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# Armed drones

## Article 36

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### Background

Armed drone technologies hold the potential to facilitate practices that challenge boundaries to the use of force, and to lower thresholds for military action. This arises from features they offer such as the ability to survey and gather unprecedented amounts of data,<sup>1</sup> and to attack across borders without physical risk to the attacker using systems considered more expendable. Drones give states possibilities to operate military technologies in areas or against people where they may not otherwise have been able or willing to apply military force.

The record of use of these systems to undertake airstrikes during the past sixteen years has borne out many of these risks. Some states have used armed drones to expand the contexts in which they use explosive force, taking such practices beyond armed conflicts into other spaces. They have presented legal justifications that if accepted would represent regressive changes in international law.

The most notable example has been US use of drones in Pakistan, Somalia, and Yemen to conduct killings of those suspected of affiliation with certain groups, in areas where armed conflicts involving the US are not taking place. Serious harm has been seen in communities as a result over the years, including deaths, injuries, destruction,<sup>2</sup> and psychological harm.<sup>3</sup> These activities have increased under the new US administration.<sup>4</sup> Despite the humanitarian, legal, and ethical

challenges posed by current use, and implications for dangerous trajectories in the use of force, insufficient attention has been paid by states at the international level to drones as a development in weapons technology.

Strong international standards clarifying the limits of acceptable use for drones would help to prevent and mitigate harm from these increasingly popular military technologies. Almost 30 countries are now known to have armed drones, with many more possessing unarmed systems for deployment in the use of force.<sup>5</sup>

### Current context

In October 2016, the US launched a political declaration that has now been endorsed by 53 countries, outlining five principles that these states “recognize” as important for ensuring the “responsible export and subsequent use” of “armed or strike-enabled UAVs [“unmanned” aerial vehicles].”<sup>6</sup>

Though this indicates possible interest from states in addressing certain aspects of these technologies, the document inevitably does not acknowledge or seek to address the harm caused by the activities of current users. States and policy experts have expressed concern about the weakness and vagueness of the text compared even with current US domestic standards—and therefore the declaration’s potential to undermine states’ existing obligations.<sup>7</sup>

The declaration does not contain commitments, but includes a resolution to “continue discussions”. Work is now being taken forward by a core group of states to develop politically binding international standards, building on it.

At the regional level, the European Parliament’s subcommittee on Human Rights published “Towards an EU Common position on the use of armed drones”<sup>8</sup> in June 2017. This proposes a legal and policy framework outlining the contours of a common position on the use of armed drones, including principles of transparency and accountability and recommendations on export controls that member states were urged to adopt.

At last year’s meeting of First Committee, only ten states spoke on the subject of drones. These countries raised concerns relating to the upholding of the law, as well as ethical and proliferation issues. There was one relevant resolution, on transparency in armaments (71/44), which adopted the 2016 recommendations of the Group of Governmental Experts (GGE) on the UN Register on Conventional Arms. These included that “unmanned combat aerial vehicles” be added to the categories of reporting for the Register.

Later this year, the United Nations Institute for Disarmament Research (UNIDIR) plans to release the results of its project on UAV transparency, oversight, and accountability, which draws on a series of meetings with states and experts on drones. States should study its recommendations, with an eye to developing international standards that would reduce and mitigate the harm caused by current drone use.

## Recommendations

*During First Committee, delegations should:*

- Recognise the ethical, legal, and humanitarian concerns raised by drones, including risks and the patterns of harm caused by current use;
- Assert the need to ensure that the rights of victims of drones are upheld by all states, and that all casualties should be recorded;
- Recognise the need for discussions to clarify the limits of acceptable use for drones, which should lead to the agreement of international standards that address the risks and respond to the harms caused by these technologies; and
- Recommend that any follow up agreement to the US-led declaration should be: inclusive of all states and civil society in its process of development; include clear commitments that add value to existing regimes; uphold principles of transparency, accountability and oversight; and include commitments to transparency on national policy and practice.

*Beyond First Committee, states should:*

- Raise concerns and support the articulation of progressive standards in all relevant forums internationally and regionally;
- Articulate detailed national policies on the use of drones in the use of force that are in line with and strengthen international norms that limit the use of force; and
- Explore how work can be undertaken to develop international standards that clarify the limits of acceptable use for drones.

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*Close Pine Gap encampment in Australia protesting the military base's involvement in targeting US drone strikes, September 2016 © Ray Acheson*

- 1 Though this does not necessarily translate in to the accurate identification of those the attacker wishes to target. See Pratap Chatterjee and Christian Stork, "Drone, Inc.: Marketing the Illusion of Precision Killing," CorpWatch, 2017, <http://s3.amazonaws.com/corwatch.org/downloads/DroneInc-August2.pdf>.
- 2 For data on casualties and analysis of the destruction of residential dwellings in Pakistan, see The Bureau of Investigative Journalism's Drone Warfare project: <https://www.thebureauinvestigates.com/projects/drone-war>.
- 3 See for example *Living Under Drones: Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan*, International Human Rights and Conflict Resolution Clinic, Stanford Law School and Global Justice Clinic, NYU School of Law, 2012, <http://chrgj.org/wp-content/uploads/2012/10/Living-Under-Drones.pdf> and Radidja Nemar, "Traumatising Skies: U.S. Drone Operations and Post-Traumatic Stress Disorder (PTSD) among Civilians in Yemen," Alkarama, 2015, <https://www.alkarama.org/en/articles/component/k2/1764-yemen-alkarama-s-report-2015-traumatising-skies-u-s-drone-operations-and-post-traumatic-stress-disorder-ptsd-among-civilians-in-yemen>.
- 4 See for example Sarah Kreps and Miles McCain, "Congress keeps quiet on U.S. drone policy—and that's a big problem," *Washington Post*, 25 August 2017, <https://www.washingtonpost.com/news/monkey-cage/wp/2017/08/24/congress-keeps-quiet-on-u-s-drone-policy-and-thats-a-big-problem>.
- 5 "World of Drones: Military," *New America*, <http://securitydata.newamerica.net/world-drones.html>.
- 6 The declaration text and endorsers are available at <https://2009-2017.state.gov/r/pa/prs/ps/2016/10/262811.htm>.
- 7 See for example Rachel Stohl in *Defence News*: <http://www.defensenews.com/pentagon/2016/09/29/new-draft-on-drone-export-rules-more-problematic-than-original>.
- 8 Jessica Dorsey, "Towards an EU common position on the use of armed drones," European Parliament Directorate-General for External Policies, June 2017, [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578032/EXPO\\_STU\(2017\)578032\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578032/EXPO_STU(2017)578032_EN.pdf). See also "Subcommittee on Human Rights Workshop: Towards a European common position on the use of armed drones?" European Parliament, 22 March 2017, <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20170322-1500-COMMITTEE-DROI>.