

Predator Drone Strikes on Al Qaeda and Taliban Targets in Pakistan

The Pros and Cons for a Policy of Targeted Killings (An American Perspective)

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Abstract:

This article represents the first effort to provide both the for and against arguments for Predator aerial drone strikes in Pakistan against the Taliban and Al Qaeda. The *against* side argues that the Predator drone strikes fly in the face of international law. They set a dangerous precedent and may be imitated by other governments, including India. They also undermine the Pakistani government in its war against the Taliban and Al Qaeda by painting Musharraf and Zardari as “stooges” who cannot defend their own territorial sovereignty.

The *for* side argues that only those who are already pre-disposed to anti-Americanism reflexively criticize the strikes. Such arguments overlook the fact that the Taliban and Al Qaeda who are killing Pakistani civilians are dying in large numbers in the drone attacks, especially foreign Al Qaeda elements. Most importantly, there is evidence by Pakistani sources to show that the tribesmen of the region fear Al Qaeda and the Taliban. They are in favor of the drone strikes against those who torment them and are effectively carving Pakistan up into small “Talibanistans.”

Key words:

Predator, Taliban, Talibanistans, FATA, Al-Qaeda, Terrorism, Insurgency, Anti-Americanism.

"A go-it-alone strategy by the U.S. inside Pakistan will spell nothing but trouble for everyone"

Dawn (Pakistani newspaper). September 5, 2008.

"The US is violating the sovereignty of the Taliban and Al-Qaeda, not of Pakistan."

Farhat Taj. Pakistani researcher, March 5, 2009.

Introduction

Pakistan is both a vital ally of America in the post-9/11 world and a victim of weekly terrorism by terrorists who are part of the very Al Qaeda-Taliban alliance that attacked the US on September 11, 2001. For this reason, it is of utmost importance to America and its NATO allies to understand this strategic country. The

USA and Pakistan each need to act as the “anvil” to the other's “hammer” in their counter-insurgencies along the Pakistani-Afghan border. The US genuinely hopes for peace and stability in this vibrant and powerful country that is home to nuclear weapons. Anything that threatens America's relationship with Pakistan is worthy of serious investigation by both the American and Pakistani intellectual communities.

For this reason, it is mystifying that more attention has not been devoted to objectively exploring the issue of Predator drone strikes against Al Qaeda and Taliban targets in Pakistan. Should these strikes be considered a success for killing top terrorist leaders who are plotting attacks against Pakistan/Afghanistan and denying Al Qaeda and Taliban leaders operational security? Or are they a clear violation of Pakistani air space that weakens the Pakistani state and democracy by turning the Pashtun tribes against their own government and driving them into the arms of the Taliban? In the long run are these strikes the most effective tool in the allies' counter-terrorism arsenal or are they a blunt tool that is merely exacerbating problems?

In light of the undoubted tactical effectiveness of the UAVs (Unmanned Aerial Vehicles) in killing a stunning array of terrorist targets *and* in creating an up swell of anti-American sentiment in Pakistan, this issue needs to be explored deeper.

With the aim of getting to the heart of this issue that has been dominated by a combination of hysteria and ignorance, this report's authors have decided to objectively lay out the arguments both for and against the missile strikes program. This exercise should cut through some of the hysteria and ignorance on both sides and calmly lay out the pros and cons of this program.

The aim here is not, however, to produce the definitive word on this highly controversial issue, but merely to open a dialogue that might allow the US and Pakistan to come to some sort of understanding on this contentious issue. For regardless of one's stance, it is the firm belief of the authors that it is in the interest of the Pakistani and American peoples to explore issues of misunderstanding that threaten our important relationship in these troubled times. The first step in this process is to patiently lay out the arguments on both sides to provide an overall perspective that might help solve the contention.

Pro: Predator Drone Strikes. The Most Effective Means for Denying the Terrorists Operational Security

Background

In the aftermath of the stunning success of 2001's campaign against the Taliban it did not disturb the Pakistanis unduly when the regrouping Taliban began to launch cross border raids on the Americans and their NATO and Afghan allies. Ironically, this low level insurgency would serve to ensure that Pakistan would be needed as an ally in clamping down on the Pakistani-based insurgents.

This 'blind eye' policy of the Pakistanis *vis a vis* the Taliban insurgents naturally came to infuriate President Karzai and President Bush who correctly came to see the insurgents' cross border sanctuaries in Pakistan as the greatest threat to the rebuilding of a peaceful and prosperous Afghanistan. As 10 billion US dollars poured into Pakistan to help it wage war against what assumed to be a common enemy, the American and Afghan governments increased pressure on President Musharraf to live up to his end of the bargain. Reluctantly, the Pakistani military entered the tribal zones for the first time to carry out operations against the Taliban in 2003.

Interestingly enough, by this time the Pakistanis' actions may have had as much to do with self preservation as helping out their allies-of-the-day, the Americans and Afghans. This was because the exiled Taliban had begun a policy of 'Talibanizing' the Federally Administered Tribal Agencies. This bloody campaign involved the beheading of pro-government *maliks* (tribal leaders), the harsh enforcement of *shariah* Islamic law (i.e. outlawing of television sets, movie theaters, alcohol, music, women without *burqas* etc.). A typical report from the Pakistani press described this sort of creeping conquest by the Taliban as follows:

The Talibanisation of Orakzai Agency in the past few months has resulted in a drastic change in the lifestyles of the tribal residents, as the political administration has retreated and is now restricted to functioning in its Hangu district headquarters. "Talibanisation has taken strong roots in Orakzai and the region is now run by the Taliban council, which has introduced sharia law," tribesmen who have moved from Orakzai to escape Taliban-style rule told Daily Times on Tuesday.

Despite government attempts to block their infiltration, the Taliban recently celebrated their "complete control" over the region by inviting a group of journalists to the area in a show of power. According to former residents, the Taliban have set up their own courts to provide 'justice' to the people. They said that the traditional tribal jirga system had been abolished and all development schemes had been halted. The anti-polio drive has also failed and local and foreign militants are seen manning check posts that were previously held by government forces.

They said the Taliban council had banned women from traveling outside their homes without the escort of male family members. "There is a ban on music and dancing during wedding ceremonies; working of NGOs; and development works," they added. Each area now has its own Taliban chief and is patrolled by Taliban militants to keep the local population under the control of the TTP, the residents said. (Abdul Saboor Khan, 2009)

In response to this sort of violation of Pakistani sovereignty, the Pakistanis began half hearted incursions into FATA that were showcased as efforts to crack down on Al Qaeda agents like Zawaheri and Bin Laden who were suspected of hiding in the region. The Pakistanis were still reluctant to move wholeheartedly against a movement that they themselves had mid-wifed, and the operations were for this reason ineffectual.

This half hearted approach allowed the Taliban to kill the remaining pro-government *maliks* and create *de facto* Taliban *amirates* (states) in Bajaur, North Waziristan, South Waziristan and elsewhere. Pakistan was literally being carved up internally and this was giving the Taliban insurgents operational security to launch attacks across the border into Afghanistan. The Taliban's rear base was secure and Pakistani militants flocked to wage warfare alongside their kin across the border in Afghanistan.

Thus things remained from 2003 to 2007. The Pakistani army which was trained for frontal war with India proved to be ineffective in fighting a counter insurgency against the Taliban (fellow Pakistanis) in the tribal areas. As a result, lawlessness spread from the FATA to the North West Frontier Province. But the Taliban made a point of at least publicly proclaiming they were not at war with Pakistan despite the state of open warfare between them and the Pakistani military in many parts of the FATA.

Then, in 2007, Pakistan's "Frankenstein" openly turned on its benefactors when Nek Muhammad's more virulent replacement, Baitullah Mahsud, openly turned the *Tehrik e Taliban* against Pakistan society. The scourge of suicide bombing came to Pakistan and hundreds of innocents were soon being blown to bits in funerals, rallies, hotels, checkpoints, army bases, markets etc as Taliban bombers destroyed the country's sense of security. On almost a weekly basis there were suicide bombing attacks in Pakistan whose origin was primarily the FATA region (Pakistani-Kashmiri jiahdi groups of course may have played a role as well).

The violence increasingly spread to the resort region of Swat which became another *de facto* Taliban independent state inside of Pakistan. Then there were such outrages as the killing of Benazir Bhutto, the Marriott Hotel bombing, and the attack on the Sri Lankan cricket team. While many Pakistanis seemed willing to blame *anyone* but the terrorists, Americans did not have the operational luxury to subscribe to the Musharraf-did-it, the Indians-did-it, the Americans-did-it, Israelis-did-it, rumor mill. Americans were dying in the hundreds (660 have died in Afghanistan at the time of this writing) fighting Taliban insurgents and suicide bombers who did certainly not come from Musharraf, the USA or India! Even if the Pakistanis who were dying at the hands of these same bombers did not recognize the origins of the terror campaign (namely the tribal areas), the Americans did.

While the Soviets made numerous incursions across the border into Pakistan, the Americans could not afford the luxury of 'hot pursuit' incursions and only tried this sort of incursion once. There had to be a 'softer' solution to the Taliban-Al Qaeda 'cancer' that was creeping from FATA into other parts of Pakistan. There also had to be a solution to the Taliban coming across the border and killing thousands of Afghan citizens on their own soil. These were not imaginary fighters sent by India, Israel, the USA or Musharraf.

This was the context for the emergence of Predators and the even more advanced Reaper as an American weapon of choice to kill and disrupt terrorist-insurgent activities across the border in the sovereign nation of Pakistan.

While the Predator MQ-1 aerial drone had originally been used as a surveillance platform during the 1999 Kosovo War, it was quickly taken over by the Pentagon in the aftermath of 9/11 as a weapon. Laser guided Hellfire missiles were affixed to the drone's wings and it was sent into action during 2001's Operation Enduring Freedom. The Predator was the most precise weapon in the US arsenal. It was used with great effect to kill Al Qaeda's number 2 leader, Muhammad Atef in a hotel in Gardez, Afghanistan in November 2001.

There were several other Predator attacks on Al Qaeda targets during Operation Enduring Freedom. The US military which had gotten more and more precise since the Kosovo campaign was thrilled with the Predator. In *militarese*² it was less likely to inflict "collateral damage" on the enemy than more clumsy bombs dropped by manned fighter-bombers. It was so precise with its nose mounted camera you could literally watch the enemy you were killing to make sure you did not kill innocent civilians. It was no leap of imagination to see that it would make the perfect weapon for hunting Al Qaeda who were hiding out in compounds in the tribal regions of Pakistan.

One of the first and most widely reported cross border predator drone strikes into Pakistan was the attempt to kill Ayman al Zawaheri in Damadola in January 2006. This is the same Zawaheri who called for the death of President Musharraf and carried out the Egyptian Islamic Jihad bombing of the 1995 Egyptian embassy in Islamabad that killed 59 (most of them innocent Pakistanis applying for visas or working at the embassy). Unfortunately the 2006 drone attack failed to kill its intended target who was surely as much an enemy of Pakistan as of the USA.

The second widely reported Predator drone strike was the Chenegai strike on a madrassa in Bajaur Agency in October 2006. This strike took place on a madrassa that Pakistani intelligence had reported as being run by a mullah (maulana) named Maulana Liqat (also spelled Liaquat). Liqat had been tied to Ayman al Zawaheri and

²This is a made up word, meaning military jargon

his followers were known to be protecting Al Qaeda agents and supporting attacks on US and Afghan troops in Afghanistan. Liqat was no mild mannered “village teacher” as his defenders have belatedly tried to rehabilitate him, he had led thousands of tribesmen across the Afghan border to fight against the USA in 2001. His madrassa was not an innocent Bajauri school of learning, it was a base for holy war that routinely housed dozens of armed militants. Only someone living in an alternative universe (or someone already pre-disposed to hate the USA) could willfully believe that the attack on his facility was carried out just to kill 'innocent', hapless students who had gathered two days before near by to chant “Death to America and Musharraf” and pro-Al Qaeda slogans while firing off their weapons.

And so the madrassa was targeted as a military compound and as many as 80 Taliban militants were killed in the strike. For the rest of 2006 and 2007 there were only 10 predator drone strikes. These were always clearly carried out with the help of Pakistani sources that gave excellent intelligence on the nature of the target. This explains why the strikes have been so surprisingly accurate. Of course the Pakistani side cannot admit its role in facilitating the strikes for obvious reasons.

The strikes picked up pace in 2008 and were clearly effective in forcing Taliban and Al Qaeda leaders to change their routines. No longer could the Taliban execute 'spies' in open or plan the killing of innocent Pakistanis and Afghans secure in the knowledge that they were untouchable in the tribal regions of the “Islamic Amirate of Waziristan.” Even Taliban military operations against the Pakistanis were hindered by the knowledge that American drones could strike at all times. For a Pakistani army that had had its frontier posts overrun by the militants, its commanders beheaded, and entire units captured and held hostage by the Taliban, the American drones were the best means for taking the war to the terrorists who were increasingly targeting Pakistan more than Afghanistan. On March 18, the *New York Times* revealed that the US had killed 9 out of 20 of Al Qaeda's leaders in Pakistan and forced the group to shift its headquarters to Quetta to avoid the attacks (Sanger, 2009).

Recently the US gave a list of targets killed by the Predator strikes to combat the misguided notion that their drones were deliberately aiming for innocent women and children. This list was published in the Pakistani newspaper *Dawn*. (Anwar Iqbal, 2009) Below is an incomplete list of Arab Al Qaeda terrorists who have been killed in Predator drone strikes from that paper and several other sources. It can be argued that everyone of these terrorists' deaths goes a long way towards preventing Al Qaeda from carrying out another Marriot Hotel-style mass slaughter of Pakistanis (that is if one accepts Al Qaeda's claim of responsibility instead of trying to contra-factually pin the blame for the attack on the Jews, Americans, Indians, Musharraf or *anyone* but those who claimed responsibility for the bombings!).

- On Dec 3, 2007, a Predator strike injured an Egyptian Al Qaeda agent named Shaykh Issa al-Masri in Jani Khel, Bannu.

- On Jan 28, 2008, a Predator killed Abu Layth Al-Libi, Al Qaeda's number 3 and several Al Qaeda associates in Salam Kot, North Waziristan.
- On Feb 27, 2008, a drone killed foreign Al Qaeda trainees in the tribal regions.
- On March 16, 2008, more Al Qaeda trainees were killed in the same area.
- On May 14, 2008, a Predator killed Abu Sulayman Al-Jazairi (an Algerian Al Qaeda member) and associates in Damadola, Bajaur.
- On July 28, 2008, a Predator strike killed Abu Khabab Al-Masri, Al Qaeda's chemical biological weapons expert and other Al Qaeda activists.
- On Aug 12, 2008, a Predator killed foreign fighters and militants associated with Usama Al-Kini and commander Nazir.
- On Aug 20, 2008, a drone killed and injured multiple foreign Al Qaeda members and local associates, including some Haqqani network associates. An Al Qaeda facilitator Haji Yacoub was also injured in the attack.
- On Aug 30, 2008, a Predator strike killed Al Qaeda paramilitary operatives subordinate to Al Qaeda commander and East Africa Embassy bomber Usama Al Kini. On Aug 31, 2008, a Predator killed several Al Qaeda operatives, including two prominent Al Qaeda paramilitary commanders.
- On Sept 2, 2008, a Predator killed four to 10 persons associated with Al Qaeda commander and logistician Abu Wafa Al Saudi.
- On Sept 4, 2008, a Predator strike killed Abu Wafa Al Saudi.
- On Sept 8, 2008, a Predator killed several Haqqani sub-commanders and a number of Arabs. Members of the extended Haqqani family were also killed in the attack.
- On Sept 11, 2008, a Predator killed 10 to 15 militants associated with Al Qaeda facilitator Qari Imran's training camp.
- On Sept 17, 2008, a Predator killed 4? 6 militants delivering rockets to a militant camp near the Afghan border and probably Abu Ubaydh Al Tunisi a Tunisian Al Qaeda representative.

In the fall and winter of 2008 there were several strikes on the compounds of Pakistan's "enemy number one" Baitullah Mahsud who was blamed by the Pakistani government for killing Benazir Bhutto.

It cannot be doubted that local tribesmen who have offered sanctuary to the terrorists and who work closely with them, including the families of those who house and coordinate with the terrorists, are at risk. Simply put, if you invite Al Qaeda and the Taliban into your house, you are no longer safe in the knowledge that you can act with impunity. There is always a chance that a spy will report your activities and you will be killed by the silent killers in the sky.

This constant threat is perhaps the greatest weapon available to the Americans and Pakistanis in their effort to strike fear at those who have for so long acted with impunity in this area that is *de facto* independent of Pakistan. The terrorists and killers never know when or where the drones will strike, and this hampers their movements and ability to act with brazenness. Everyone from Zawaheri to Baitullah Mahsud now operates with fear. Remove this threat and we will make the Taliban and Al Qaeda who are enemies of Pakistan and the USA very happy indeed. Those who call for an end to the strikes are playing into the hands of the enemy and trying to appease those who have beheaded Pakistani army captives and ruled with impunity for too long. The Taliban targets of the strikes are the very same people that have already taken these lands from Pakistan. The truth is that the US is not violating Pakistani airspace, it is flying over territory controlled by anti-Pakistani Taliban militants.

Perhaps the greatest argument against the strikes is that they are turning the Pashtun tribes of this region against the government. The image the critics want to perpetuate is of tens of thousands of angry tribesmen being driven into the hands of Al Qaeda by these pin prick strikes. This image is seductive, but not based on reality. A recent survey of people living in the region carried out by Pakistanis proves just the opposite. I quote it here because it is so illuminating and proves that the locals who are oppressed by the Taliban and Al Qaeda have a greater tolerance for the strikes than the perpetually anti-American crowd criticizing them:

Between last November and January AIRRA (the Islamabad-based Ariana Institute for Regional Research and Advocacy) sent five teams, each made up of five researchers, to the parts of FATA that are often hit by American drones, to conduct a survey of public opinion about the attacks. The team visited Wana (South Waziristan), Ladda (South Waziristan), Miranshah (North Waziristan), Razmak (North Waziristan) and Parachinar (Kurram Agency). The teams handed out 650 structured questionnaires to people in the areas. The questionnaires were in Pashto, English and Urdu. The 550 respondents (100 declined to answer) were from professions related to business, education, health and transport. Following are the questions and the responses of the people of FATA.

- Do you see drone attacks bringing about fear and terror in the common people? (Yes 45%, No 55%)
- Do you think the drones are accurate in their strikes? (Yes 52%, No 48%)
- Do you think anti-American feelings in the area increased due to drone attacks recently? (Yes 42%, No 58%)
- Should Pakistan military carry out targeted strikes at the militant organizations? (Yes 70%, No 30%) (Bold emphasis added by author).
- Do the militant organizations get damaged due to drone attacks? (Yes 60%, No 40%)

A group of researchers at AIRRA draw these conclusions from the survey. The popular notion outside the Pakhtun belt that a large majority of the local population supports the Taliban movement lacks substance. The notion that anti-Americanism in the region has increased due to drone attacks is rejected. The study supports the notion that a large majority of the people in the Pakhtun belt wants to be incorporated with the state and wants to integrate with the rest of the world...

I asked almost all those people if they see the US drone attacks on FATA as violation of Pakistan's sovereignty. More than two-third said they did not. Pakistan's sovereignty, they argued, was insulted and annihilated by Al-Qaeda and the Taliban, whose territory FATA is after Pakistan lost it to them. The US is violating the sovereignty of the Taliban and Al-Qaeda, not of Pakistan. Almost half the people said that the US drones attacking Islamabad or Lahore will be violation of the sovereignty of Pakistan, because these areas are not taken over by the Taliban and Al Qaeda. Many people laughed when I mentioned the word sovereignty with respect to Pakistan.

Over two-thirds of the people viewed Al-Qaeda and the Taliban as enemy number one, and wanted the Pakistani army to clear the area of the militants. A little under two-thirds want the Americans to continue the drone attack because the Pakistani army is unable or unwilling to retake the territory from the Taliban.

The people I asked about civilian casualties in the drone attacks said most of the attacks had hit their targets, which include Arab, Chechen, Uzbek and Tajik terrorists of Al-Qaeda, Pakistani Taliban (Pakhtun and Punjabis) and training camps of the terrorists. (Farhat Taj, 2009).

Let me summarize the key points of the above article that is based on the finest of scholarships. The majority of people living in the targeted areas see the Taliban *not the US*, as enemy number one. They want the drone attacks to continue "because the Pakistani army is unable or unwilling to retake the territory from the Taliban." So much for the myth that the drone attacks are driving millions of Pakistanis to join the terrorists!

There are obviously many people in the Pakistani military and government who live in reality and realize that the greatest threat to the Pakistani state does not come from a few drone strikes, but from tens of thousands of Taliban and Al Qaeda terrorists who are literally carving up Pakistan province by province and killing many more innocent Pakistani citizens than any drone strikes. These realists are clearly working covertly with the US to provide intelligence from the region. President Obama, unlike his cowboy predecessor President Bush, actively wants to reach the Muslim world and understands its grievances. The fact that Obama has continued with the strikes despite his obvious fears of bad press in Pakistan speaks volumes. It means that powerful forces in the Pakistani military have given the strikes their blessing and Obama has, after careful analysis, decided they are worth it.

US Senator Dianne Feinstein claimed that, “As I understand it, these (predator drones) are flown out of a Pakistani base” and this makes sense (Pir Zubair Shah, 2008). Sooner or later *someone* in the Pakistani military establishment who had lost a comrade in the wars with the Taliban would come to see the Taliban, not the Americans who have provided their country with 10 billion in aid, as a threat. This means that Pakistani officials are secretly cooperating with this unpopular strategy because they know it is in the interest of their own country!

While there may be some deaths among innocents who have rented their houses or *hujras* (guest houses) to the terrorists, this pales in comparison the number of dead who have died in Taliban suicide bombing attacks and the Pakistani realists know this.

In final analysis, anti-Americanism is fine and well and based upon a litany of valid grievances ranging from America's reflexive support for Israel to its criminally flawed rationale for invading Iraq. But Pakistanis should be selective in their anti-Americanism. If America is helping fight their Soviet enemies (as in the 1980s) or Al Qaeda-Taliban enemies (as today), the Pakistani people should accept the assistance and not try to make enemies out of friends.

At the end of the day, the Pakistanis have to ask themselves an important question. Which is a greater threat to the sovereignty of their nation? US pinpoint air strikes on those who murder Pakistani citizens with suicide bombings and carve up their nation into Talibanistans? Or shrilly defending the airspace of the Taliban-controlled tribal regions from the drones that are killing the very murderers, secessionists, and terrorists who threaten Pakistan?

The Argument Against. Predator Drone Strikes Stir Up Anti-American Sentiment

Just three days after his inauguration, on 23 January 2009, President Obama is widely reported to have “ordered” missile strikes by Predator drones on two locations inside Pakistan (near Mir Ali in North Waziristan and Wana in South Waziristan). (Oppel, 2009). The attacks claimed at least 15 lives (3 of them reported to be children), but no Al Qaeda leaders are known to have perished. (Reid, 2009).

Such attacks are of course nothing new. On the day of President Obama's first strike, the *Times of London* estimated that the US has carried out at least 30 Predator strikes in Pakistan since last September, with a death toll of at least 220. (Reid, 2009). On the same day the *New York Times* reported 30 strikes since last summer along with an estimate that resulting civilian deaths may have been as high as 100, accounting for almost half of the *Times of London* total. (Oppel, 2009).

What *was* new was that the new American administration was strongly signaling its intention to continue the highly controversial policy initiated by its predecessor. In and of itself, this signal was not entirely surprising. President Obama had explicitly promised during his nomination campaign that, "If we have actionable intelligence about high-value terrorist targets and President Musharraf won't act, we will." (Zeleny, 2007). But he also specified that in his mind the appropriate occasion for taking such unilateral action would be an opportunity to take out "senior Al Qaeda leadership," such as Ayman al-Zawaheri or Osama bin Laden. However, the targets of President Obama's first strike (and indeed those which have followed) were not leaders of that stature.

Indeed, what has been *most surprising* in the weeks since President Obama's first strike has been the frequency and scope with which the new administration has been prepared to employ Predator missile attacks. On 13 March 2009 the *New York Times* confirmed at least six Predator drone attacks in Pakistan in the less than two months since President Obama's inauguration, including a multiple-missile attack on 14 February in South Waziristan that killed at least 30. (Pir Zubair Shah, 2009) Moreover, the *Times* confirmed that in general these attacks have been directed against Baitullah Mehsud and the Pakistani Taliban rather than against Al Qaeda leaders or even Afghani Taliban combatants seeking temporary shelter across the border. (Mazzetti and Sanger, 2009). It seems plain then not only that the new administration intends to carry on the Bush administration's controversial targeting policy, but also that it is broadening and perhaps intensifying it. (Drew, 2009).

Yet the Bush policy was controversial for a reason, and it behooves all concerned to carefully examine the merits and drawbacks of the US policy before continuing it. There is in fact a strong case to be made that the US Predator drone campaign is illegal, immoral and counter-productive.

Indeed, the Predator missile strikes may be illegal for a couple of reasons. Firstly, they may involve a violation of Pakistani sovereignty. The argument is simple. The exercise of military force on the sovereign territory of another state violates that state's claim to what Max Weber famously described as the "monopoly of the use of legitimate force" on its own territory. The only exceptions would be if the military operation were authorized by the state on whose territory it occurs, or if it were permitted under the aegis of some international agreement to which the state was committed. Yet neither of the exceptions appears to apply to the case of the US Predator drone attacks in Pakistan. There is no clear evidence that Pakistani officials have invited or even agreed to tolerate the attacks. In fact, many members of the Pakistani government have repeatedly publicly denounced the US strikes and demanded that they cease. (Sanger and Schmitt, 2008) On the American side, indications from the final months of the Bush administration suggested that US officials had stopped even consulting Pakistan regarding its Predator strikes.

While it is not clear whether the Obama administration is also keeping Pakistani officials in the dark about its operations, President Obama's campaign rhetoric expressed an explicit willingness to act in the face of direct and explicit Pakistani government opposition. Yet Pakistani permission *does* seem to be the crux of this legal issue because there is no plausible case that the US actions are permitted under any known international agreement. Article 2(4) of the UN Charter, for example, prohibits all “use of force” against the “territorial integrity” of member states. The only exceptions would be in direct self-defense (permitted in Article 51) or as explicitly authorized by the Security Council under Chapter 7 authority. Needless to say, neither scenario appears to apply to the cases at hand. On the one hand, the US has offered no evidence that it is compelled to carry out these missile strikes in Pakistan to preempt imminent attacks on its own civilians. On the other hand, not only has the United States not sought or received Security Council approval, it has not even officially and publicly acknowledged that it carries out these attacks. This American secrecy reflects its own grave doubts about the legality of its actions. Those doubts are well-grounded, for without a right of action under international agreements and without direct permission from the Pakistani state, there seems no way to avoid the charge of illegality.

A second legal issue arises over whether those targeted in the Predator attacks can legally be regarded as combatants and hence whether they can be legitimately attacked. The international law of armed conflict only recognizes two basic categories of persons, combatants and noncombatants (including civilians). The Geneva Conventions provide definitions of the term combatant, and dictate that anyone not covered under such definitions is a noncombatant and therefore enjoys immunity from deliberate attack. The targets of US Predator drone attacks generally do not fit the definitions of combatant under the Geneva Conventions which require, among other things, “having a fixed and distinctive sign visible at a distance,” such as a uniform, and “conducting their operations in accordance with the laws and customs of war” (Article 4, Third Geneva Convention of 1949).

The Taliban and Al Qaeda targets generally do not wear uniforms or comply with the laws and customs of war (involving civilian immunity, for example), and therefore are not legally combatants. However, this second legal



Activists of Pasban setting the US flag on fire to express anger at the recent Bajaur missile attack (Courtesy The News International, May 20, 2008)

issue is less clear than the first, because the US government could argue (as the Israeli High Court of Justice did in its December 2006 decision on targeted killings) that civilians who participate directly in combat lose their civilian immunity from attack (see Article 51(3) of the First Protocol Additional to the Geneva Conventions). This exception might plausibly be argued to apply to some of the Al Qaeda and Afghan Taliban targets of American attacks in-so-far as they are directly involved with the civil conflict in Afghanistan. Nonetheless, this potential legal exception would not appear to cover noncombatants who are only indirectly involved in the Afghan conflict. Therefore, as the focus of US attacks shifts to Baitullah Mehsud and his Pakistani Taliban forces, as it appears to be doing under the Obama administration, even this last potential legal cover appears to be being lost.

The US Predator drone attacks also of course raise serious moral issues. The most important of these is the number of civilian casualties they have produced. To raise just one illustrative example, a 13 January 2006 attack on the town of Damadola in the Bajaur Tribal Area, which involved as many as four Predators launching 10 missiles, resulted in 18 deaths. Initially local authorities claimed that four Al Qaeda leaders may have been killed. Eventually, however, US officials were compelled to acknowledge that all of the victims were local civilians with no known Al Qaeda association. (Whitlock, 2007).

Of course, it is difficult to get an accurate, independently-assessed count of the overall number of civilians harmed in these attacks, but one thing that is clear is that the number is significant. For example, one hundred civilians killed *in less than a year*, according to the relatively conservative estimate reported by the *New York Times*, is a great deal of blood. Moreover, that count does not include the number of people injured, many maimed and debilitated for life. Nor does it include the long-term effects on those who were dependent on the injured or dead (such as their families).

It is also worth pointing out that in addition to the troubling absolute number of civilian lives that have been eradicated or damaged by US Predator drone attacks, the relative proportion of civilian harms is also disturbing. Comparative studies, albeit preliminary, suggest that the proportion of collateral damage produced by US targeting operations is considerably higher on average even than the Israeli operations since 2000 which have attracted so much international criticism. (Plaw, 2008). Moreover, the reasons for this comparative inaccuracy may be incorrigible for example, Daniel Byman, the Director of Georgetown's Center for Peace and Security Studies, points to the size and remoteness of the zone of US operations along with the relative poverty of US intelligence (compared with that gathered by the Israelis). (Byman, 2006). The implication is that there is every likelihood that Predator drone attacks will to continue to kill and maim a disproportionate number of civilians.

Moreover, the harms produced by Predator strikes are not limited to individuals killed and injured and those around them. The Predator drone strikes also impose a terrible harm on the life of entire communities—harms that American commentators have tended to associate with the worst acts of terrorism. For example, in her *Just War on Terror*, the University of Chicago's famous just war theorist Jean Bethke Elshtain emphasizes the special harm produced by terrorist attacks like that of 9/11. Terrorism deliberately creates a "condition of fear" that destroys what she calls "ordinary civic peace," and consequently diminishes a community's capacity to work together "to attain justice, or serve the common good, or preserve and protect political liberty." (Elshtain, 2003) Yet something similar can be said of the sustained and systematic use of aerial missile strikes on towns, villages and cities. Imposing a condition of continual fear on terrorists where they hide among civilians also means imposing relentless fear on the civilian communities in which they hide (and all the more so given the comparatively low accuracy of missile strikes). Yet it is as wrong for we Americans to impose an inescapable atmosphere of terror as it is to have one imposed on us.

It must finally be stressed that none of these serious moral harms can be justified by claiming that Predator strikes are a last resort to address imminent threats to Americans and/or Afghanis. In order to pose a direct threat to such communities, those allegedly posing a threat would have to leave the Tribal Areas and either enter Afghanistan or travel internationally. Either way, America and its allies are waiting for them, and there is no reason to believe that the threat cannot be neutralized at that stage. What is at issue in the Predator attacks is not a last desperate chance to preempt acts of indiscriminate violence against American or Afghani civilians, but the strategic advantages of being able to choose the time and place of engagement with these enemies, to catch them at their least prepared and most vulnerable and to destroy their sources of re-supply—ultimately, to gain the initiative against them. Now, these are not insignificant strategic considerations. But it should be clear that it is *these* strategic considerations that must be weighed in the balance against the profound harms to Pakistani individuals and communities outlined above. Framed this way, it is difficult to argue that even such attractive strategic gains outweigh the human costs they entail.

Moreover, there are forceful arguments against the effectiveness of US Predator drone strikes in Pakistan. The key argument here is not that they never hit their targets or that they do nothing to disrupt Al Qaeda activities in the Tribal Areas. The key charge is rather that such victories are at best pyrrhic, and at worst could be calamitous for the whole region. They are at best pyrrhic because Islamic anti-Western extremism is not a group or army that can be defeated on a field of battle but a powerful and virulent ideology that needs to be discredited (a point that is all-too-well illustrated by the Al Qaeda inspired copy-cat attacks in London and Madrid).

Terrorist groups like Al Qaeda and its affiliates and offshoots (not to mention more open and organized political movements like the Taliban) can only flourish if they enjoy substantial popular support at least in those regions where they seek to base their recruiting, training and planning activities. Similarly, they can only be eradicated if that popular support is cut off. In its essence, a war against terrorism is a war “to win hearts and minds” (to draw on a resonant phrase from the Vietnam era that evokes a major American failure to accomplish this essential goal).



Taliban supporters pray for those killed in alleged US missiles strike in Damadola village of Bajaur Agency on Thursday.
(Courtesy The News International May 16, 2008)

Whatever limited damage Predator drone attacks have done to Al Qaeda's senior leadership, there is simply no escaping the fact that they have (understandably) bred enormous resentment among the population inhabiting the Tribal Areas, and indeed in the Pakistani population more generally. To raise just one striking example, following the previously mentioned US predator strike on 13 January 2006 (intended to take-out Ayman al-Zawaheri), Pakistan was convulsed by nationwide protests involving tens of thousands of people shouting “Death to America” and “Stop bombing innocent people.” (BBC News, 2006). Correspondingly, the attacks have increased the support for, and recruitment by, Al Qaeda and the local Taliban. According to reports from the *Long War Journal*, for example, US Officials have acknowledged that in spite of the Predator drone campaign, the Taliban, Al Qaeda, and allied terrorist groups have succeeded in establishing 157 training camps and more than 400 support locations in the Tribal Areas and the Northwest Frontier Province. (Roggio, 2008)

The Predator drone strikes are also counter-productive because, in addition to strengthening Al Qaeda and the Taliban, they also weaken the Pakistani government. President Zardari himself has declared that the missile strikes are counter-productive and for good reason. (Roggio, 2008) They illustrate the weakness and inability of the Pakistani government to defend its sovereign territory (as well as the contempt in which US officials hold it). They therefore diminish the authority and credibility of the government in the eyes of its own people, and hence its effective power. The strikes also limit the Pakistani government's room to maneuver, as the more aggressive the action it takes to assert control over the Tribal Areas and to suppress the Taliban and Al Qaeda elements along the border, the more

it looks like a US stooge (notably one of Mr. Sharif's key charges in his current paralyzing confrontation with the government). Yet, it is really only the Pakistani government that can hope to provide a long-term solution to this problem by extending the rule of law to the Tribal Areas. Ironically then, the more the US intervenes in the region, the more it weakens the government and correspondingly undermines the prospect for a long term suppression of Taliban and Al Qaeda elements in the region.

Predator strikes thus have been and continue to be counter-productive because they weaken the government and strengthen our shared enemies. But the effects of continued strikes could still be much worse. For example, they could lead to a paralyzing challenge to the Pakistani government by domestic opposition elements (as we are perhaps beginning to see today). Worse still, the political dynamic created by the strikes creates an incentive for an aspiring opposition to assume an anti-American posture, and to seek a negotiated compromise with the Taliban in the Tribal Areas (as we are also perhaps beginning to see today).

Even worse still, a weakened government could easily invite yet another political intervention by the military another outcome that is unlikely to be conducive to a stronger imposition of law and order in the Tribal Areas (as General Musharraf's tenure illustrated all too well). Worst of all, a governmental crisis could render this nuclear-armed country effectively ungovernable. Pakistan is already viewed by many as a failed state. But there are degrees of failure, and the worst case scenario involves the devolution of this deeply divided but intensely Islamic society into something that looks more like Somalia today, with enormous negative repercussions for the whole region.

Finally, US targeting by predator drones not only endangers Pakistani political order but may also threaten international peace and security. In essence, it invites imitation. If the United States, as the arguably the most powerful and influential state in the world today, is going to systematically use missile strikes to target its enemies on foreign soil, other countries are bound to follow suit. The Israelis, of course, have employed forms of targeting since the 1950s, but since the advent of the US policy they have done so far more publicly and intensively than ever before. (Plaw, 2008) These operations have provoked a great deal of international protest as well as frequent large and angry demonstrations across the middle-east, and may be argued to have diminished prospects for peace in the region. But what is perhaps more disturbing is that other countries may have begun to follow the US example. There are reports that both Turkey and Sri Lanka have employed targeting operations in the last five years. (BBC News, 2009).

This is an especially troubling pattern because there are many countries that face terrorist threats today, and may be tempted to resort to targeting, especially where the terrorists in question may be operating across an international border.

Consider the following example. The Indian government has claimed that the terrible recent terrorist attacks in Mumbai were planned and prepared in Pakistan. It has demanded that the perpetrators be turned over to it. It is dissatisfied with the Pakistani government's response to the incident and continues to feel threatened by terrorist groups operating in Pakistan. What if it were to follow the US example and take matters into its own hands by using missiles to target perceived enemies in Pakistani territory? Would the consequences be positive or negative for India and Pakistan, for the region, for the world?

In short, our government in the US is choosing to continue, and perhaps even broaden and intensify, an unofficial campaign of killing enemies abroad using Predator unmanned aerial vehicles to carry out missile strikes. It is doing so without public consultation indeed, it does not even officially acknowledge its own policy. However, there are strong reasons to worry that the practice is illegal, immoral and counter-productive, even to the point that it could itself lead to a serious threat to international peace and security. During this transition into a new administration and a new policy on combating terrorism, it is not only a matter of prudence and good sense to reflect carefully on this policy, to discuss it and come to an informed collective judgment, it is a matter of duty.

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