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USA: Transparency and accountability essential in use of drones – UN human rights experts

GENEVA (29 April 2015) – A group of UN independent human rights experts* today welcomed the US Government’s announcement of a review into two counter-terrorism operations involving the use of drones, but they stressed the need to ensure transparency and accountability.

The US Government acknowledged the accidental killing of four individuals in counter-terrorism operations conducted in January in the border regions of Afghanistan and Pakistan involving the use of drones, following declassification of information related to the operations and disclosure to the public.

“We welcome President Obama’s apology to the families. All innocent victims of drone attacks deserve such an apology, regardless of their nationality,” the experts stated.

“In my report to the UN General Assembly in 2013, I urged the United States to declassify, to the maximum extent possible, information relevant to its lethal extraterritorial counter-terrorism operations, and to release its own data on all civilian casualties inflicted through the use of remotely piloted aircraft, as well as information on the evaluation methodology used,” said Ben Emmerson, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

The experts stressed that it was crucial for this approach to go beyond these incidents.

“Authorities are often obliged to plan these sorts of counter-terrorism operations on the basis of factual hypotheses that cannot be adequately verified due to incomplete or conflicting information,” the experts observed. “Purely *ex post facto* assessments into what has possibly gone wrong are important for the purposes of evaluating impact, identifying lessons learnt and putting in place operational arrangements to mitigate against repetition,” they noted. “However, they are not enough for a finding of State, as well as individual, responsibility.”

“It is critical that whenever civilian casualties are suspected, there is a proper procedure in place to ascertain the facts, and that the facts are then made public with a view to securing accountability and reparations for the victims,” they said. “Any plausible allegation of killing of or serious injury to civilians triggers the obligation to investigate. This is an obligation that is imposed by international human rights law and international humanitarian law on States using drones as well as on States on whose territory such technology is used.”

“According to internationally recognized legal standards, investigations must be prompt, impartial, independent and exhaustive,” added Juan Mendez, the Special Rapporteur on torture.

The experts stressed that, subject to redactions on the grounds of legitimate national security, their results must be open to public scrutiny, and, where appropriate, adequate reparation to victims and their families must be offered.

“Ultimately, the lawfulness of Government action should be subject to independent and effective judicial review, both at the domestic, and at the international level,” said Gabriela Knaul, the Special Rapporteur on the independence of judges and lawyers.

The experts also expressed hope that the commitment made by the US Government will provide new impetus towards a concerted response by the international community to the unresolved controversies surrounding the use of armed drones.

“The legal framework for maintaining international peace and the protection of the right to life is a coherent and well-established system. States using drones have an obligation to respect international standards and prevent violations,” said Christof Heyns, the Special Rapporteur on extrajudicial, summary or arbitrary executions, cautioning against broad and permissive interpretations of the current international rules and standards.

“There are a number of legal questions on which there is either no clear international consensus, or where current practices and interpretations appear to need further discussion,” noted Ben Emmerson. “Only a legitimate consensus across the international community can pave the way to a sound, ethical and legal response to these questions.”

The experts stressed that armed drones should be used in a manner that is compatible with international law.

(*) The experts: **Ben Emmerson**, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; **Juan Méndez**, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; **Christof Heyns**, Special Rapporteur on extrajudicial, summary or arbitrary executions; and **Gabriela Knaul**, Special Rapporteur on independence of judges and lawyers.

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