

Drone strikes threaten 50 years of international law, says UN rapporteur

US policy of using drone strikes to carry out targeted killings 'may encourage other states to flout international law'

Owen Bowcott in Geneva
guardian.co.uk, Thursday 21 June 2012 12.54 EDT



In his strongest critique of drone strikes yet, Christof Heyns said some may constitute war crimes. Photograph: Getty Images

The US policy of using aerial drones to carry out targeted killings presents a major challenge to the system of international law that has endured since the second world war, a [United Nations](#) investigator has said.

Christof Heyns, the UN special rapporteur on extrajudicial killings, summary or arbitrary executions, told a conference in Geneva that President Obama's attacks in [Pakistan](#), Yemen and elsewhere, carried out by the CIA, would encourage other states to flout long-established [human rights](#) standards.

In his strongest critique so far of drone strikes, Heyns suggested some may even constitute "war crimes". His comments come amid rising international unease over the surge in killings by remotely piloted unmanned aerial vehicles (UAVs).

Addressing the conference, which was organised by the American Civil Liberties Union (ACLU), a second UN rapporteur, Ben Emmerson QC, who monitors counter-terrorism, announced he would be prioritising inquiries into drone strikes.

The London-based barrister said the issue was moving rapidly up the international agenda after China and Russia this week jointly issued a statement at the UN Human Rights Council, backed by other countries, condemning drone attacks.

If the US or any other states responsible for attacks outside recognised war zones did not establish independent investigations into each killing, Emmerson emphasised, then "the UN itself should consider establishing an investigatory body".

Also present was Pakistan's ambassador to the UN in Geneva, Zamir Akram, who called for international legal action to halt the "totally counterproductive attacks" by the US in his country.

Heyns, a South African law professor, told the meeting: "Are we to accept major changes to the international legal system which has been in existence since world war two and survived nuclear threats?"

Some states, he added, "find targeted killings immensely attractive. Others may do so in future ... Current targeting practices weaken the rule of law. Killings may be lawful in an armed conflict [such as Afghanistan] but many targeted killings take place far from areas where it's recognised as being an armed conflict."

If it is true, he said, that "there have been secondary drone strikes on rescuers who are helping (the injured) after an initial drone attack, those further attacks are a war crime".

Heyns ridiculed the US suggestion that targeted UAV strikes on al-Qaida or allied groups were a legitimate response to the 9/11 attacks. "It's difficult to see how any killings carried out in 2012 can be justified as in response to [events] in 2001," he said. "Some states seem to want to invent new laws to justify new practices."

"The targeting is often operated by intelligence agencies which fall outside the scope of accountability. The term 'targeted killing' is wrong because it suggests little violence has occurred. The collateral damage may be less than aerial bombardment, but because they eliminate the risk to soldiers they can be used more often."

Heyns told the Guardian later that his future inquiries are likely to include the question of whether other countries, such as the UK, share intelligence with the US that could be used for selecting individuals as targets. A legal case has already been lodged in London over the UK's alleged role in the deaths of British citizens and others as a consequence of US drone strikes in Pakistan.

Emmerson said that protection of the right to life required countries to establish independent inquiries into each drone killing. "That needs to be applied in the context of targeted killings," he said. "It's possible for a state to establish an independent ombudsman to inquire into every attack and there needs to be a report to justify [the killing]."

Alternatively, he said, it was "for the UN itself to consider establishing an investigatory body. Drones attacks by the US raise fundamental questions which are a direct consequence of my mandate... If they don't [investigate] themselves, we will do it for them."

It is time, he added, to end the "conspiracy of silence" over drone attacks and "shine the light of independent investigation" into the process. The attacks, he noted, were not only on those who had been killed but on the system of "international law itself".

The Pakistani ambassador declared that more than a thousand civilians had been killed in his country by US drone strikes. "We find the use of drones to be totally counterproductive in terms of succeeding in the war against terror. It leads to greater levels of terror rather than reducing them," he said.

Claims made by the US about the accuracy of drone strikes were "totally incorrect", he added. Victims who had tried to bring compensation claims through the Pakistani courts had been blocked by US refusals to respond to legal actions.

The US has defended drone attacks as self-defence against al-Qaida and has refused to allow judicial scrutiny of the UAV programme. On Wednesday, the Obama administration issued a fresh rebuff through the US courts to an ACLU request for information about targeting policies. Such details, it insisted, must remain "classified".

Hina Shamsi, director of the ACLU's national security project, said: "Something that is being debated in UN hallways and committee rooms cannot apparently be talked about in US courtrooms, according to the government. Whether the CIA is involved in targeted lethal operation is now classified. It's an absurd fiction."

The ACLU estimates that as many as 4,000 people have been killed in US drone strikes since 2002 in Pakistan, Yemen and Somalia. Of those, a significant proportion were civilians. The numbers killed have escalated significantly since Obama became president.

The USA is not a signatory to the International Criminal Court (ICC) or many other international legal forums where legal action might be started. It is, however, part of the International Court of Justice (ICJ) where cases can be initiated by one state against another.

Ian Seiderman, director of the International Commission of Jurists, told the conference that "immense damage was being done to the fabric of international law".

One of the latest UAV developments that concerns human rights groups is the way in which attacks, they allege, have moved towards targeting groups based on perceived patterns of behaviour that look suspicious from aerial surveillance, rather than relying on intelligence about specific al-Qaida activists.

In response to a report by Heyns to the UN Human Rights Council this week, the US put out a statement in Geneva saying there was "unequivocal US commitment to conducting such operations with extraordinary care and in accordance with all applicable law, including the law of war".

It added that there was "continuing commitment to greater transparency and a sincere effort to address some of the important questions that have been raised".

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