent air strike against Kunduz Hospital[79] where the lack of reaction from the US and its allies to the alleged war crime marks a low-point in how credible the judicial system against army personnel truly is.

As another point, even if a state was a member state of the International Criminal Court, they could still defer to prosecute the drone operators as part of the complementarity principle which allows a state to prosecute a person and allow the Court to observe the trial. Only if the Court is not satisfied with the trial or if the state is not able or willing to prosecute the person, only then could it have jurisdiction over said person.

As a conclusion, drone operations and by extent operators have come a long way but the current state of affairs is still unresponsive and not offering sufficient transparent decision making policies, issues that will only further damage the reputation of armed governmental forces once intelligent drones and autonomous weapons take over the battlefield. If these types of weapon platforms would become viable, then operators and commanders could

[74] Gravity Threshold: The Court investigates and prosecutes crimes of concern to the international community-genocide, crimes against humanity, and war crimes. These crimes "shock the conscience of humanity" and are of "worldwide concern."

[75] Lailey Rezai, U.S. Drone Policy and the International Criminal Court, American NGO Coalition for the International Criminal Court, 22nd July 2014.

[76] Michael W. Lewis, Drones and distinction: How IHL encouraged the rise of drones, Georgetown Journal of International Law, 4th May 2013, p. 1161-1162.

[77] Staff and Agencies, Spain forced to drop inquiry into 2003 killing of cameraman by US shell in Iraq, TheGuardian.com, 9th June 2015.

[78] John Tagliabue, 20 die in Italy as U.S. jet cuts ski lift cable, NYTimes.com, 4th February 1998.

[79] Medicine Sans Frontiers, 3rd October 2015, information accessible at: http://www.msf.org/article/afghanistan-msf-staff-killed-and-hospital-partially-destroyed-kunduz.

become even harder to prosecute as they could simply state that it had technical difficulties or that its parameters were designed that way, thus making the manufacturer or even the software programmer liable. As it currently stands, drone operators may have the legal background to play fair as a member of the governmental armed forces of a state, they however will fall more and more under the tempting shield that is the unregulated field of drone warfare and its lack of judiciary mechanisms.

References

- Interview with Peter W. Singer, Director of the 21st Century Defense Initiative at the Brookings Institution, Washington, United States of America, International Review of the Red Cross, Vol. 94, Number 886, Summer 2012.
- Dan Saxon, International Humanitarian Law and the Changing Technology of War, Martinus Nijhoff Publishers, Leiden, 2013.
- R. Johnson, US Civilians are now helping decide who to kill with military drones, Bussiness Insider, 30 December 2011.
- Murtaza Hussain, Former Drone Operators say they were "horrified" by cruelty of assassination program, theintercept.com, 19 November 2015.
- Helen Pow, Did we just kill a kid?, Dailymail.co.uk, 17 December 2012.
- A Shalal-Esa, Future drone pilots may fly four warplanes at once, Reuters, 24 December 2011.
- Ann Garrison, Predator drones to "stop genocide"?, globalresearch.ca, 2th May 2011.
- Presstv, Saudi Arabia ethnically cleansing Yemenis: Activist, 16th September 2015.
- Steven Aftergood, dod Releases doctrine on Mass Atrocity Response Operations, Fas.org, 6th June 2013.
- Spencer Ackerman, Pentagon: Drones can stop the next Darfur, Wired, 2st November 2011.
- Sherwood Ross, Obama Drone Campaign "verges on genocide", interview with professor Francis Boyle from University of Illinois, Globalresearch.ca, 16th February 2014.
- Daniel Sullivan, 5 successes in genocide prevention in 2013, Endgenocide.org, 30th December 2013.
- Adrian Gregorich, Drones for Social Good, The Sentinel Project.org, 22th October 2013.
- Elizabeth Ruiz, Daniel Greenfield: You can't stop genocide without killing civilians, David Horowitz Freedom Center, 13th October 2014.
- Roger Armbrust, Ferencz Condemns Drone Attacks: "A crime against humanity", Clydefitchreport.com, 21th June 2012.
- Candice Bernd, Complaint at World Court Alleges NATO Members Complicit in War Crimes, Truth-out.org, 21th February 2014.
- Report on Preliminary Examination Activities 2013.
- Candice Bernd, Complaint at World Court Alleges NATO Members Complicit in War Crimes, Truth-out.org, 21th February 2014.
- Christof Heyns, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Resolution A/HRC/20/22, 10th April 2012.
- Jack Serle, UN expert labels CIA tactic exposed by Bureau "a war crime,,, thebureauofinvestigativejournalism.com, 21th of June 2012.
- Tina Nguyen, Fox's Judge Napolitano: War Crime for Obama Drone Strikes to have killed Americans, mediaite.com, 24th April 2015.
- Robert Chesney, Who May Be Killed? Anwar al-Awlaki as a Case Study in the International Legal Regulation of Lethal Force, Yearbook of International and Humanitarian Law Vol. 13, 2010, University of Texas Schoof of Law, published in 2011.

- William Banks, Counterinsurgency law: New Directions in Asymetric Warfare, Oxford University Press, 2013.
- Sylvian Vite, International Review of the Red Cross, Geneva, Switzerland, 2009;
- Mark Mazzetti, How a US Citizen came to be in Americas cross hairs, nytimes.com, 9th March 2013.
- Nathan Hodge, Drone pilots could be tried for war crimes, law prof says, Wired.com, 28th April 2010.
- G.A. Res. 3314 (XXIX), Supp. No. 31, U.N. Doc A/9631 (Dec. 14, 1974).
- Michael J. Glennon, The Blank-Prose Crime of Aggression, 35 Yale Journal of International law Vol. 71, 2010.
- Andrew C. Orr, Unmanned, Unprecedented, and Unresolved: The Status of American Drone Strikes in Pakistan under International Law, Cornell International Law Journal Vol. 729, 2011.
- Amnesty International, Will I be next? US drone strikes in Pakistan, 22st October 2013.
- ICRC Customary Law Study Vol. I, Jean-Marie Henckaerts and Louise Doswald-Beck, Cambridge, 2009.
- University Centre for International Humanitarian Law Geneva, report expert meeting "Targeting military objectives", 12th May 2005.
- Aroop Mukharji, Drone operators: Soldiers or civilians?, TheAtlantic.com, 28th March 2013.
- The Power to Kill or Capture Enemy Combatants, The European Journal of International Law Vol. 24 no. 3, 2013.
- Noah Shachtman, Is this the secret U.S. drone base in Saudi Arabia?, Wired.com, 2nd July 2013.
- Telesur, Secret U.S. drone base rapidly expanding in Djibouti, Globalresearch.ca, 21th October 2015.
- Nick Turse, America's Secret Empire of Drone Bases, TheWorldCantWait.com, 16th October 2011.
- AssociatedPress, U.S. Evacuates key drone base as storm brews in Yemen, 22th March 2015.
- Michael N. Schmitt, Targeting and International Humanitarian Law in Afghanistan, International Law Studies – Vol. 85, US Naval War College, Newport, Rhode Island.
- Umesh Palwankar, Applicability of international humanitarian law to United Nations peace-keeping forces, Review of the ICRC, 30th June 1993.
- Siobhan O'Grady, How a U.N. drone was promptly forgotten, ForeignPolicy.com, 9th October 2015.
- AFP, UN surveillance drone crashes in eastern DR Congo, 20th October 2014.
- Gregory S. McNeal, Woman Faces A Year In Jail For Beating Drone Operator, Assault Caught On Video, Forbes.com, 10th June 2014.
- David Cortright, Drones and the Future of Armed Conflict: Ethical, Legal and Strategic Implications, the University of Chicago Press, 2015.
- Pratap Chatterjee, Why are drone pilots quitting in huge numbers? , Inthesetimes.com, 10th March 2015.
- Steven L. Schooner, Daniel S. Greenspahn, Too Dependent on Contractors? Minimum Standards for Responsible Governance, Journal of Contract Management 9, Summer 2008.
- Lt Col Bruce Black, "The Future of Unmanned Air Power," The International Institute for Strategic Studies Conference, 20th April 2011.
- Abigail Fielding-Smith, Crofton Black, Reaping the rewards: How private sector is cashing in on Pentagon's 'insatiable demand' for drone war intelligence, TheBureauofInvestigativeJournalism.com, 30th July 2015.
- Adam Carlson, CIA to outsource Drone Operations to India, NationalReport.net, 18th October 2015.
- Christopher Kinsey, Private Contractors and the Reconstruction of Iraq, Contemporary Security Studies, Routledge Publishing, 2009.

- Steve Fainaru, Blackwater Employees Were Involved in Two Shooting Incidents in Past Week, Washington Post Foreign, 27th May 2007.
- Colin Freeman, Nigeria hired South African mercenaries to wage secret war on Africa's deadliest jihadist group, Business Insider, 15th May 2015.
- Kelsey D. Atherton, Russia's new drone rules look a lot like America's, Popsci.com, 4th January 2016.
- Bill Gertz, State official: Russian Nuclear-Armed drone sub threatens US, FreeBeacon.com, 2st December 2015.
- ICJ Legality of the threat or use of nuclear weapons Advisory Opinion of 8 July 1996.
- RussiaToday, Obama to hand over some CIA drone operations to the Pentagon, 21th May 2013.
- Jim Acosta, Obama to make new push to shift control of drones from CIA to Pentagon, CNN, 27th April 2015.
- Marcus Weissberger, Should one US service rule the military's drones?, Defenceseone.com, 24th August 2015.
- Micah Zenko, Transferring CIA Drone Strikes to the Pentagon Policy Innovation Memorandum No. 31, Council of Foreign Relations, April 2013.
- Derek Jinks, Applying International Humanitarian Law in Judicial and Quasi-Judicial Bodies, Asser Press, 2014.
- Cody M. Poplin, D.C. District judge sides with CIA in Drone FOIA Case, Lawfareblog.org, 19th June 2015.
- United States District Court for the District of Columbia, ACLU vs. CIA, Civil Action No. 10-436 (RMC).
- Barrack Obama U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities, Speech, May 2013.
- OHCHR.org, UN Special Rapporteur urges more clarity on Obama's counter-terrorism policies, 7th June 2013.
- Lailey Rezai, U.S. Drone Policy and the International Criminal Court, American NGO Coalition for the International Criminal Court, 22nd July 2014.
- Michael W. Lewis, Drones and distinction: How IHL encouraged the rise of drones, Georgetown Journal of International Law, 4th May 2013.
- Staff and Agencies, Spain forced to drop inquiry into 2003 killing of cameraman by US shell in Iraq, TheGuardian.com, 9th June 2015.
- John Tagliabue, 20 die in Italy as U.S. jet cuts ski lift cable, NYTimes.com, 4th February 1998.