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How effective was the drone campaign in Pakistan, Yemen, and Somalia throughout

Barack Obama's presidency, 2009 – 2017?

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Abstract

This research analyses the failings and the overall effectiveness of the United States drone campaign operating in Pakistan, Yemen, and Somalia throughout Barack Obama's Presidency, 2009 - 2017. Effective being defined as how successful the US has been in targeting individuals who pose a legitimate threat to the US and its interests. The debate around US drone strikes is somewhat silenced, due to the intense secrecy surrounding many aspects of the programme. However, the proliferation of strikes under Obama has meant that more scholars and journalists are questioning methods used by the Obama administration to target individuals. This means that only recently have more articles and books been published specifically relating to these practises.

This study will consider the legality of strikes, the language used by government and military officials, the target selection procedures, intelligence collection methods and finally the different styles of strikes used to target individuals. By analysing these main, major components of the campaign, this study will conclude that, throughout Barack Obama's presidency, the campaign was not as not as effective as it should have been. By revising and updating many of these factors analysed, US operations in the Middle East could become more effective in eliminating al Qaeda and associated forces.

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Introduction

This study focuses on the drone campaign in Pakistan, specifically the Federally Administered Tribal Areas (FATA), Yemen, and Somalia throughout the presidency of Barack Obama, from 2009 to 2017. While terrorist networks operate out of other countries such as Iraq, Syria, and Afghanistan, these are the "hot battlefields", meaning the US is currently engaged in conflict in these countries.[1] Pakistan, Yemen, and Somalia have been chosen for this study because the US does not have any active, physical military presence in these countries beyond their drone activities.

Under President George W. Bush, drones were not the preferred method of war; boots on the ground was deemed the best way to eradicate terrorism and establish stability in a volatile region. Since the events of September 11 2001, the threat from terrorist groups detrimental to US national security has increased. Al Qaeda and splinter groups, such as the Taliban, al Qaeda in the Arabian Peninsula (AQAP), and al Shabaab, have managed to expand their reach and promote terror in the West. The Internet has been a significant influence on this form of propaganda warfare. Unlike Bush and the military invasions of Iraq and Afghanistan, Obama wanted to end US military presence in the region but still remained committed to eradicating terrorism, without the "long, costly, and unpopular" methods preferred by his predecessor.[2] Compared to the "risks-to-life" faced by US personnel in "manned reconnaissance operations", drones offer the US a way to combat terrorism without putting troops in

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[1] National Public Radio. 'John Brennan Delivers Speech on Drone Ethics'. May 2012.
https://www.npr.org/2012/05/01/151778804/john-brennan-delivers-speech-on-drone-ethics Accessed March 1 2018.
[2] Crandall, Russell. *America's Dirty Wars: Irregular Warfare from 1776 to the War on Terror.* Cambridge University Press: New York, 2014. p. 464.

danger.[3] Under Obama, troops would no longer be used to "conduct large – scale, prolonged stability operations".[4] Therefore, drones became the administration's preferred foreign policy tool, despite *Time* in 2002 claiming that "targeting terrorists from the skies far from the open battlefield of Afghanistan [is] unlikely to become the norm".[5]

Drones are not a modern phenomenon: since the Cold War, 1947- 1991, the US was developing robotic weapons to assist in defeating the enemy. Prior to the year 2000, Predator drones were used for reconnaissance only, with cruise missiles ordered to target suspected terrorists based on the intelligence they gathered. Cruise missiles take longer to reach targets, and, once locked onto specific targets, they cannot be diverted, resulting in high numbers of civilian casualty rates (collateral damage).[6] Before the proliferation of drones in the late 2000s, cruise missiles and aerial bombing raids were used to defeat US enemies. From the beginning of Obama's presidency, drones were used in the fight against al Qaeda and "associated forces".[7] It could be argued that drone strikes offer a middle ground between cruise missiles and aerial raids. This is because drone strikes allegedly offer the US surgical precision in targeting individuals. Furthermore, drones have the potential to reduce collateral damage because drone operators can physically see the intended targets. However, the debate surrounding drone strikes is limited. The US government authorise cruise missile strikes and discuss them, whereas the debate around "precise and surgical" drone strikes is

[3] Richelson, Jeffrey T. *The Technical Collection of Intelligence* in *Handbook of Intelligence Studies.* pp. 105-117. Edited by Loch Johnson. Routledge: New York, 2009. p. 108.

[4] Department of Defense. *Sustaining US Global Leadership: Priorities for 21st Century Defense.* January 2012. p. 6.

[5] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* Penguin Press: New York City, 2016. p. 31.

[6] Watts, Clinton, and Frank J. Cilluffo 2011. 'Yemen and al Qaeda in the Arabian Peninsula: Exploiting a Window of Counterterrorism Opportunity. HSPI Issue Brief 11.' *George Washington University Homeland Security Policy Institute.* June 24 2011. p. 6. Accessed October 25, 2016.

[7] Office of the White House Press Secretary *2013. Remarks by the President at the National Defence University. National Defence University, Fort McNair, Washington DC. 23 May.*

shrouded in secrecy.[8] If drone strikes were indeed as accurate as government officials claim, then it is likely that the US government would be willing to shed at least a little bit of light on the campaign. Admitting the programme is flawed would have repercussions for both domestic policy and international relations, so the US government praises strikes and claims they are precise and effective in eradicating threats. By tightening up many aspects of the campaign, accuracy and efficacy could be improved. Michael Morell, former Deputy Director of the Central Intelligence Agency (CIA), acknowledged the argument that trusting the US government's word that drones are effective, without proof, is "unconvincing".[9] Furthermore, Audrey Kurth Cronin, Professor at the American University in Washington DC, stated that the "foolish secrecy" of the campaign "lets critics allege that strikes are deadlier" than the US government tells the public.[10] Therefore, this study argues that although drones may indeed have the capacity to be effective in eradicating militants, procedures, legislation, transparency, and technology need to be addressed and tightened in order for the campaign to be most effective. This would then show the US public, and critics in other countries, that drones are a justified use of force against terrorist networks.

Cofer Black, then head of the CIA's Counterterrorism Center, suggested in 2001 that drones needed to be weaponised. This was due to the realisation that the response time and accuracy of cruise missiles allowed high value targets, such as Osama bin Laden, to escape. Defence contractor, General Atomics, added AGM-114 laser guided missiles (Hellfire missiles) to drones.[11] Although originally these missiles were

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[8] Rowland, Allison L. 'Life Saving Weapons: The Bio Legitimacy of Drones Warfare'. *Rhetoric and Public Affairs*. Vol. 19. No. 4. Winter Michigan State University pp. 601 – 627. 2016. p. 614.

[9] Morell, Michael. *The Great War of Our Time: The CIA's Fight against Terrorism- from al Qaida to ISIS.* Twelve: Boston, 2016. p. 139.

[10] Cronin, Audrey Kurth. 'Why Drones fail when Tactics drive Strategy'. *Foreign Affairs.* Vol. 44. pp. 44 – 54. 2013. p. 47.

[11] Williams, Brian Glyn. 'The CIA's Covert Predator Drone War in Pakistan, 2004- 2010: The History of an Assassination Campaign.' *Studies in Conflict and Terrorism.* Vol 33. No. 10. September 21, 2010. p. 873.

helicopter antitank weapons, they were reconfigured to suit the new requirements of US drone operations. These newly modified drones were designed to eliminate risks to US personnel and offered results that were instant and, allegedly, accurate to militants. According to a White House official, President Obama was concerned about killing non-combatants. By downsizing the munitions on drones, and effectively creating missiles specifically for drones, the CIA were able to offer more "pinpoint strikes" that addressed these concerns.[12] By physically reducing the size of weapons on drones, the US was able to reduce civilian casualties while continuing to target those dangerous to the US. Without pressure from the Obama administration that the technology be more advanced, drones would not be the "surgical and precise" tool they are today, if indeed that is how they can be described.[13] Partly as a result of these developments in technology, the number of US drones expanded from 50 in 2001, to 7500 in 2012, with 375 having the capacity to be armed.[14]

Technological developments also allowed the drone campaign to be more closely tailored to the conditions in which they had to operate. Obama's drone campaign in the FATA focussed on hunting down and killing hundreds of low-level militants. This approach necessitated a high number of drone strikes in order to weaken terrorist groups. In Yemen, however, AQAP had integrated with civilians and taken control of large portions of land, making it difficult for low-level militants to be correctly identified. In an attempt to reduce civilian casualties in Yemen, the US targeted high-level operatives such as Anwar al-Awlaki.[15] He was a former Yemeni American Imam

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[12] Becker, Jo; Scott Shane. 'Secret 'Kill List' Proves a Test of Obama's Principles and Will'. *New York Times.* May 29, 2012.

[13] Rowland, Allison L. 'Life Saving Weapons: The Bio Legitimacy of Drones Warfare'. *Rhetoric and Public Affairs*. p. 614.

[14] Zenko, Micah. '*Reforming US Drone Strike Policies.*' Council on Foreign Relations Center for Preventive Action. Council Special Report. No. 65. January 2013. p. 3.

[15] Miller, Greg. 'US Drone Targets in Yemen Raise Questions.' *The Washington Post*, June 6, 2012.

who later joined AQAP and ran and published its online magazine, *Inspire.* US aims in Somalia are unknown. Al Shabaab is not as established as other terrorist groups the US is targeting, so it is likely it does not yet have as many high-level operatives of interest to the US. All that is known is that there has been an increase in strikes in Somalia since 2010.

The War on Terror was allegedly brought to its conclusion in 2013, yet drone warfare continues. Rather than conceiving of the conflict as a whole as 'over', it might be more profitable to consider the escalating use of drones and counterinsurgency as the second phase. The boots on the ground approach preferred by President Bush in Iraq and Afghanistan, the first phase of more conventional warfare, is finished. The use of drones against al Qaeda and associated terrorist groups suggests that the US government is still entangled in the War on Terror, just in a different formulation. Drones have allowed the US to continue the War on Terror, but with no physical risk to the US personnel who undertake the strike. Furthermore, not only have drones enabled the US to continue fighting terrorism, they have allowed the US to expand the War on Terror because drones have a longer reach than boots on the ground: they are a way of "guaranteeing America's reach around the globe".[16] Deploying US forces to invade Pakistan, Yemen, and Somalia, would damage US relations with these countries and potentially destabilise the surrounding regions. Drone warfare, partly as a result of technological and geopolitical considerations, as well as those of cost to the taxpayer, is becoming an increasingly important tool used by countries to attempt to eradicate foreign threats. The US is not the only nation that has an arsenal of armed drones, with the United Kingdom, Israel, Iran, and France, as well as many more,

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[16] Sanger, David E. *Confront and Conceal: Obama's Secret War and Surprising Use of American Power.*
Broadway Paperbacks: New York, 2013. p. 422.

owning and deploying weaponised drones. Understanding the problems associated with targeting individuals from above will, as is essential with drone warfare, provide a clearer picture and help to build up a more coherent context for future development in policy and practice.

Literature regarding Obama's drone campaign has increased in recent years. This both responds to and contributes to the normalisation of drone warfare. For example, in 2010 at the White House Correspondents Dinner, Obama, jokingly, threatened the Jonas brothers with "Predator drones", if the boys were to take a romantic interest in either Sasha or Malia Obama.[17] This normalisation has opened up the drone debate to the general public as more information, and critical interrogation of that material, is now available, although some of the facts are still difficult to obtain. In terms of the interrogations, trends are apparent in the literature. Books such as Brian Glyn Williams' *Predators* argues the campaign is an effective method against terrorism. This book mirrors statements made by officials in the Obama administration. Daniel Byman's article, 'Why Drones Work: The Case for Washington's Weapon of Choice', as the name would suggest, also supports US actions.[18] Chris Woods' *Sudden Justice: America's Secret Drone Wars*, on the other hand, highlights the problems with the drone campaign.[19] *Human Rights Watch* released an article in October 2013, 'Between a Drone and al Qaeda: The Civilian Cost of US Targeted Killings in Yemen', which also highlights the failings of US drone strikes.[20] This study critically appraises the existing literature on drone warfare and does so to highlight the shortcomings of the

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[17] *'Obama Jokes about Killing Jonas Brothers with Predator Drones.'* May 2, 2012. https://www.youtube.com/watch?v=WWKG6ZmgAX4 Accessed March 12, 2018.
[18] Byman, Daniel. "Why Drones Work: The Case for Washington's Weapon of Choice." *Foreign Affairs* Vol. 92. Issue: July/ August. 2013.
[19] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* Oxford University Press: London, 2015
[20] Tayler, Letta. *'Between a Drone and al Qaeda: The Civilian Cost of US Targeted Killings in Yemen'.* Human Rights Watch. 2013.

drone campaign. In order to do this, a wide range of problems associated with the campaign will be considered to come to a conclusion as to whether the programme is as effective as it could, and should, be.

This study will first consider international and domestic legislation that enables the US to operate a drone campaign. Doing so will establish whether or not the US can legally operate a programme designed to kill militants anywhere in the world. The next chapter analyses key words used by the Obama administration, such as 'imminent', 'civilian', and 'zero non-combatant deaths'. These will serve to highlight that the language adopted by the administration is misleading the public in believing the campaign is successful and more effective than it really is. Target selection methods will then be analysed. A recent leak published by *The Intercept* detailing how and why certain individuals are chosen has greatly helped this section of the study. By understanding and analysing these procedures, the chapter argues for a more comprehensive method for selecting targets. Chapter Three focuses on the limitations of intelligence collection. Analysing three ways by which intelligence is obtained (reconnaissance, Human Intelligence, and Signals Intelligence), will again show that the US government needs to adopt a succinct and well-developed method of tracking militants. Doing so will help the campaign become a precise way of eradicating terrorists, simply because there will be better intelligence on a suspect. The fourth and final chapter will analyse the numerous ways in which strikes are conducted, and how these affect the perceived efficacy of the campaign. [21]

Drone warfare in Pakistan, Yemen, and Somalia is an important topic to understand and research. This is because the US is not at war with these countries, yet continuously

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[21] For more information on broader US foreign policy before 9/11, see: Ambrose, Stephen. *Rise to Globalism: American Foreign Policy since 1938.* Penguin: New York, 1997.

deploys drones and authorises strikes against individuals who live there. This study hopes to give more insight into the US drone programme, and offers suggestions as to how to make the campaign more effective in defeating terrorism.

The laws and legislation that enable the US to operate a drone campaign are problematic. The fluid nature of the enemy faced by the US in its ongoing campaign against terrorism complicates much existing practice and process. As a non-state entity, at least in Pakistan, Yemen, and Somalia, it is difficult to apply classical definitions of war, combat and indeed conflict to the enemy faced by the US. Claims that the battlefield follows those individuals "who have been designated enemies due to their affiliations with al Qaeda" and other terrorist forces are one potential way of navigating these murky waters, but mobile battlefields raise geopolitical issues related to incursions into more static states; there is also the problem of proving individuals' affiliation.[1] To justify strikes against terrorists in foreign countries, the Bush and Obama administrations claimed strikes were "consistent and conforming to" the Authorization for the Use of Military Force (AUMF), the Geneva Conventions, Article 51 in the UN Charter, and fitting with the principles of distinction and proportionality.[2] However, the environments in which the US has been operating since 9/11 have changed. Under Bush, Iraq and Afghanistan were the focal point of the 'Global War on Terror'. The administration preferred a 'boots on the ground' approach in an attempt to defeat terrorism, with drone strikes being implemented more frequently toward the end of Bush's presidency. Bush overturned Executive Orders that banned political assassinations, justifying the use of drones in countries not engaged in a conflict with the US.[3] In contrast, the Obama administration's approach to eradicating

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[1] Sterio, Milena. 2012. 'The United States' Use of Drone in the War on Terror. The (Il)legality of Targeted Killings Under International Law.' *Case Western Reserve Journal International Law*. Vol. 45. No. 1 and 2. pp. 197- 214. p. 199.

[2] Ibid.

[3] This will be analysed later in this chapter.

terrorism preferred drone strikes over the direct physical presence of conventional forces. After Obama's statement that the "Global War on Terror is over" in 2013, the administration also changed the rhetoric.[4] Instead of being a global war against terrorism, the US waged a more specific war against al Qaeda and the Taliban, focussing on Pakistan, Yemen, and Somalia.[5] However, despite the change in environments, the Obama administration continued to rely on this legislation written in response to 9/11. This demonstrated a continuity with the War on Terror even as Obama testified to a break with it. Senator Rand Paul (R-KY), stated, during a thirteen hour filibuster on John Brennan's nomination to the director of the CIA (D/CIA), that the use of drones would trap the US in a permanent War on Terror "without any geographic limitations".[6] This means that the US can target anyone fitting the secret, pre-identified, criteria that classify an individual as a terrorist.

Executive Orders

To understand the legality of drone strikes, it is important to understand the US government's history with political assassinations. This is because there were several Executive Orders rendering them illegal. President Gerald Ford signed Executive Order 11905 in 1976 in response to allegations of abuse by the US Intelligence Community (IC). The Order was signed to improve the "quality of intelligence needed for national security," to establish more rigorous oversight to ensure intelligence agencies complied with the law, and in the "management and direction of intelligence

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[4] Shinkman, Paul. 'Obama: Global War on Terror is over. New Rhetoric for defeating al- Qaida includes plan for closing Guantanamo Bay.' *US News.* May 23, 2013.

[5] Sterio, Milena. 2012. 'The United States' Use of Drone in the War on Terror. The (Il)legality of Targeted Killings Under International Law.'

[6] Moorhead, Molly. Politifact. 'Rand Paul says CIA Director John Brennan Claimed No. Geographic Limit on Drone Strikes'. 12 March, 2013. http://www.politifact.com/truth-o-meter/statements/2013/mar/12/rand-paul/rand-paul-says-cia-director-john-brennan-claimed-n/ Accessed March 12 2018. John Brennan was Obama's top counterterrorism adviser, who later became the D/CIA.

agencies".[7] The Church Committee of 1975, chaired by Senator Frank Church, addressed issues and allegations of US involvement in the attempted assassination plots of foreign leaders, such as Fidel Castro of Cuba.[8] It concluded that political assassinations were not "an instrument of American policy".[9] Although 'assassination' was not defined in the Order, this project regards it as the deliberate targeted killing of someone for political reasons. As the drone campaign seeks out targets in an attempt to eliminate terrorism, it is a political assassination campaign. However, this Order was superseded by President Ronald Reagan's Executive Order 12333, signed December 4 1981. Order 12333 explicitly banned political assassinations by the US government, government agencies and the IC. Section 2.11 of Order 12333 states that "no person employed by or acting on behalf of the US government shall engage in or conspire to engage in assassination", with section 2.12 stating that "no agency of the Intelligence Community shall participate in or request any persons to undertake activities forbidden in this Order".[10] Clearly, this Order was more specific regarding political assassination than Ford's, although 'assassination' was still never defined. Ford and Reagan's Orders were implemented during the Cold War, though at a time when the US government was not involved in active conflict.[11] Therefore, by prohibiting intelligence agencies from engaging in political assassinations, it suggests that policy makers and government officials realised there was no need to undertake political assassinations in fear of serious international ramifications. These Orders were also created at a time when it was not yet possible, thanks to technology, to target an individual from thousands of miles away. In order to combat terrorism, under a

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[7] President Gerald Ford. *Executive Order 11905: US Foreign Intelligence Activities*. Gerald R Ford Presidential Library and Museum. February 18, 1976.

[8] For more information, see: Johnson, Loch. 'Congressional Supervision of America's Secret Agencies: The Experience and Legacy of the Church Committee'. *Public Administration Review*. 2004.

[9] Elizabeth B. Bazan, Legislative attorney. *Assassination ban and E.O 12333: A Brief Summary*. 2002.

[10] Ibid.

[11] The Cold War was in the background, hence the word 'active' conflict.

newly defined War on Terror (and its afterlife), these Orders needed to be overturned to allow the US government and intelligence agencies to undertake targeted killings.

Authorization for the Use of Military Force

The AUMF was introduced by President George W. Bush in September 2001, shortly after 9/11. This gave the US permission to use any force necessary to eliminate terrorism. At this time, drones were not as technologically advanced as they are today; they were not armed and only had the ability to watch targets from above, and so physical warfare was preferred- i.e., US boots on the ground and a military invasion of Iraq and Afghanistan. "Necessary and appropriate force" was vague enough for the AUMF to be applied to drone warfare and it is this that gives justification for the US government to use drones.[12] This 17 year old law is outdated and has not been reviewed or rewritten since its creation. The law has not kept pace with the huge advances in technology; it is dated to a time where drones were not properly armed and when it was not possible to kill frequently using unmanned aircraft. In a speech in December 2016 at the MacDill Air Force Base in Tampa, Florida, President Obama echoed the point of ensuring legislation was kept up-to-date, as he stated the US is "waging war under authorities provided by Congress 15 years ago".[13] He stated that Congress had been asked to update legislation to "provide [the US] a new authorisation for the war against [terrorism], reflecting the changing nature of the times… [but] so far, Congress has refused".[14] This shows both the President's wishes – that the legislation needed to be changed to accommodate technology's evolution – but it shows also the limits of presidential power. Congress were unwilling to vote on tighter

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[12] United States. Cong. *Joint Resolution to Authorise the Use of United States Armed Forces Against those Responsible for the Recent Attacks Launched Against the United States.* 107th Cong. 2001. p. 1.
[13] Office of the White House Press Secretary. 2016. *Remarks by the President on the Administration's Approach to Counterterrorism.* MacDill, Florida: White House, December 6.
[14] Ibid.

restrictions to the AUMF, because it was "unconstitutional" and it "may constrain the possible actions" the President can take against new and existing terrorist groups.[15] However, updating legislation would make the campaign more effective because the environment in which the AUMF was originally written has now changed. Obama summarised this in his speech at the National Defense Institute, saying "the threat has shifted and evolved from the one that came to our shores on 9/11".[16] A *Financial Times* article from July 2014 supported updating legislation, as it claimed the "legal norms governing armed conflicts and the use of force look clear on paper, but the changing nature of modern conficts and security threats has rendered them almost incoherent in practise".[17]

If the AUMF were successfully updated to take into account recent technological developments, legal language and policy would be more in keeping with the modern threats that face the US. This would work towards legal justification of the US government's decisions to undertake drone strikes. Furthermore, updated legislation would protect the US government from scrutiny from opponents of drones thanks to the existence of better and clearer legislation enabling drones to operate. This would show the US government as operating a smooth, surgical, legal programme.

Article 51

In response to the 9/11 attacks, the US successfully justified drone strikes by using the "inherent right to self-defence", granted in Article 51 of the United Nations (UN) Charter, which allows the government to use force against al Qaeda and associated

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[15] Bash, Dana, and Alexandra Jaffe. 'Lawmakers Decry White House ISIS Pitch.' CNN. February 10, 2010. http://edition.cnn.com/2015/02/10/politics/obama-congress-aumf/index.htm Accessed November 24, 2017.
[16] Office of the Press Secretary. 2013. *Remarks by the President at the National Defence University. National Defence University, Fort McNair, Washington DC. 23 May.*
[17] McGregor, Richard. 'US Drones Risk Constitutional War, Report Says'. *Financial Times.* June 26 2014.

forces. [18] Jonathan Masters, member of the Council on Foreign Relations, claimed the US had the right to kill "high-level al Qaeda leaders who are planning attacks".[19] In addition to Article 51, and to strengthen the US justification of self-defence, in 2004, Donald Rumsfeld, then Secretary of State, signed an order that allowed the US to target extremists "anywhere in the world, including countries not at war with the US".[20] This is a unilateral decision by the US, because it cannot command the explicit, or even implicit, support of every nation. Anyone could be in the firing line. The issue of self-defence is closely linked with Article 51, and the study will specifically analyse the word 'self-defence' to provide greater clarity as to its precise construction.

Distinction and Proportionality

As well as the AUMF and Article 51, the Geneva Conventions of 1949 have been used by the US government to justify the use of drones in countries with which the US is not at war. Since its inception, the Geneva Conventions has aimed to safeguard the rights of civilians, the sick, the enemy and prisoners of war (PoW) during wartime. The protection of this group of people is known as International Humanitarian Law (IHL). The Geneva Conventions state that "persons who do not take a direct part in hostilities are entitled to respect for their lives" and parties should "distinguish between the civilian population and property [and] attacks shall be directed solely against militants".[21] Brennan stated in a speech that there is "nothing in international law" that

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[18] United Nations. n.d. 'Chapter VII: Action with Respect to Threats of Peace, Breaches of the Peace, and Acts of Aggression.' http://www.un.org/en/sections/un-charter/chapter-vii/ Accessed March 12, 2018.
[19] Rogers, Ann, and John Hill. *Unmanned: Drone Warfare and Global Security.* Toronto: Between the Lines, 2014. p.1.
[20] Reinold, Theresa. 'State Weakness, Irregular Warfare and the Right to Self Defense Post 9/11.' *The American Journal of International Law* Vol. 105. No. 2. pp. 244- 268. 2011. p. 255.
[21] International Committee of the Red Cross. 'Summary of the Geneva Conventions of 12 August 1949 and their Additional Protocols.' 2012. https://www.icrc.org/eng/assets/files/publications/icrc-002-0368.pdf Accessed November 7, 2017.

prohibits the US from using drones against "enemies outside of an active battlefield".[22]

Furthermore, Harold Koh, State Department Legal Adviser, argued in his keynote

speech in 2010, "The Obama Administration and International Law" at the Annual

Meeting of American Society of International Law, that the US adheres to two main

principles to ensure civilians and civilian objects are not attacked by US drones:

distinction and proportionality. Distinction requires "attacks be limited to military

objects", ensuring civilian property, ranging from schools to houses to cars, will not

be involved in a strike. Proportionality "prohibits attacks that may be expected to cause

incidental loss to civilian life".[23] This means that an individual will not be targeted if

there is a chance that civilians will be killed or injured. The principles are

"implemented rigorously" throughout all stages of an attack, from the planning to the

execution to "ensure such operations are in accordance with all applicable law".[24]

Koh's explanation of these principles attempts to demonstrate that the US takes

effective measures and obeys the Geneva Conventions to ensure civilians are not

targeted. This, in turn, works towards safeguarding the campaign's reputation as clean,

surgical and precise. Koh is a lawyer for the US government, so has a vested interest

in making that case, but his account of US operations demonstrates that legality and

accountability are a prominent concern of the administration, even if only in

appearances. However, due to the secrecy of the programme, this study has found it

difficult to find specific laws which suggest the US government takes these principles

into consideration. Until proof of legislation distinctly states the US government

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[22] Wilson Center International Security Studies. Transcript Remarks by John O. Brennan. April 30, 2012
https://www.wilsoncenter.org/event/the-efficacy-and-ethics-us-counterterrorism-strategy Accessed March 12,
2018.
[23] McCrisken, Trevor. 'Obama's Drone War.' *Survival.* Vol. 55. No. 2. pp. 99 - 122. 2013. p. 99.
[24] Koh, Harold. Keynote Speech at the Annual Meeting of the American Society of International Law. 'The
Obama Administration and International Law.' March 25, 2010.
https://www.state.gov/documents/organization/179305.pdf Accessed February 14 2018. p. 15.

ensures these principles are being met, it cannot be certain if the US government is required, by law, to review these principles before every strike.

Steven Groves, leader of the heritage.org campaign 'The Freedom Project', suggests a third principle of necessity to be considered before authorising a drone strike. As well as proportion and distinction, the US must consider a strike a 'necessity' in order to successfully "bring about the submission of the enemy".[25] He states that in traditional war, "enemy tanks, aircraft, warship and infantry" are clearly defined and "non-civilian in nature".[26] Military hardware is a clear and obvious 'necessity' to strike in order to defeat the enemy. However, the fight against terrorism is not traditional, and the targets do not easily fit into 'traditional' criteria. Terrorists may dress as civilians, operate out of civilian areas and even use civilians as shields and this obfuscation creates confusion when deciding whether it is necessary to strike a target. Although the US government claims that a strike will not be conducted if civilians are likely to be harmed, numerous first-hand accounts by civilians in reports by humanitarian organisations, such as *Amnesty International* and the *Columbia Law School Human Rights Clinic and Center for Civilians in Conflict*, refute this. The accounts strongly suggest the US does not adhere to the necessity principle, nor the proportion or distinction principles, as it is claimed the US has targeted civilians deliberately. The principle of necessity should be applied to drone warfare against insurgents because the risk of collateral damage is reduced with an extra layer of analysis, which could alter the outcome of the strike. However, it poses operational difficulties given the fact that terrorists are known to operate in civilian areas; this might mean an increase in terrorist operations in civilian areas as a way of counteracting the threat of drone

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[25] Groves, Steven. n.d. 'Drone Strikes: The Legality of US Targeting Terrorists Abroad.' https://www.heritage.org/terrorism/report/drone-strikes-the-legality-us-targeting-terrorists-abroad Accessed December 5, 2017.
[26] Ibid.

strikes. 'Necessity' can also be interpreted flexibly, so there is no guarantee that its inclusion in future planning would have the desired outcome.

Lynn E. Davis, Michael McNerney, and Michael D. Greenberg introduce another principle that should be adhered to: the humanity principle. This requires that drone strikes do not "inflict unnecessary suffering" on civilians who may be harmed in a strike.[27] This includes both physical and mental suffering. *Amnesty International* and the *Columbia Law School Human Rights Clinic* have conducted extensive research into how drones affect people both physically and mentally. The International Committee of the Red Cross share their concerns. First hand evidence of the psychological impact of drones is difficult to examine, because the programme operates in remote locations. These are dangerous for Westerners to travel to and therefore the effects of drones on civilians cannot be accurately studied. However, there are reports of civilians suffering anxiety related disorders, suicides, and heart attacks as a result of drone strikes.[28] The *Conflict Victims Support Programme* runs in Pakistan, and aims to help those suffering from these health issues.[29] A UN Committee on the Rights of a Child opened a counselling centre specifically for children who are suffering from symptoms of trauma.[30] Moreover, Declan Walsh, writing in the *New York Times,* claimed that the sales of "sleeping tablets, antidepressants, and medicine to treat anxiety" have increased.[31] Drone attacks on terrorists must exist as part of an interconnected process that considers not just the impact of eliminating the target, but the impact of repeated drone strikes on civilian populations. Factors need to be in place

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[27] Davis, Lynne. E; Michael McNerney, and Michael D. Greenberg. *'Clarifying the rules for targeted killing: an analytical framework for policies involving long range armed drones.'* Rand Corporation. https://www.rand.org/pubs/research_reports/RR1610.html Accessed March 12, 2018.
[28] Owen, Taylor. 'Drones don't just kill. Their psychological effects are creating enemies. *The Globe and Mail.* March 14, 2013.
[29] Lewis, Larry. 'Drone Strikes in Pakistan: Reasons to Assess Civilian Casualties'. *CNA Analysis and Solutions.* Thesis. April 2014. p. 36.
[30] *Yemen Post.* 'Yemen Opens Counselling Drone Centre'. January 2014.
[31] Walsh, Declan. 'Civilian Deaths in Drone Strikes Cited in Report'. *New York Times.* October 22, 2013.

to limit the mental effects of drones, as the humanity principle suggests, in order to attempt to retain the support of civilians in Pakistan, Yemen, and Somalia. Otherwise, even if the drone campaign succeeds in eradicating those targeted, it will undermine international support for the US and potentially create more terrorists through arousing sympathy for its enemies.

The accounts in the following section strongly suggest that non-combatants are targeted in strikes, despite the distinction, proportionality, and necessity principles, as well as the Geneva Conventions prohibiting this. Owing to the total number of civilian casualties in each country from 2008 to 2016- (on average 695 in the FATA, 181.5 in Yemen and 19 in Somalia), it will be impossible to detail every instance where civilians have been targeted.[32] To make it achievable, one example from each country will be analysed. These examples have been chosen because the strikes and targets in each are similar to one another and therefore offer the best points of comparison.

In the FATA during Ramadan in 2009, local tribesman Ramazan Khan and some of his relatives had stepped outside their house. A US drone strike was authorised with them as the target, which killed three of Khan's nephews immediately and left his grandson with serious injuries, from which he died a few years later.[33] Without presidential approval, the US can target people based on certain signatures: these are known as signature strikes. The criteria for signature strikes is vague, and officials have never explicitly explained it, but it is known to include the approval of targeting 'military aged males', or men aged 18-49.[34] Khan's family met these ambiguous

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[32] The Bureau of Investigative Journalism. 'Human Rights: Drone Warfare'.
https://www.thebureauinvestigates.com/projects/drone-war Accessed March 12, 2018.
[33] Ackerman, Spencer. 'After Drones: The Indelible Mark of America's Remote Control Warfare'. *The Guardian.* April 21, 2016.
[34] The problems with signature strikes and full and problematic definition of military aged males will be analysed later.

criteria, and it is likely they were targeted in a signature strike. Although this is only one strike, there are many other first-hand accounts that detail similar instances. *Amnesty International, Reprieve,* and *The Bureau of Investigative Journalism* all offer extensive examples of this. There are far too many to analyse in this study, but the use of signature strikes indicates the US does not adhere to its own principles of distinction and proportionality, and they suggest the US does not comply with the Geneva Conventions. In Khan's case, the evidence suggests the men were targeted illegally. It is known that individuals are sometimes targeted because they display behaviours deemed suspicious by the drone operator, and this includes a large gathering of men. These strikes do not require hard evidence confirming that an individual is a militant. Therefore, it could be argued that the US was being selective in its choice to target these men because of the behaviour they displayed. However, more intelligence on the men would have showed they were not known militants, but just a gathering of men.

Another example of the US targeting non-combatants and disobeying the principles of distinction and proportionality occurred in Yemen in 2013. Mohammed al Qawli's two cousins had stopped to pick up a hitchhiker, Rabia, whom they did not know. In Yemen, it is not unusual for passers-by to offer lifts to hitchhikers. Upon stopping at the hitchhiker's destination, two Hellfire missiles were released and killed all three men.[35] Rabia was believed to be the target, as he was a bodyguard for an al Qaeda operative. Compared to Khan's case, it is easy to understand why the US targeted Qawli's cousins and Rabia because of the latter's known affiliations with AQAP (unlike Khan whose family, apparently, had none). However, because legislation states that civilians and their objects will not be targeted, the US should not have targeted

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[35] Ackerman, Spencer. 'After Drones: The Indelible Mark of America's Remote Control Warfare'. *The Guardian.* April 21, 2016.

these men, as they were civilians and the car was a 'civilian object'. Furthermore, Rabia was not a high-level operative of al Qaeda, merely an easily replaceable low-level body guard.

As there have been very few strikes in Somalia, there is little information regarding the numbers of civilians killed by drones. However, one example from *International Security Data* details a drone strike that killed 10 people.[36] It is unknown whether these were civilians or militants. If the group was associated with terrorist organisations, the US would claim the strike as successful because 10 militants would have been eradicated. If the identities of targets were known, they would not be classed as 'unknowns'. This is problematic as it suggests that there is no intelligence on these targets. The secrecy of the programme also means that it is not known why these men were targeted. Targeting unknowns makes it difficult to analyse whether strikes have been successful as the identities and motives of the targets are not known. This has a negative impact on the campaign as, essentially, it is not known who is being killed. 'Unknowns' are more than likely not high-level operatives in terrorist cells, because the US government has a list of known militants. Therefore, their identity is 'clearly' unknown, because otherwise they would not be labelled as such. It is important to know how many civilians have died as a result of drone strikes because it gives insight into how effective the campaign is at eradicating militants. It could be argued that there is nothing in the Geneva Conventions or US law prohibiting the targeting of unknowns. However, as the status of those killed is unknown, it clearly demonstrates that the US does not restrict strikes to known militants and organisations. This is a clear example

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[36] International Security. 'Drone Wars: Somalia.' September 28, 2016.
http://securitydata.newamerica.net/drones/detail.html?id=c395b599 Accessed December 16 2017.

of the US disregarding the principles of proportionality, distinction, necessity and humanity.

Targeting of US Citizens

The Geneva Conventions are comprised of seven basic, fundamental rules. Number five states that "everyone shall be entitled to benefit from fundamental judicial guarantees".[37] In addition to this, the Fifth Amendment to the US Constitution states that a person shall not be "deprived of life… without due process of law".[38] Likewise, the Sixth Amendment grants defendants the "right to a speedy and public trial" and access to legal representation.[39] However, the killing of two US citizens, Anwar al-Awlaki and Samir Khan, in Yemen on September 30 2011, prove that rule five of the Geneva Conventions and the Fifth and Sixth Amendment were not observed.[40] This is important. It matters that the US government implements the Geneva Conventions because these are used to justify the programme. If the US government is not implementing the Geneva Conventions, then it could be argued the campaign does not adhere to international law. The killing of these two men propelled the drone campaign into the national spot light, because, prior to this, no American had been targeted in drone strikes before.

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[37] International Committee of the Red Cross. 'Basic Rules of International and Humanitarian Law in Armed Conflicts. https://www.icrc.org/eng/resources/documents/misc/basic-rules-ihl-311288.htm Accessed March 12, 2018.

[38] US Constitution. Amendment V.

[39] US Constitution. Amendment VI.

[40] Awlaki, of Yemeni and American heritage, was a former Imam who later became the senior recruiter for AQAP, whereas Khan, of Pakistani and American heritage, was editor for the group's online magazine, *Inspire.* For more information, see: Shane, Scott. *Objective Troy: A Terrorist, a President, and the Rise of the Drone.* Tim Duggan Books: New York, 2016.

Drone strikes do not allow the offender to surrender or be captured, therefore the human right to a fair trial is denied. This violates the Sixth Amendment to the US Constitution and therefore there is a case to say the men were targeted illegally. As the men would not get their chance in court, Koh wanted to make sure the evidence against the two men was "as solid as possible" and reviewed their files in a "crappy little room" for five hours.[41] Although their files were reviewed by a top government lawyer, their killing arguably violates the US Constitution. One Pakistani civilian heckled Hillary Clinton in 2009 during her trip to the country, stating that drone strikes were a "form of execution without trial".[42] Although this was one person, their words mirrored those of charities such as *Amnesty International*; an organisation that opposes US drones. Ann Rogers and John Hill also argue against the use of drones, stating the campaign is breaking the just war codes of conduct because the enemy have "clearly codified rights and protections"; the right to a trial being one of them.[43] By denying them their right to a trial, Rogers and Hill argue that drones remove a "moral brake" in conflict.[44] On one hand, if the target is legitimate and known, like Awlaki and Khan, the removal of the moral brake is less of an issue because they are enemies of the US government.[45] This is still a war, and successfully targeting known militants is advantageous to the campaign. Michael W. Lewis, Professor of Law at the Ohio Northern University, stated Awlaki and Khan presented a "concrete, specific and imminent threat of death or serious physical injury to others".[46] The Geneva Conventions protect civilians, but that protection, and civilian status, is lost once an individual makes the choice to join

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[41] Bergen, Peter L., and Daniel Rothenberg. *Drone Wars: Transforming Conflict, Law and Policy.* New York: Cambridge University Press, 2015. p. 197.

[42] Williams, Brian Glyn. *Predators: The CIA's Drone War on Al Qaeda.* Washington D.C: Potomac Books, 2013. p. 205.

[43] Rogers, Ann, and John Hill. *Unmanned: Drone Warfare and Global Security.* p. 104.

[44] Ibid.

[45] A Report to the Committee on Foreign Relations United States Senate. *Al Qaeda in Yemen: A Ticking Time Bomb.* 111th Congress, Second Session. January 21, 2010. p. 9.

[46] Lewis, Michael W. 'Drones and the Boundaries of the Battlefield.' *Texas International Law Journal.* Vol. 47. No. 2 pp. 239- 314. p. 308.

terrorist organisations. A terrorist, terrorism, and a terrorist organisation is defined, by the Federal Bureau of Investigation (FBI), as "the unlawful use of force… against persons or property to intimidate or coerce a government, civilian population… in furtherance of political or social objectives".[47] Awlaki and Khan, then, were no longer US citizens nor civilians and would not be treated as such. This means that the US had the right to use lethal force against the men to defend itself from future attacks. By successfully killing Awlaki and Khan, the "quality and frequency" of al Qaeda's online magazine, *Inspire*, has diminished.[48] This is one example of a successful strike: the targets were known members of a terrorist organisation and their death led to the terror group having slightly less influence on the Internet. Although online activities could have been shifted to other publications, the Internet is easily accessible by millions of people over the globe. Because these men were eliminated, it means that their online presence has gone, and therefore potentially fewer people will be radicalised by *Inspire.* However, concerns and problems regarding moral issues arise when the target is classed as an unknown, as their identities are not known to the US government, as analysed earlier in this chapter.

At present, the legislation is not effective at preventing death and injury to civilians, nor does it protect civilian objects from being targeted. Journalist Chris Woods claims that drone strikes "may [violate] the laws of war by failing to discriminate between combatants and civilians, or by causing civilian loss disproportionate to the expected military advantage".[49] Legislation is always elastic, open to interpretation by lawyers

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[47] Federal Bureau of Investigation. 'Terrorism 2002 – 2005'. https://www.fbi.gov/stats-services/publications/terrorism-2002-2005 Accessed March 12, 2018. For more information, see: CIA. 'Written Statement for the Record of the Director of Central Intelligence before the Joint Inquiry Committee.' October 17, 2002. https://www.cia.gov/news-information/speeches-testimony/2002/dci_testimony_10172002.html. Accessed March 14, 2018
[48] Watts, Clinton, and Frank J. Cilluffo. 2012. 'Drones in Yemen: Is the U.S on Target? HSPI Issue Brief 16.' *George Washington University Homeland Security Policy Institute.* June 21. Accessed October 20, 2016. p. 3.
[49] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* p. 192.

and policymakers. It is never going to be certain to 'fix' problems or prevent innocents from being killed. However, the risk of targeting civilians could be reduced were legislation followed correctly and updated. Furthermore, drone strikes should only target terrorists who are "personally and continually involved" in terror plots, i.e. not unknowns, in order for the programme to be considered effective.[50] This is a realistic factor because this is what the government claims the campaign does: target those responsible for plotting and planning terrorist attacks. This will be analysed in more detail in the next section of this chapter, where use of the phrase 'imminent threat' will be considered.

Chapter One, Part Two: Language

Language used in speeches, statements, memos and documents, both by US government officials and Obama himself, is problematic. This is because there are discrepancies between what is said by government officials and their actions. Definitions of some words important to the campaign, such as 'civilian' and 'imminent', have been altered and this has enabled the US to legitimately, in its own terms, target more people considered as insurgents. This is important and needs to be analysed because these words have the potential to mislead the public. The alienation of people in Pakistan, Yemen, and Somalia could be argued to stem from the language used by the US government, as it claims one thing yet does another. For example, from 2008 to 2015 an average of 68 percent of Pakistanis viewed the US 'unfavourably', whereas from 2002 to 2008 the average was 62 percent.[51] In 2017, a majority, 66

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[50] Department of Justice, White Paper: *Lawfulness of a Lethal Operation Directed against a US Citizen who is a Senior Operational Leader of Al Qaida or an Associated Force.* p. 6.
[51] Pew Research Center: Global Attitudes and Trends. Global Indicators Database. *'Opinion of the US'.* August 2017. http://www.pewglobal.org/database/indicator/1/country/166/response/Unfavorable/ Accessed March 12, 2018.

percent, of Pakistanis oppose US drones.[52] This suggests that the six per cent increase in anti-American sentiment, from Bush to Obama, can be attributed at least in part to drones, because the Obama administration had increased the number of strikes in the FATA; other actions in the War on Terror, such as the assassination of Osama bin Laden on Pakistani territory without observing due process, might also have contributed to this increasing dislike.

Self-defence

A memo written by the Department of the Army's Office of the Judge Advocate General in 1989 stated that using force against "legitimate targets" who pose a dangerous threat to the United States constitutes a "lawful self-defence option", based on Article 51 of the UN Charter.[53] This viewpoint has been echoed by many of those in the US government and scholars alike since 9/11 in relation to using drones as a form of self-defence. Groves argues that the US "has the right to target [terrorists] on Pakistani… soil" because they are threats to the US.[54] However, self-defence is a reaction to a threat. The US has not been attacked since 9/11, so definitions of self-defence become more problematic. Questions arise as to how long measures taken after an event can be seen as a direct response to it, or whether pre-emptive actions can also be seen as self-defence. Counterterrorism methods necessarily rely on pre-emption and preventive action, but the issue of self-defence has the tendency to simplify complex geopolitical issues and reduce them to a more emotive narrative.

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[52] Pew Center. 'Global Opposition to US Surveillance and Drones but Limited Harm to America's Image: Widespread Opposition to Drones'. July 11 2014. http://www.pewglobal.org/2014/07/14/global-opp.osition-to-u-s-surveillance-and-drones-but-limited-harm-to-americas-image/pg-2014-07-14-balance-of-power-0-01 Accessed June 6, 2017.
[53] Reinold, Theresa. 2011. 'State Weakness, Irregular Warfare and the Right to Self Defense Post 9/11.' p. 255
[54] Groves, Steven. n.d. 'Drone Strikes: The Legality of US Targeting Terrorists Abroad.'

There is also the question of the definition of self, and whether that describes purely the territory and citizens of the US, or its global interests. Such questions recall Cold War policies, such as NSC-68, with their definition of actions taken anywhere in the world as a threat to the US.[55]

Issues of self-defence also pose other challenges. It could be argued the campaign has been effective in keeping terrorists and terrorist attacks at bay as the US has not been directly attacked since 9/11. However, attacks have been prevalent elsewhere, despite drones killing, allegedly, thousands of high-level terrorist operatives. For example, Europe has suffered frequent terrorist attacks since 2015. Sikander Ahmed Shah, expert and scholar in counterterrorism studies, international human rights law and Islamic constitutionalism, argues that local Taliban groups in Pakistan have "actively carried out" acts of terrorism in previously safe and secure areas of Pakistan, in retaliation to drone strikes in the FATA.[56] In defending 'themselves', US actions could be destabilising other areas and exposing others to potential harm.

The US focusses on targeting high-level terrorist leaders. However, many of these do not pose an immediate threat to the US for two reasons. Firstly, terrorists in the Middle East and South West Asia pose more of a threat to Europe, due to Europe being geographically closer to the Middle East than the US. Secondly, terrorist forces outside Pakistan, Yemen, and Somalia have contacts outside their countries who pose a greater threat to the US, as it is these terrorists who will execute attacks, not those within the region. It is lesser known operatives and, increasingly, people who have been radicalised via the Internet who have no connections to terrorist organisations, who

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[55] For more information, see: Fautua, David T. 'The 'Long Pull' Army: NSC-68, The Korean War and the Creation of the Cold War Army'. *The Journal of Military History.* Vol. 61. No. 1. January 1997.
[56] Sikander Ahmed Shah. 'War on Terrorism: Self-defence, operation enduring freedom and the legacy of US drone attacks in Pakistan.' *Washington University Global Studies Law Review.* Vol. 9. No. 1. pp. 77-130. 2010. p. 85.

plan attacks. It could be argued that *Inspire* was a major influence for home-grown

terrorists, as many articles in the magazine detailed how to make explosive devices

and other ways to carry out terrorism in the West. The expansion of the Internet has

led to a "remote radicalization," of people not directly associated with terrorist forces

in the Middle East.[57] For example, the Boston Marathon bombing in 2013 was a

terrorist attack, though the planners of it were not affiliated with terrorist groups in the

regions where the US is operating. Home-grown terrorism is more of an immediate

threat to the US than terrorists in Pakistan, Yemen, and Somalia, and can be motivated

by radical publications based in the region. The reach of the Internet challenges more

conventional notions of self-defence by radically contracting the world and putting

people in easy contact with one another. This challenges simplistic notions of self-

defence as it is no longer about the ability of a specific person or group to physically

cause harm themselves, but about their ability to do so indirectly.

Imminent threat

In a speech, on May 28 2014, Obama specifically talked about drones, and who and

why certain people are targeted. A day before this, Obama had stated the last American

troops were to leave Afghanistan by the end of 2016. In the speech at the United States

Military Academy in West Point, New York, Obama stated that the US must "uphold

standards" that reflect US values when taking "direct action" against terrorists,

defining this as striking imminent threats and only when there is "near certainty" of no

civilian casualties.[58] This suggests that the campaign is specific to known militants and

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[57] Kilcullen, David. *Blood Year: Islamic State and the Failures of the War on Terror.* Hurst and Company: London, 2016. p. 56.
[58] Office of the White House Press Secretary. 2014. *Remarks by the President at the United States Military Academy Commencement Ceremony.* US military academy- West Point New York. May 28.

that civilian casualties are kept to a minimum. If the campaign were to operate in such a way, there would be no grounds to question the programme's validity since it would eradicate terrorists only. However, he did not clarify what he meant by 'imminent' in the speech to allow for flexibility of action. The Cambridge dictionary defines the word 'imminent' as "coming or likely to happen very soon".[59] Therefore, to ordinary citizens not aware this word is vague but important, it would be assumed Obama meant targeting terrorists who were an immediate threat to US national security. However, there is evidence to suggest the definition of the word has been changed by US officials. There has not yet been confirmation of the definition of 'imminent', but language used in leaked government files strongly suggests meanings of words have been altered.[60] Within the US government, 'imminent' no longer means 'immediate', but 'anytime in the future'. A memo in 2011 suggested elasticity around the interpretation of the term 'imminent threat' to allow a wide range of targets to be attacked. Obama claimed the US government must be more transparent about "the basis of counterterrorism actions and the manner in which they are carried out".[61] This was suggestive of Obama wanting to tighten legislation before his term ended. As the administration had been operating the campaign for six years, it was benefitting from experience to improve methods and practices. This would not only help Obama's legacy, as the speech was made as his term was coming to an end, it would increase the likelihood of European support. International criticism from European allies was growing, and to defeat terrorism effectively, a unified approach was needed. A pewresearch.org survey concluded that 47 percent of Britons, 59

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[59] Cambridge Dictionary. 'Imminent'. http://dictionary.cambridge.org/dictionary/english/imminent Accessed March 12, 2018.
[60] Department of Justice, White Paper: *Lawfulness of a Lethal Operation Directed against a US Citizen who is a Senior Operational Leader of Al Qaida or an Associated Force.* p. 7.
[61] Office of the White House. 2014. *Remarks by the President at the United States Military Academy Commencement Ceremony.*

percent of Germans and 63 percent of the French population disapprove of the drone campaign.[62] However, after this speech, there were no public explanations regarding a more clear or specific definition of 'imminent'. The word remains vague, and, although this is necessary to maintain flexibility of action, it is problematic. Rosa Brooks, former counsellor to the Defense Undersecretary for Policy, from 2009 to 2011, said without transparency it makes it difficult to tell if the campaign is "actually weakening terrorist networks".[63] This is important, as that is the main reason why drone strikes are undertaken.

Civilian and Military Aged Male

The word 'civilian' has also been changed by the US government from meaning someone not involved in the military or a "member of a particular group"[64] to anyone who is not a 'military aged male' (men aged 18 – 49).[65] In 2011, an anonymous senior intelligence officer told the *New York Times* that all military aged males successfully killed in a strike will be considered as combatants, "unless there is explicit intelligence posthumously proving them innocent".[66] This details a complete reversal of the conventional approach of innocent until proven guilty. It is not known if the policy has changed since, as many people involved in the programme do not want to discuss it. Producing a low number of civilian casualties appears to partially validate the campaign as successful. Brennan supported this in 2011 when he stated that "there were no civilian casualties" resulting from drone strikes in the FATA between May

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[62] There are issues with using polls like this as the methodology used and number of people asked is not known. However, on the pewresearch.org website it clearly states the survey results are based on national samples.

[63] Human Rights First: American Ideals. Universal Values. 'Quotes More Drone Transparency'. https://www.humanrightsfirst.org/wp-content/uploads/pdf/quotes-more_drone_transparency.pdf Accessed December 10, 2017.

[64] English Oxford Dictionary. 'Civilian'. https://en.oxforddictionaries.com/thesaurus/civilian Accessed July 16, 2017.

[65] Collateral damage will be analysed throughout this study. These few paragraphs merely analyse the problems with altering the definition of 'civilian'.

[66] Becker, Jo; Scott Shane. 'Secret Kill List Proves a Test of Obama's Principles and Will'. *New York Times.* May 29, 2012.

2010 and September 2011.[67] However, based on the government's definition of 'civilian', what Brennan really meant is that no children under 18 or women were killed. Although it is difficult to obtain accurate and consistent numbers, especially in Yemen and Somalia due to the low number of strikes compared to in the FATA, it is unlikely that all males killed were combatants, or associated with al Qaeda operatives. By assuming all males of 18- 49 are guilty by association, the US government has portrayed the campaign as being effective in achieving its aims. However, in reality the numbers of civilian casualties are being distorted. Former CIA employee Edward Snowden supports this, as he argues that "individuals who don't represent an imminent threat in any meaningful sense of those words are redefined, through the subversion of language, to meet [the] definition".[68] This distortion of language and manipulation of casualty rates is of real concern. From the leaked memo it would appear that some in the government have grave, and valid, concerns about the way in which the programmes are being conducted. This is an ongoing problem that needs to be addressed by implementing more transparency policies.

The US cannot claim to 'uphold standards' when it is deceptive about the language used to justify drone strikes in Pakistan, Yemen, and Somalia. The disparity between the dictionary's and the US government's definitions of words used to justify who is targeted, and the numbers of civilian casualties, is a poor foundation for such a controversial programme. It shows there is no transparency. Although this is not an issue of effectiveness, it is an issue of credibility and legitimacy of the drone

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[67] Bergen, Peter L., and Daniel Rothenberg. *Drone Wars: Transforming Conflict, Law and Policy.* New York: Cambridge University Press, 2015. p. 17.
[68] Snowden, Edward. 'Governments can reduce our dignity to that of tagged animals.' *The Guardian*. May 3, 2016.

programme. This impacts how civilians perceive the campaign, as well as other nations and terrorists.

Not only is there a problem in changing the definition of civilian, the methods in which combatant and non-combatant deaths are counted is also flawed. This is because there are myriad problems relating to intelligence gathering, language used to define militants, and styles of striking (these will be analysed later in the study). Limited Western media presence in rural areas where the programme operates, technological restraints, intelligence, and styles of strikes, results in sources having different statistics. It is important to look at the discrepancies between various sources first, because the numbers are open to manipulation to fit the agenda of the organisation. Consequently, it has been impossible for this study to find different sources with corresponding data. *The Bureau of Investigative Journalism (TBIJ)*, the *Long War Journal (LWJ)*, and the *New America Foundation (NAF)* are three main organisations that analyse drone strikes, focussing on collateral damage numbers. It has proved difficult to find scholarly articles on the numbers of civilian casualties, because the campaign is classified, and secretive details of the campaign will not be released by the US government on account of blowback and operational secrecy. Studies by these organisations are drawn up from media reports based on interviews with eyewitnesses and local residents, US and local government officials, and sometimes representatives from terrorist organisations. These may seem unreliable, but Woods states that in 2011 the CIA claimed the drone programme had targeted and killed 2050 individuals (in total in Pakistan, from 2001 to 2011, including militants and civilians). *TBIJ* estimated that 2135 people had been killed, and *LWJ* concluded a total of 2152 individuals had

died.[69] These estimates suggests that the methodology and sources used by *TBIJ* and *LWJ* are fairly accurate, because statistics supplied by these organisations are similar to the CIA's estimate. However, it could be argued that these organisations use the CIA's number as a foundation and add to it to conform to the organisation's agenda. As there are very few organisations that research drone strikes and casualties, this study will continue to use these sources. It is not known why *NAF* was not included in Woods' work, but it is used in this study as there are limited organisations that focus primarily on drone warfare and non-combatant deaths. The paragraph below lists the data from each organisation because these statistics will be referred to frequently throughout the study.

Although *TBIJ* and *LWJ*'s estimates were close to the CIA's, these organisations, including *NAF,* show far higher numbers of civilian casualties than the US government's estimates. This suggests there is an issue with verifying the identities of the dead. From 2008 to 2016, Obama's administration claimed that between 64 and 116 non-combatants died as a result of drone strikes. However, *TBIJ* claims that in Pakistan, Yemen, and Somalia, under Obama, between 321 and 741 civilians have been killed by drones in total. *LWJ* states that 212 civilians have been killed in Yemen and the FATA. Somalia is exempt from *LWJ's* findings, as the programme has not been operational for as long, meaning data is more difficult to find. Finally, *NAF* concluded that in the FATA, Yemen, and Somalia, between 216 and 254 non-combatants had died, as well as a further 160 – 271 'unknowns' being targeted.[70] Not only do these sources suggest there is a major problem with how civilian casualties are

[69] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in *'Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications.'* edited by Mike Aaronson, Wali Aslam, Tom Dyson, and Regina Rauxloh. Routledge: New York, 2015. pp. 95- 105. p. 100.
[70] Human Rights First. Drone Strike Casualty Data by the Numbers. Factsheet: July 2016. http://www.humanrightsfirst.org/sites/default/files/Drone_Casualty_Data_Fact_Sheet.pdf accessed 10th November 2017 Accessed March 12, 2018.

calculated, an example from Pakistan's liberal daily newspaper, *Dawn,* further strengthens this argument. The article stated that of 708 people targeted by US drones in 2009, only five were militants. This means the rest were civilians or unknowns.[71] Clearly then, there are problems surrounding the methods used by the US government to count collateral damage. Obama himself stated that there is a "wide gap" between official assessments and non-governmental reports.[72] However, there was no explanation as to why, and the subject was quickly changed. One reason for the discrepancies is that the US government do not consider military aged males as civilians. Instead, their deaths are counted as successful militant kills, enabling a lower civilian body count to be produced. During the Vietnam War, 1955 – 1975, it is known that US forces had an "incentive" to include civilians in the total number of enemy fighters killed.[73] Including civilians meant a high body count was produced, and this attempted to show that US operations were successful in defeating the enemy. However, it is now known that was not the case. As the non- combatant death toll from *TBIJ, LWJ* and *NAF* are far greater, it suggests military aged males have been included in these civilian casualty numbers. One anonymous former senior intelligence official expressed doubts about the numbers supplied by the US government. They stated the "deceptive" nature of defining militants as males aged 18 – 49 resulted in the low collateral damage estimates. The official further expressed that these estimates "bothered" him because when the corpses are counted, the US government is not "really sure who they are".[74] Therefore, it could be said that the collateral damage estimates supplied by non-government organisations are more accurate than official

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[71] Zulaika, Joseba. 'Drones and Fantasy in US Counterterrorism.' *Journal for Cultural Research*, Vol. 18. No. 2. pp. 171-187. p. 171. 2014.
[72] Office of the White House Press Secretary. 2013. *Remarks by the President at the National Defence University. National Defence University.*
[73] Levine, Paul; Harry Papasitirio. *'America since 1945: The American Moment'*. Palgrave: London, 2011. p. 114.
[74] Becker, Jo; Scott Shane. 'Secret Kill List Proves a Test of Obama's Principles and Will'. *New York Times.* May 29, 2012.

findings, simply because non-combatant military aged males are included in these organisations data.

Zero Non-Combatant Deaths

Brennan claimed there was not a "single collateral death" from May 2010 to September 2011.[75] Evidence suggests that this is not true, despite officials claiming the programme is "exceptional" in the targeting of militants.[76] Drawing on personal experience, Jeffery Addicott, senior legal adviser to the US Army Special Forces, claimed that "there's simply no way so few civilians have been killed".[77] He explained that this was because "no matter how good the technology, killing from that high above, there's always the 'oops' factor".[78] A strike in the Datta Khel area of the FATA is an example where Addicott's claim contradicts Brennan's. This strike killed 42 people in March 2011. Only one was identified as a militant. However, because all other casualties in the strike were military aged males, they were considered as combatants and therefore not included in the US official figure of collateral damage. Admitting that large numbers of civilians have been targeted because they were 'acting suspiciously' would result in more backlash from opponents of drones. This is because it would show the public that drones do not possess the level of precision that has been claimed. However, false claims from government officials, such as Brennan's, contradict many journalists' and organisations' research about civilian casualties of the programme, and they imply the US government is being untruthful about the numbers of civilians killed. Therefore, it is increasingly difficult to trust collateral damage estimates supplied by the US government. This is problematic because the

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[75] Shane, Scott. 'CIA is disputed on Civilian Toll in Drone Strikes.' *New York Times.* August 11, 2011.
[76] Ibid.
[77] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'.* 2012. p. 131.
[78] Ibid.

only official information confirming civilian deaths is supplied by the US government. As there are no clear numbers of non- combatant deaths, it is difficult to determine if drones are as effective and precise to militants as US officials claim.

In addition, counting all military aged males as militants further suggests that insurgents and civilians are not distinguished. Moreover, it is racist and reductive – no-one would suggest, conversely, that a strike on a gathering of males aged 18-49 years in the US would be justified because it was likely that some were in the army. It also constructs the spaces inhabited by the targets of the drone campaign as essentially lawless, undermining the nation states' claims to legitimacy and presenting them as a kind of new Wild West policed by robotic sheriffs. If the US government wanted to ensure the campaign did not target any more civilians than necessary, then drone operators, the intelligence methods used, styles of strikes and target selection methods should all be reviewed regularly. Obama mirrored this point, as he stated before he left office that an "institutionalised process [to] ensure drones are reported on" annually should be implemented so "people can look".[79] However, it could be argued that the US government is unaware of the scale of civilian casualties, because each target in a signature strike has been deemed to be engaging in suspicious behaviour. When unknown targets are killed, the US government or CIA should justify the strike, detailing what behaviours the individual was expressing to be rendered as a threat. Justifying and explaining why a strike was authorised would likely increase the chances of only targeting individuals who are a known threat, or who are clearly undertaking terrorist activities. This is because the US government or CIA would not want the programme to come under scrutiny from Congress, or face blowback from

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[79] Office of the White House Press Secretary. 2016. *Remarks by the President in a Conversation on the Supreme Court Nomination.* University of Chicago Law School, Chicago, Illinois. April 8.

Pakistan, Yemen, or Somalia. Civilian casualties could be reduced if the planning, training, and engagement processes were revised. This is because drone operators would be properly trained on what activities militants engage in and how their actions differ from the local culture. Furthermore, in order to ensure civilian casualty rates are decreased, the targets should be known terrorists or be identified as an operational member of a terrorist cell before they are targeted. Chapter Two will analyse how targets are selected.

Chapter Two: Target Selection Procedures

Selection is a key part of any programme involving targeted warfare. Clear criteria are necessary to ensure successful selection and, just as importantly, elimination of people on the 'Disposition Matrix', informally known as the 'Kill List'. This list consists of individuals deemed a legitimate threat to the US and its interests. However, arguments exist that suggest drones have targeted the wrong person, and that they "fire on groups of people" whose identities are not known.[1] This is problematic as only known terrorists should be targeted. Leila Nadya Sadat stated this process was "shaky", based on the loose, vague definitions of what defines an individual as being an extremist, or militant, as analysed in Chapter One.[2] In order for the correct targeted to be selected, current methods need to be reviewed. It could be argued that this would reduce the likelihood of targeting incorrect individuals, and this would maximise the campaign's effectiveness in eradicating terrorist groups. In addition to this, the chapter will analyse lawyers' inputs into authorising a strike. Lawyers are used by the US government to ensure strikes against a target are lawful. However, there are problems with using lawyers in stressful situations and there is evidence to suggest their decisions are not implemented. This is problematic because lawyers are used to provide a legal safeguard, and disregarding their guidance has the potential to result in serious ramifications for the US if they are regarded as having breached international law in their pursuit of the drone campaign. Finally, this section will conclude with analysing

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[1] Schneller, Mary Kathryn. *Targeted Drone Strikes: Increasing Accountability through Transparency.* December 2014 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2401269 p. 4.
[2] Sadat, Leila. 'America's Drone Wars' *Case Western Journal of International Law.* Vol 45. pp. 215 – 234. p. 231. 2012.

the issues surrounding plausible deniability and transparency in regard to target selection.

Kill List

The Kill List is comprised of suspected militants linked to AQAP, al Qaeda, al Shabaab, and affiliated groups in Pakistan, Yemen, and Somalia, who can be "specifically targeted for killing".[3] Government officials, lawyers, and military and CIA veterans meet weekly to discuss militants who are deemed harmful to the US. To gain an accurate image of the suspect, their movements are monitored by drone teams and intelligence analysts. Biographies of suspects on the list have been described by many, such as Jeremy Scahill, the *New York Times*, and the *Columbia Law School Human Rights Clinic and Center for Civilians in Conflict*, as 'baseball cards'. This is due to their resemblance to the baseball cards children collect that give concise information on the career of the pictured player. For clarity, an example of what one is believed to look like has been included at the end of this study, in Figure One. The image has been taken from *The Intercept's "A Visual Glossary"* section. Josh Begley, author of the piece, clearly states this is not "what a baseball card looks like", but they will include similar information.[4] Using nicknames such as 'baseball cards' rather than serious names, such as 'target information' for example, implies juvenile games. Medea Benjamin, co-founder of the women-led peace group Code Pink, stated that "drones make war look fun".[5] Therefore, it could be argued that military officials and drone operators think of the campaign as a game. This implies that the drone programme is seen as such, rather than a serious political programme. Accordingly,

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[3] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* Oxford University Press: London, 2015. p. 138
[4] Begley, Josh. 'A Visual Glossary: The Drone Papers'. *The Intercept.* October 2015.https://theintercept.com/drone-papers/a-visual-glossary/ Accessed March 12, 2018.
[5] Benjamin, Medea. *Drone Warfare: Killing by Remote Control.* Verso: London, 2013. p. 158.

language such as 'baseball cards' should be reviewed. It could be argued that doing so would help ensure the campaign is not seen as a game by those who are given the responsibility of operating drones. This idea of war as a game found recent expression in *America's Army,* a popular, mainstream video game. It was developed with the US military to help aid its "recruiting and training".[6] Not only has the military designed a video game, drone operators have been called "glorified video game players".[7] One anonymous analyst who served at the Central Command Center stated that operating drones is "like a video game… it can get a little blood thirsty, but it's fucking cool".[8] Although this is from one drone operator, it does not necessarily mean all have the same view. However, Michal Haas, former drone pilot, gave further evidence to suggest that this idea is common among operators. He claimed many new recruits "just wanted to kill" and were "gung-ho about the power they wielded at their fingertips".[9] It is problematic to think of the drone programme as a game, simply because it is not. Koh strengthened this argument, as he said to a room of drone operators, "I hear you guys have a PlayStation mentality".[10] He claimed they were "offended by this" statement.[11] However, drone operators use a "joystick" as opposed to a conventional trigger to fire a Hellfire missile: this reinforces game-like implications.[12] The campaign needs to be operated with sensible consideration for what it really is: a serious, lethal programme.

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[6] Singer, P.W. 'Meet the Sims… and Shoot Them'. *Foreign Policy.* February 11, 2010.

[7] Fitzsimmons, Scott; Karina Sangha. 'Killing in High Definition: Combat Stress among Operators of Remotely Piloted Aircraft.' *The Canadian Political Science Association.* p. 3.

[8] Wall, Tyler; Torin Monahan. 'Surveillance and Violence from Afar: The Politics of Drones and Liminal Security- Scapes.' *Theoretical Criminology.* Vol. 15 No. 3. 2011. pp. 239 –254. p. 248.

[9] Pilkington, Ed. 'Life as a Drone Operator: Ever Step on Ants and never give it Another Thought?' *The Guardian.* November 2015.

[10] Klaidman, David. *Kill or Capture: The War on Terror and the Soul of the Obama Presidency.* Houghton Mifflin Harcourt: Boston, 2012. p. 217.

[11] Sanger, David E. *Confront and Conceal: Obama's Secret War and Surprising Use of American Power.* Broadway Paperbacks: New York, 2013. p. 257.

[12] O' Connell, Mary Ellen. Research Paper, No. 11 – 35. 'Seductive Drones: Learning from a Decade of Lethal Operations'. *Journal of Law, Information, and Science.* University of Tasmania: Notre Dame Law School. p. 25.

On one hand, it could be argued that due to the vast scale of the programme, baseball cards are an effective way to condense the actions and locations of numerous militants into small bite sized pieces. However, Scahill claims the list is a form of "pre-crime justice" whereby individuals are considered "fair game" if their behaviours meet certain criteria.[13] This is a problematic approach when identifying targets for the Kill List because there have been many strikes where civilians have been mistaken for terrorists. For example, it is known civilians feel "culturally beholden" to provide terrorists with food and shelter.[14] An example of this occurred in the FATA. Daud Khan, local tribesman, claimed his house was targeted by a drone the day after Taliban members visited his house.[15] Khan stated that, as well as being too scared to turn them away, he was unable to stop them from entering his home because "local people must offer them food".[16] To a drone operator who is not aware of this, the civilian could be, and in Khan's case, was, mistaken as aiding the terrorist. Although this was just one incident, it is likely to have happened before due to the vast number of strikes occurring in the FATA, compared with collateral damage numbers. During a Google+ Hangout in January 2012, Obama claimed drone strikes had "not caused a huge number of civilian casualties".[17] However, 413 strikes and a minimum estimate of 316 civilians being accidentally killed between 2008 and 2016 suggests otherwise.[18] Christopher Rogers of the Campaign for Innocent Victims in Conflict (CIVIC) stated that "offering indirect support" to militants would not formally qualify as "direct participation in

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[13] Scahill, Jeremy. *Dirty Wars: The World is a Battlefield*. Public Affairs. 2013. p. 352.
[14] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 42
[15] Shaw, Ian. 'Predator Empire: The Geopolitics of US Drone Warfare.' *Geopolitics.* Vol. 18. No. 3. June 2013. p. 547.
[16] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 42.
[17] BBC. 'Obama Defends Drone Strikes in Pakistan'. January 31, 2012.
[18] Bureau of Investigative Journalism. 'CIA and US Military drones in Pakistan, 2004 to present.' https://docs.google.com/spreadsheets/d/1NAfjFonM-Tn7fziqiv33HlGt09wgLZDSCP-BQaux51w/edit#gid=477128060 Accessed March 12, 2018.

hostilities".[19] Therefore, this suggests that civilians being targeted in this way is a violation of the IHL analysed in Chapter One. Lieutenant Colonel Brendan M. Harris stated that the drone campaign needs people who are "trained and accountable in recognising" the difference between civilians and militants.[20] Furthermore, former Director of the National Security Agency (NSA), Michael Hayden, stated that drones "are not well understood by the kind of people who get to sit in on meetings in the West Wing".[21] To reduce the number of civilian casualties, and in order for the programme to comply with IHL, the behaviours of targets should be continuously monitored for any changes. Doing so would mean civilians mistakenly put on the list could be taken off before they are targeted.

Stages of the Kill List

According to Ian Shaw, Lecturer in Human Geography at the University of Glasgow, and Majed Akhter, Assistant Professor of Geography at Indiana University, there are four stages to adding a target to the Kill List: identification, vetting, validation and finally, nomination.[22] The identification stage analyses the target's status in a terrorist cell, and their effectiveness, i.e., whether they are active in aiding terrorists execute attacks. By focussing on a suspect's frequently visited locations and relationships with others, drone teams and officials can determine the suspect's "pattern of life".[23] Lieutenant Colonel T. Mark McCurley stated the terrorist, known as 'the Captain', he was tracking had a predictable daily routine. McCurley claimed he could tell where

[19] Ahmad, Shakeel. 'A Legal Assessment of the US Drone Strikes in Pakistan'. *International Criminal Law Review.* Vol. 13. No. 4 pp. 917- 930. 2016. p. 926.
[20] Drew, Christopher. 'Drone Flights Leave Military Awash in Data'. *New York Times.* January 10, 2011. http://www.agriculturedefensecoalition.org/sites/default/files/file/drones_517/517U_3_2010_U.S._Air_Force_Drones_Leave_Military_Awash_in_Data_NYTimes_January_11_2010_by_Drew.pdf. Accessed March 27, 2018.
[21] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 147.
[22] Shaw, Ian and Majed Akhter. 'The Dronification of State Violence.' *Critical Asian Studies.* Vol. 46. No. 2. pp. 211- 234. p. 226. 2014.
[23] Begley, Josh. 'A Visual Glossary: The Drone Papers'. *The Intercept.* October 2015.

the Captain would be "without looking at a grid reference", because drone operators would "look at a clock and [could] tell where the Captain would be".[24] However, allegedly, this particular terrorist "saw and heard" the US drone tracking him.[25] According to intelligence, the Captain deliberately created an everyday, obvious pattern, in order to confuse drone operators when he went off course.[26] This is problematic for the team monitoring the insurgent, because drone operators could be preoccupied with tracking a predictable individual, meaning an actual terrorist is not being watched. However, if a suspect's behaviours meet a certain, secret, criteria, the next stage is vetting and validation of a target. This involves the National Counterterrorism Center (NCTC) analysing the tactical and strategic gains and losses of targeting the suspect.[27] This is an important stage of adding a name to the Kill List, as it is an extra layer of scrutiny on the suspect. However, Scahill stated that there is a shortcut around this lengthy process. He claimed that the president for Homeland Security and Counterterrorism can "elevate entire categories of people" straight to the Kill List, without going through the mandatory steps.[28] This is known as a "threat-based expedited upgrade".[29] It is problematic that one person can essentially fast-track targets to the Kill List, because, firstly, their confirmation to the post of president of Homeland Security and Counterterrorism does not require Senate confirmation. Secondly, the fast-tracked targets are not subject to the same rigorous selection procedures as other individuals. However, despite this, the last and final step to completing the process of adding a name to the Kill List is nomination of the target.

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[24] McCurley, Mark. T. *Hunter Killer: Inside the Lethal World of Drone Warfare.* Allen & Unwin: London, 2016. p. 114.
[25] Ibid.
[26] Ibid. p. 119.
[27] Shaw, Ian and Majed Akhter. 'The Dronification of State Violence.' p. 227.
[28] Scahill, Jeremy. *The Assassination Complex: Inside the US Government's Secret Drone Warfare Programme.* Simon & Schuster Inc.: New York, 2016. p. 22.
[29] Ibid.

Journalists, such as Ian Cobain from *The Guardian* and Amy Davidson from *The New Yorker*, have described weekly meetings in the White House to discuss and nominate potential targets for the Kill List as 'Terror Tuesdays'. The US is apparently combatting terrorism. However, naming a meeting 'Terror Tuesdays' is committing to terrorism. Although this nickname is from the media, it suggests the meetings are rather light-hearted, as opposed to serious, political discussion. A range of lawyers and officials meet with the president and view the baseball cards on a PowerPoint slideshow. These suspects are then filtered on to the list, using information presented on the baseball cards. Only the baseball cards of potential targets in Yemen and Somalia are shown. The campaigns are run by two different agencies: the CIA operates in the FATA, whereas the Joint Special Operations Command (JSOC) control the programmes in Yemen and Somalia, and this could be a reason why the targets in the FATA are not considered in Terror Tuesday meetings.

Authorisation Period

Once the suspect is successfully nominated for the list, they must be targeted within 60 days. If this is not done, their status as an imminent threat must be reviewed and renewed. The length of time taken from selecting a target, gathering intelligence, and getting approval to strike can take upwards of 18 months according to one former drone operator, Brandon Bryant.[30] While potentially welcome in terms of the performance of due diligence, as the target's status must be reviewed at least nine times, it implies the suspected terrorist cannot be an 'imminent' threat. This is problematic, because, as analysed in Chapter One, there are issues surrounding the definition of 'imminent'. This point is mirrored by The American Civil Liberties

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[30] Scahill, Jeremy, and Glenn Greenwald. n.d. 'The NSA's Secret Role in the US Assassination Program.' The Intercept. https://theintercept.com/2014/02/10/the-nsas-secret-role/ Accessed November 17, 2016.

Union's (ACLU) director, Hina Shamsi, who argues that the two-month window for striking showed the administration's "broad interpretation of a continuing imminent threat".[31] Imminence has expanded alongside notions of national security and American rights to global self-defence initiatives. In terms of institutional rhetoric, an individual poses an imminent threat if they are an "operational leader" in the network, and initially the Kill List was made up of only the "worst of the worst" high-level terrorists.[32] However, as these targets were killed, the list increasingly consisted of low-level militants. Therefore, defining these militants as 'imminent' threats is untrue and problematic, as based on the definition given in Chapter One, they do not pose an immediate threat to US national security except in its broadest possible definition.[33]

One definition of imminence can be found in the 60 day authorisation period attached to strikes, which originates from the second part of the War Powers Resolution, enacted on November 7, 1973. It was passed in order to for the Executive branch of government to be more accountable to Congress.[34] Section 5 (b) requires the president to "consult with Congress" before US troops are deployed to where "hostilities are imminent".[35] However, no US troops are present in the FATA, Yemen, or Somalia because drone warfare is different to traditional warfare used when the act was implemented. An anonymous senior special operations officer stated if the mandatory 60 day period expired, analysts were required to re-build an intelligence case against a suspect.[36] As the US government does not deploy troops to the FATA, Yemen, or

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[31] Currier, Cora. 'The Kill Chain: The Drone Papers'. *The Intercept.* October 2015.
https://theintercept.com/drone-papers/the-kill-chain/ Accessed March 12, 2018.
[32] Schneller, Mary Kathryn. *Targeted Drone Strikes: Increasing Accountability through Transparency.* p. 10
[33] 'Immediate' is defined as 'anywhere in the future', whereas a 'threat' is on a case by case basis. For example, some drone operators are known to have fired at a group of men without supporting evidence, because they are seen as terrorists plotting new attacks.
[34] Laney, Brock. 'Drone Strikes and the War Powers Resolution'. *Brigham Young University Pre Law Review.* Vol. 27. No. 5. pp. 15- 32. p. 20. 2013.
[35] Library of Congress. 'War Powers'. April 2017 https://www.loc.gov/law/help/war-powers.php Accessed January 23, 2018.
[36] Currier, Cora. 'The Kill Chain: The Drone Papers'. *The Intercept.* October 2015.

Somalia, it could be argued that the drone campaign should not be obliged to adhere to the War Powers Resolution's 60 day authorisation period. Furthermore, the Resolution is "unlikely to be judicially enforced", with Congress citing the act when attempting to "persuade the American public" that the president has exceeded their constitutional powers.[37] This suggests that the War Powers Resolution does not have to be adhered to legally. Extending this time period would allow senior officials to make calculated decisions, and it would prevent officers being required to re-do and re-build a case against a target.

This 60 day time limit is known to make drone operators strike a target "while the window was open".[38] Bryant confirms this and states that when authorisation is given, drone operators will strike whenever they see an opportunity "because they might never get the chance to strike that target again".[39] This inclination and mentality to strike at the first opportunity impacts civilians in the area, as the target will be struck "even if there is a high chance of civilians being killed".[40] This is because drone teams would want to strike a target they have been tracking for 18 months; the killing of several unknowns becomes less important in the pursuit of the overall aims of the programme. This again is another connection to game playing mentalities. The US would rather 'score points' by targeting a suspected militant and kill civilians in the process, rather than 'lose' the suspect, even though they are constantly monitoring them. The US government claims that suspected terrorists will only be targeted if there is "near- certainty" of their elimination without civilian casualties.[41] Based on Bryant's

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[37] Patera, John. 'War Powers Resolution in the Age of Drone Warfare: How Drone Technology has Dramatically Reduced the Resolutions Effectiveness as a Curb on Executive Power.' *Hamline Journal of Public Law and Policy.* Vol. 33. No. 2. Spring 2012. pp. 387 – 422. p. 402.
[38] Currier, Cora. 'The Kill Chain: The Drone Papers'. *The Intercept.* October 2015.
[39] Scahill, Jeremy, and Glenn Greenwald. n.d. 'The NSA's Secret Role in the US Assassination Program.' The Intercept.
[40] Ibid.
[41] Office of the White House Press Secretary. "*Remarks by the President at the United States Military Academy Commencement Ceremony.*" US military academy- West Point New York. May 28, 2014.

comments, it suggests this claim is untrue, as strikes will be conducted regardless of the presence of civilians. This tarnishes the programme's image of being "surgical and clean", as stated repeatedly by the US government.[42] By increasing the time period, the US government would likely decrease the number of civilian casualties. This is because drone operators would be more aware of the target's surroundings if they knew there was extra time to target the suspect without having to repeat evidence and re-examine intelligence.

A protracted time scale would enable military and CIA officials to make clear, calculated decisions, and it could be argued that they would not be as desperate to strike terrorists as soon as possible. This would reduce the likelihood of accidentally targeting civilians in the blast radius around the target. Additionally, a longer time scale would also ensure the target on the Kill List is not a civilian, and it would allow drones teams to gather better, more informed, intelligence on the suspect. The 18 months of review prior to approval being given for a strike count for little if the window for undertaking the strike then creates increasing time pressure on drone operators, jeopardising the lives and security of civilians in the process.

Lawyers

Although it is not known who specifically attends the weekly meetings, it is known that Koh and his counterpart from the Pentagon, Jeh Johnson, both government lawyers, attended one held on December 16, 2009. This meeting discussed three alleged AQAP members in Yemen who were "to be taken out in a series of targeted killings".[43] John Rizzo, former CIA general counsel, claimed lawyers and decision

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[42] Purkiss, Jessica; Jack Serle. "Obama's Covert Drone Warfare in Numbers: Ten Times more than Bush". *The Bureau of Investigative Journalism.* January 2017. https://www.thebureauinvestigates.com/stories/2017-01-17/obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush Accessed March 12, 2018.
[43] Scahill, Jeremy. *Dirty Wars: The World is a Battlefield*. Public Affairs. 2013. p 303.

makers have "carefully argued" for targets to be put on the list.[44] In this one example, Koh and Johnson only had 45 minutes to review the potential targets' biographies.[45] That is 15 minutes per militant to decide whether they should be killed. Targets are mobile and decisions need to be made quickly, but Johnson stated that he felt "unprepared" and "rushed" to make the decision. [46] In addition to this, Koh was "queasier than most about the whole killing experience than others who worked for the government".[47] Government lawyers presiding over decisions that could result in serious ramifications for the US government should not feel 'unprepared' or 'queasy'. This is problematic because lawyers are used in the programme to ensure the US government adhere to the "laws of armed conflict", official rules of engagement, and a set of "specific instructions", called 'Spins', drawn up by commanding officers.[48] Having a lawyer that is not prepared to make a decision suggests there needs to be more time allocated to lawyers to review target's biographies. Some may argue this is unrealistic, but given the fact that drones teams have, on average, 18 months to target the suspect, there could, and should, be more than 45 minutes allocated to lawyers. David Kilcullen, a counterinsurgency expert, strengthens this argument and claims that policymakers engage in "knee-jerk responses" opposed to considering an "effective strategy".[49] A longer term view is needed, given the complex situations and consequences for the US government that need to be considered. It is difficult to laud the programme's effectiveness when lawyers are under duress to provide answers to difficult scenarios in a very short time.

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[44] McKelvey, Benjamin. Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power. *Vanderbilt Journal of Transnational Law* Vol. 44. pp. 1353-1384 June 2012. p. 1358.
[45] Scahill, Jeremy. *Dirty Wars: The World is a Battlefield*. p. 303.
[46] Ibid.
[47] Bergen, Peter L., and Daniel Rothenberg. *Drone Wars: Transforming Conflict, Law and Policy.* New York: Cambridge University Press, 2015. p. 194.
[48] Chatterjee, Pratap. 'How Lawyers Sign off on Drone Attacks'. *The Guardian.* June 2011.
[49] Kilcullen, David. *Blood Year: Islamic State and the Failures of the War on Terror.* p. 199.

As well as feeling 'unprepared', it is known that lawyers felt forced into making a decision with which the military and CIA officials were in agreement. This is one example and may not be representative of every meeting that occurs. Nevertheless, in this one example, in addition to Johnson being 'unprepared', he claimed he also felt a "heavy pressure exerted by the military" to authorise the strike.[50] Lawyers being pressured into making a certain decision means there is a high chance the strike will result in disastrous consequences, as evidence that is not properly analysed has a high chance of being misinformed or misrepresented. This is problematic because lawyers have a more nuanced opinion than military officials. They "undergo special training in the Geneva Conventions" before they start working, whereas military officials do not.[51] Lawyers should not be pressured to authorise strikes to placate military and CIA officials, because the drone campaign is fought by "lawyers, not soldiers".[52] This suggests that lawyers should be authorising important decisions with military officials implementing them, not the other way around. Snap decisions are not always wrong and do not always result in disaster. However, being pressured into making a decision using the limited amount of information on a baseball card means lawyers cannot possibly make a well- informed decision on whether or not the suspect is a militant, unless there is explicit intelligence proving otherwise. This therefore increases the chances of striking an incorrect target. However, extending the 60 day time period would give lawyers more time to compile and review intelligence on a suspect. Cheri Kramer, Development Editor for the Journal of International Law at Santa Clara Law,

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[50] Scahill, Jeremy. *Dirty Wars: The World is a Battlefield*. p. 303.
[51] Chatterjee, Pratap. 'How Lawyers Sign off on Drone Attacks'. *The Guardian.* June 2011.
[52] McCue, Jason. 'Today's Wars are fought by Lawyers, not Soldiers'. *The Telegraph*. May 25, 2016.

agreed, and states that "in order to reinforce the reliability of intelligence", the US government needs to implement clear, systematic target selection procedures.[53]

Although this time frame and the pressuring of lawyers to make a decision does not make the campaign ineffective, it questions the US government's ability to conduct well-considered strikes, and therefore the merits of the overall campaign. This is because there is a growing perception that the campaign is "illegal, unnecessary and out of control".[54] To combat this issue, the US government needs to be more transparent on how targets are selected. If the US government were more transparent, it could be argued that lawyers would be allocated a longer time to review suspects, because the methods would undergo rigorous scrutiny.

Plausible Deniability and Transparency

'Plausible deniability' was first officially used as a term during the 1970s. Many presidents have used it to their advantage, in order to avoid public inquiries. It is an "unofficial rationale" for covert operations that may come under intense scrutiny.[55] The most noteworthy example of plausible deniability was used by President Ronald Reagan, during the Iran- Contra affair.[56] John Poindexter, Reagan's National Security Advisor from 1985 – 1986, took responsibility for authorising the mission and deliberately withholding documents from the president, which showed the diversion of profits from Iranian arms sales to the Contras. By doing so, Poindexter allowed Reagan to state that he did not know about the issue, i.e., he claimed plausible deniability, because evidence proved the president was not (officially) involved. This

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[53] Kramer, Cheri. 'The Legality of Targeted Drone Attacks as US Policy.' *Santa Clara Journal of International Law.* Vol. 9. No. 2 pp. 375- 398. p. 393.
[54] Koh, Harold. *How to End the Forever War?* Oxford Union, Oxford. May 7, 2013.
[55] Lynch, Michael; David Bogen. *The Spectacle of History: Speech, Text and Memory at the Iran- Contra Hearings.* Duke University Press: London. 1996. p. 63.
[56] In exchange for US hostages held in Lebanon, the US decided to sell arms to Iran (despite an embargo). The profits from this would help fund the Nicaraguan Contras in defeating the communist Sandinistas.

protected Reagan from scrutiny from Congress and the public, as well as blowback from other countries.[57]

Conversely, Obama has publicly insisted on personally reviewing the "baseball cards of an unconventional war".[58] A 2012 phone call between the president and *CNN's* Jessica Yellin, confirms this, as Obama stated he was "responsible for the process" that enabled the US to "disable [militants] before they carry out their plans".[59] This is problematic as it leaves the president vulnerable to scrutiny in the event of a "serious operational miscalculation" i.e. targeting civilians.[60] However, Rizzo claimed that he did not consult with Obama on some specific strikes. On this occasion, Obama could claim plausible deniability as he was deliberately excluded from the process.

It could be argued that simply by taking responsibility for this aspect of the campaign, Obama was transparent on the issue of target selection methods. However, Obama failed to give more details on target selection, denying American citizens the right to make "informed judgements [about the campaign] and hold the government accountable".[61] Furthermore, Hayden claimed that the US government needs to "talk more, to engage more… with press and the public" in order to strengthen its argument that drones are precise and effective.[62] Although secrets are needed in US operations, failure to be as transparent as possible suggests there is something illegitimate about the programme. Transparency remains a pertinent problem with target selection

[57] For more information on the Iran- Contra Affair, see: Marshall, Jonathan; Peter Dale; Jane Hunter. *The Iran-Contra Connection: Secret Teams and Covert Operations in the Reagan Era.* Black Rose Books: New York, 1987.

[58] Becker, Jo; Scott Shane. 'Secret Kill List Proves a Test of Obama's Principles and Will'. *New York Times.* May 29, 2012.

[59] Woods, Chris. 'Obama's five Rules for Drone Strikes.' The Bureau of Investigative Journalism. https://www.thebureauinvestigates.com/stories/2012-09-06/obamas-five-rules-for-covert-drone-strikes Accessed January 12, 2018.

[60] Alley, Roderick. 'Drone Debate: Sudden Bullet or Slow Boomerang?' *Centre for Strategic Studies.* Victoria University of Wellington: New Zealand. No. 14/13. p. 15.

[61] Holder, Eric J. *Letter to Patrick J. Leahy, Chairman of the Committee of the Judiciary.* Office of the Attorney General. May 23, 2013.

[62] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 119.

procedures because there are no (public) laws "establishing [the] existence" of the list.[63] This means the procedures of selecting a target cannot be scrutinised. Glenn Greenwald, in an interview with Bill Moyers, former White House Press Secretary to President Lyndon B. Johnson, claimed that "leaks and whistleblowing" are the only way the American public know what the US government does.[64] This is problematic as it suggests information given by the US government should not be taken at face value, despite Obama claiming to provide all Americans with "as much information as possible regarding sensitive counterterrorism operations".[65] More transparency is needed on this aspect of the programme because silence by the US government signals to the public that US drone strikes are not "lawful and necessary".[66] It also fosters the growing idea that the campaign is not "surgical and precise", as so often stated by the US government.[67] Clarity on these procedures would be the most effective way to confront human rights challenges, because making the methods public would "minimize the risk of targeting an unlawful target".[68] In conjunction with this, transparency would also "increase enforcement standards" in target selection procedures as the processes would be subject to scrutiny.[69] It would prove to the public that strikes are targeted towards militants. The lack of transparency implies the US government and CIA are not conforming to legal procedures. The "official veil of secrecy" has made it incredibly difficult to contribute to "mature public debate" on the target selection procedures.[70] However, if documents outlining how and why the

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[63] Hosenball, Mark. 'Secret Panel Can put Americans on Kill List'. *Reuters.* October 5, 2011.
[64] Greenwald, Glenn. *'Drone Use and Terrorism: A Conversation on the Problems with US Drone Policy'.* May 19, 2014. https://www.youtube.com/watch?v=aQ0kslMIJbU Accessed March 12, 2018.
[65] Holder, Eric J. *Letter to Patrick J. Leahy, Chairman of the Committee of the Judiciary.*
[66] Koh, Harold. *How to End the Forever War?* Oxford Union, Oxford. May 7, 2013.
[67] Bureau of Investigative Journalism. 'US claims of 'no civilian deaths' are untrue.' July 18, 2011. https://www.thebureauinvestigates.com/stories/2011-07-18/us-claims-of-No.-civilian-deaths-are-untrue Accessed March 12, 2018.
[68] Kramer, Cheri. 'The Legality of Targeted Drone Attacks as US Policy.' p. 393.
[69] Schneller, Mary Kathryn. *Targeted Drone Strikes: Increasing Accountability through Transparency.* p. 25.
[70] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 425.

decision to put an individual on the Kill List were to be released, CIA methods could be scrutinised fairly, rather than guessed at by conspiracy theorists. However, releasing sensitive information would jeopardise US national security and compromise current and future operations in the region. To combat this, "names, places, and groups" could be redacted in order to protect intelligence on other suspects.[71] This would show the US government as being more transparent while still preserving national security.

Once an individual has been deemed as displaying suspicious behaviours, intelligence on them needs to be collected. This will be analysed in Chapter Three.

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[71] Schneller, Mary Kathryn. *Targeted Drone Strikes: Increasing Accountability through Transparency.* p. 26.

Chapter Three: Intelligence Collection

Intelligence collection and analysis involves piecing together small pieces of information, such as name fragments, phone numbers and last known locations of a target, and is collected using video footage (reconnaissance), signals (Sigint), or human assets (Humint). The methods used in gathering intelligence by the US government and CIA have the potential to influence the outcomes of strikes, as correct intelligence will guide drone teams to an individual who poses a legitimate threat. Obama's Secretary of Defense, Leon Panetta, set out the standards by which the programme must be judged when he described it as being "the most precise campaign in the history of warfare".[1] This may be the case when correct intelligence is used. However, incorrect intelligence is more likely to result in a strike where the suspect is a victim of mistaken identity. It is a war, and so it is unrealistic to expect zero civilian fatalities. However, there is evidence to suggest that the methods used to collect intelligence are problematic, and likely to add to the numbers of civilian casualties. Therefore, this section will analyse intelligence collection methods, with a view to determining how effective they are in eradicating militants and keeping civilian casualties to a minimum. Secrecy issues and the length of time this campaign has been operational for means there is a lack of evidence, examples, and arguments that specifically relate to the campaign in Somalia. Therefore, the main analysis of the Somali campaign comes at the end of this chapter.

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[1] Ahmed, Akbar. *The Thistle and the Drone: How America's War on Terror Became a Global War on Tribal Islam.* Brookings Institution Press, 2013. p. 85.

Reconnaissance simply means to observe. This is the main method used by the US to collect intelligence on a target. A drone is used to project a live video feed to teams based in Nevada. Arguably, this is the simplest method of observing suspects as drone operators are able to zoom in on militants, watch their movements and ultimately gain a faint idea of what they look like. However, the imagery is blurry and imprecise, and one operative described it as "crap, full of static and crackling".[2] This means facial expressions, gestures, and behaviours cannot be properly observed, and these are important aspects in determining threats. Lieutenant Colonel McCurley supported this statement and disclosed that it was "difficult" to confirm an individual as a legitimate target due to the limitations of reconnaissance.[3] An example of how unclear video can influence a strike happened in the first CIA drone strike in Pakistan in 2002. US military officials did not know "who the target was" but were convinced the "target was appropriate… due to his height".[4] The US should not target someone because of his or her height as this is far from a unique identifier, unless exceptional circumstances are involved. More intelligence on the suspect would have showed the target was a civilian collecting scrap metal. A more recent example, from February 2010, shows that reconnaissance is still an issue facing the US drone campaign. A team tracked and targeted a truck full of assumed Taliban members. After receiving clear communications from a pilot confirming the 21 military aged males on board were a threat, the team were authorised to strike. A drone operator only realised the mistake after the missile had been fired. He stated that the only way to know the targets were not members of the Taliban was because "the people who had escaped [the strike] were

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[2] Cockburn, Andrew. *Kill Chain: Drones and the Rise of High Tech Assassins.* Verso: London, 2015. p. 5.
[3] McCurley, Mark. T. *Hunter Killer: Inside the Lethal World of Drone Warfare.* p. 112.
[4] *'Drones: Last Week Tonight with John Oliver (HBO)'.* September 28, 2014.
https://www.youtube.com/watch?v=K4NRJoCNHIs Accessed March 19, 2018.

not running", implying that they were not terrorists scared of getting killed.[5] Rather, they were confused civilians and did not know what was going on. Although this is one example, the technologies used in all three countries are the same, indicating the potential that this was not the only time such a situation occurred. This demonstrates that drones need to be updated, or manufactured, with reliable and modern video surveillance systems. The 2018 defence budget request contains $6.97 billion for "drone research and development".[6] This means that it would be possible to update drone technology in the future. Drone pilots would then receive a clearer image of who is being targeted. Until this is done, it is problematic to have a programme that uses technology that does not provide an accurate image, simply because drone operators cannot be certain of the target's identity.

Blinks

Blurry video feeds are not the only issues with reconnaissance intelligence. Daniel Byman, Professor in the School of Foreign Service at Georgetown University, argues that constant monitoring of a target or region is not possible due to the drones' capability. 'Blinks' in intelligence are problematic and are created because drones used by the US government can only remain in the air for a certain number of hours.[7] A 'blink' occurs when a suspect is not monitored, due to logistics such as refuelling or flying to and from target areas. This leaves the militant unwatched. As there is no replacement drone to continue monitoring the target, a 'blink' is created in the video footage.[8] 'Blinks' undermine the effectiveness of reconnaissance intelligence

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[5] Cockburn, Andrew. *Kill Chain: Drones and the Rise of High Tech Assassins* p. 10.
[6] Gettinger, Dan. '*Drones in the Defense Budget: Navigating the Fiscal Year 2018 Budget Request*'. Center for the Study of the Drone. October 2017. p.1.
[7] Byman, Daniel. "Why Drones Work: The Case for Washington's Weapon of Choice." *Foreign Affairs* Vol. 92. Issue: July/ August. 2013. p. 34.
[8] It is not known why a second drone cannot go out and replace the first one, eliminating 'blinks', but money and time restraints are believed to be a main factor.

collection because they could potentially allow militants to move elsewhere. According to leaked documents, 'blinks' are a major problem facing the US government, as it demands a "persistent stare" on insurgents.[9] Although a 'blink' is a major flaw in the campaign, it does not render reconnaissance completely ineffective. This is because the US has other methods of collecting intelligence. These will be analysed later. If the US government wanted to constantly monitor militants via overhead video, the problem of 'blinking' needs to be solved. This would involve using one drone to take over from the other. It is not known how feasible this is, but it is important to consider this as an option. An unblinking stare on terror suspects would increase the chances of targeting a legitimate individual, as they would be monitored 24 hours a day. However, this would result in a phenomenal amount of intelligence needing to be analysed and cause "data crush", which is data overload.[10]

Data Crush

The Columbia Law School Human Rights Clinic argue the amount of reconnaissance video obtained by drones has already resulted in data crush, and a study conducted by *New America Foundation* found data overload a "limiting factor" in the effectiveness of intelligence.[11] Drones capture and store far more data than can be processed and analysed by operators and the increasing use of drones has worsened the problem. The more data received, the more likely it is that civilians and non- militant, military aged males will be mistakenly targeted. This is because the flood of information given to decision makers is so vast that an important detail could easily be missed.[12] The CIA

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[9] Begley, Josh. 'A Visual Glossary: The Drone Papers'. *The Intercept.* October 2015.
[10] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'.* p. 40.
[11] New America. 'Drones and Aerial Observation: New Technologies for Property rights.' Human rights and Global Development. July 2015. http://drones.newamerica.org/primer/DronesAndAerialObservation.pdf Accessed March 12, 2018. p. 16.
[12] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'.* p. 41

admitted the delay in recognising a chemical weapons storage facility in Khamisiyah, Iraq, in 1991 was due to the immense amount of intelligence collected.[13] Although this example is not drone related and over 20 years old, it helps to show that data crush is an important and deadly issue, and that it has been plaguing US operations for years. In a recently declassified memo from 2001, Donald Rumsfeld identified that reconnaissance intelligence produces "more data" than can be translated into "usable knowledge".[14] This strengthens the argument that data crush has been a huge obstacle for the US IC. At that start of Obama's campaign, drones could only record video in one direction. As of 2011, this had grown to 30, with predictions suggesting this could further increase to 65 different angles.[15] This suggests that data crush will be a bigger issue in the future than it was in 1991 or even 2001. David Deptula, former Lieutenant General in the US Air Force, agreed. He claimed the US government would be "swimming in sensors and drowning in data", if the problem of data crush was not resolved.[16] The secrecy of the programme means there is no specific information regarding data crush in the theatres on which this study primarily focuses. However, there is an example of data crush that occurred in Afghanistan. Afghanistan is not part of this study, but it is the only example that can be found that specifically states data crush as an issue. Although this may seem a one off, and that data crush is not a big problem, the same technologies and methods are used in Pakistan, Yemen, and Somalia. This means that data crush is likely to happen in these three countries. In 2010, while monitoring the drone's video feeds, drone operators also had to reply to "dozens of instant messages and radio exchanges" with intelligence analysts, as well

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[13] Dunport, Alan. 'Intelligence for the Twenty- First Century.' *Intelligence and National Security.* Vol. 18. No. 4. 2003 pp. 15-39. p. 22. For More information, see: Tucker, Jonathan B. 'Evidence Iraq Used Chemical Weapons During the 1991 Persian Gulf War.' *The Non-proliferation Review.* Vol. 4. No. 3. pp. 114- 122.

[14] Rumsfeld, Donald. Memorandum to Richard Haver. *"Visualising the Intelligence System of 2025".* February 23, 2001.

[15] Drew, Christopher. 'Drone Flights Leave Military Awash in Data'. *New York Times.*

[16] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* p. 268.

as US troops on the ground.[17] This may be because the US was actively engaged in a war at the time. However, as the strike was imminent, these messages were received from signals and on the ground assets. (These aim to guide drones to the correct place and will be analysed later). This immense pressure in multitasking cost the lives of 23 civilians. Thom Shanker and Matt Richter from the *New York Times* liken this to a "cubicle worker who loses track of an important email under the mounting pile [of work]", but obviously with disastrous effects.[18] Although it could be argued that drone operators knew the pressure they would be under when they applied for the job, an anonymous senior military official stated that had the operation been slowed down, and the drone pilots allowed time to analyse the developing situation, the deaths could have been prevented.[19] Although it is a war and threats need to be dealt with quickly, giving drone operators more time to analyse the ever-changing situation, would ensure the individual is at least expressing concerning behaviours. This would also reduce the number of civilian casualties. Data crush is deadly because small, important details have the potential to become fatal for civilians. The more drones that are put into use, the more likely it will be that data crush will become an insurmountable problem facing the campaign.

Soda Straw Effect

Another common occurrence in reconnaissance intelligence collection is the 'soda straw effect'. Marc V. Schanz, senior editor of *Air Force Magazine*, stated this was one of the most "common criticisms" of drone technology, as it limits the drone

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[17] Shanker, Thom, and Matt Richtel. 'In New Military, Data Overload Can Be Deadly.' *New York Times*. January 16, 2011.
[18] Ibid.
[19] Ibid.

operator's view.[20] It has been described as "viewing a small amount of liquid through a soda straw, instead of the entire glass," as the name would suggest.[21] When a drone pilot is about to fire the missile, the camera zooms in on the militant to ensure pinpoint accuracy. By doing so, however, the area around the target cannot be seen. This has the potential to create disastrous and deadly mistakes. Although the strike is more likely to be accurate to the target, civilians who enter the blast radius will not be seen and therefore will not be included in the analysis of whether it is safe to strike. As the whole situation cannot be accurately analysed, the effectiveness of the strike is jeopardised. The soda straw effect is an important intelligence collection issue that needs to be addressed by the US government, because officials continue to use these methods in full knowledge that strikes are not as accurate as they could be.

Many drone operators and government officials do not wish to disclose highly sensitive and secretive information in fear of imperilling US aims in the FATA, Yemen, and Somalia. Consequently, it has been difficult sourcing where the 'soda straw effect' has affected a strike. Only one solid example could be found. Although this study does not focus on Afghanistan, it is important to analyse because the 'soda straw effect' will undoubtedly affect drones operating in the countries this study takes as its focus because the same drone technology is used. Drone pilot, Matt J. Martin, stated he was observing a truck full of Afghan insurgents, which appeared far away enough from surrounding civilians, local homes, and buildings to strike safely. The situation was analysed by officials and Martin was authorised to target the truck. Once locked in to the target, the missile was fired. However, two boys appeared on the

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[20] Schanz, Marc V. *Air Force Magazine*. 'The Reaper Harvest' April 2011.
http://www.airforcemag.com/MagazineArchive/Documents/2011/April%202011/0411reaper.pdf
p. 38. http://www.airforcemag.com/MagazineArchive/Documents/2011/April%202011/0411reaper.pdf
[21] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 37.

camera seconds later and they were killed alongside the militants.[22] A wider field of view would have shown that the boys were closer to the truck than initially thought, and this could have prevented the boys' deaths. Brian Burridge, a former Royal Air Force officer, agrees, and states the majority of drones are "not suitable for wide area surveillance tasks".[23] At the time of writing, drone technology has failed to improve. Therefore, it is likely drones are still not suitable for reconnaissance over large areas. This example suggests drones are insufficiently equipped to examine large areas of ground, due to the small field of vision on the lens once zoomed in. Even if no civilians are killed in a strike, the 'soda straw effect' makes striking any target a risk to civilian life, simply because of the technological limitations that obstruct the drone operator's view. This suggests there is a need for better technology. Having enhanced technology would afford drone operators a clearer, more accurate image of the strike zone. This, in turn, would result in a better-informed decision to strike. Therefore, it could be argued that updating technology on drones would reduce the number of civilian casualties, as drone operators would be able to see civilians more quickly.

Reconnaissance is incapable of obtaining images of the situation inside a building. This example is not in the period this study focuses on, and the technologies used are slightly different, but it clearly shows that flaws in reconnaissance technology have been an obstacle for the US for decades. After the Iranian hostage crisis, from 1979 – 1981, a US rescue planner stated he could tell anyone infinite details about the "external aspects of the embassy".[24] However, he "couldn't tell shit about what was

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[22] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 37.

[23] Burridge, Brian. 'UAVs and the Dawn of Post Modern Warfare: A Perspective on Recent Operations.' *RUSI*. Vol. 148 No. 5. pp. 18- 23. 2008. p. 22.

[24] Johnson, Loch. *Secret Agencies: U.S Intelligence in a Hostile World.* Yale University Press: New Haven, 1996. p. 20. For more information on the Iranian hostage crisis, see: Houghton, David Patrick. *US Foreign Policy and the Iran Hostage Crisis.* Cambridge University Press: Cambridge, 2001. In addition, see: Farber, David. *Taken Hostage: The Iran Hostage Crisis and America's First Encounter with Radical Islam.* Princeton University Press: Princeton, 2005.

going on inside that building".[25] When this is applied to the drone campaign, drone

operators have a similar issue, as they cannot assess who is in a building. However,

with the help of human intelligence, drone operators will be able to have a much clearer

vision of what is happening in a building. Lieutenant Colonel Brendan M. Harris,

stated that the "best tools" to ensure the correct individual is targeted, are the "eyeball

and the human brain".[26]

Human Intelligence

The US government utilises information from foreign governments, as these have a

better understanding of where terrorists are located, what to look for, and may even

have intelligence on some militants. Using Humint enables the US to have access to

classified files and intelligence that would not have been possible to obtain through

constant reconnaissance. However, using foreign governments and their sources poses

problems because each government has their own agenda regarding who is a threat

and who is not.

Federal Government Sources

In Pakistan, Ahmed Rashid, a former Pakistani militant and author of several foreign

policy books, claimed that the Pakistan government was unable and/ or unwilling to

put pressure on terrorist networks in the FATA because of Pakistan's support of

terrorist organisations, such as the Taliban, since the early 1990s.[27] This is problematic

for two reasons. Firstly, the support of these groups suggests the government will be

reluctant to pass information to the US, despite President Bush's Under Secretary of

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[25] Johnson, Loch. *Secret Agencies: U.S Intelligence in a Hostile World.* p. 20.
[26] Drew, Christopher. 'Drone Flights Leave Military Awash in Data'. *New York Times.* January 10, 2011.
Accessed March 27, 2018.
[27] Bureau of Investigative Journalism. 'Obama 2016: Pakistan Drone Strikes.' January 11, 2016.
https://www.thebureauinvestigates.com/drone-war/data/obama-2016-pakistan-drone-strikes Accessed October 20,
2016.

State, R. Nicholas Burns, stating the US needed a "sustained and effective effort by the Pakistani government to defeat terrorist forces on its soil".[28] Secondly, the lack of intelligence sharing wastes US time, effort and money, because the US government is tracking insurgents already known to Pakistani authorities. Not only have the Pakistani government claimed it openly supports the Taliban, it has publicly denounced US strikes, claiming they are "totally illegal, not acceptable and against the sovereignty… of the country".[29] A WikiLeaks document, obtained from the essay "US Pakistan Relations: Common and Clashing Interests", states that former Pakistani Prime Minister, Yousaf Gilani (2008 – 2012), did not "care" if the US conducted strikes, so long as the right people were killed, and that the government would "protest" the programme "in the national assembly and then ignore it".[30] This is completely different to the public pronouncements of the Pakistani government. Although showing support for strikes would likely result in major political difficulties, the opposing views make it hard to gauge what information given to the US government is accurate and trustworthy.[31] Therefore, it is problematic to rely heavily on Humint from Pakistani government sources, as the reliability of the intelligence will be unknown.

The internal political struggle in Yemen, coupled with its hazardous terrain, and increasing AQAP influence, limits the extent to which the US can safely use American covert agents as a way of collecting Humint. Former drone pilot, Brandon Bryant confirms this. He states there are "hardly any" Humint operations in Yemen that use

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[28] *Pakistan's Future: Building Democracy or Fuelling Extremism?* Hearing Before the Committee on Foreign Relations Unites States Senate. 110th Congress. 25 July, 2007.

[29] Boone, Jon. 'Pakistan condemns US drone strike that killed Taliban leader Mansoor.' *The Guardian.* May 24, 2016.

[30] Shezad H. Qazi 'US Pakistan Relations: Common and Clashing Interests'. *World Affairs.* Vol. 175. No. 1. May/ June 2012. pp. 71- 78. p 75.

[31] As of 2012, 80 percent of the Pakistani public viewed US drones 'unfavourably'. For more information, see: http://www.pewglobal.org/2014/08/27/a-less-gloomy-mood-in-pakistan/

Americans.[32] However, in Yemen the US is equally cautious of relying on government intelligence. Scott Shane argues that when "their information was wrong", Obama's decisions would also be wrong.[33] For example, Obama's first drone strike in Yemen was based on bad intelligence supplied by the Yemeni government. This skewed intelligence led to the death of the deputy governor of Yemen's Ma'rib province, Jabir Shabwani. In recent years, Shabwani had apparently "feuded" with members of then President Ali Abdullah Saleh's family, making them political rivals.[34] Saleh scheduled an informal meeting with al Qaeda militants in Ma'rib, and Shabwani was sent to convince the group to "renounce" the terrorist organisation. [35] US military officials claim they were told of an al Qaeda gathering in Ma'rib that was worthy of a drone strike. They were not informed, however, of Shabwani's presence. Shabwani was killed as a result. After the strike, one anonymous US administration official told the *Wall Street Journal* that "we think we got played".[36] The Yemeni government allegedly deliberately failed to give accurate details of the gathering in order to have a personal feud settled. Ultimately, this is an ineffective method of obtaining intelligence because it simply cannot be trusted. It cannot be said what would have happened if there was another form of intelligence on this strike, but it suggests another method is necessary to corroborate information to avoid similar occurrences.

Local Government Sources

It would be beneficial to US operations to have American journalists in the field, especially in the aftermath of a strike to determine, who and how many had been killed.

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[32] Scahill, Jeremy, and Glenn Greenwald. n.d. 'The NSA's Secret Role in the US Assassination Program.' The Intercept.

[33] Shane, Scott. *Objective Troy: A Terrorist, a President, and the Rise of the Drone.* Tim Duggan Books: New York, 2016. p. 227.

[34] Entous, Adam; Julian E. Barnes; Margaret Coker. 'US doubts intelligence that led to Yemen strike.' *Wall Street Journal.* December 29, 2011.

[35] Ibid.

[36] Ibid.

However, the CIA prohibits US journalists travelling to the FATA, Yemen, and Somalia, due to the dangers they will likely encounter.[37] This means the US government has to rely on local sources for information about the aftermath of a strike to determine who has been killed. This is problematic because it is known that the numbers of casualties are deliberately skewed to meet local government's individual agenda on the campaign. Figures Two, Three, and Four, located in the appendix at the end of this study, clearly show terrorist strongholds in Pakistan, Yemen, and Somalia. The large portions of lands under militant influence or control raises questions as to how persuasive terrorists are in turning local civilians against the US, i.e. inflating the number of innocent civilians killed in reports in order to turn local populations against the US and its aims. The US has no military personnel on the ground, and therefore the figures cannot be corroborated with US government and CIA Humint. Alienation of local civilians by terrorist forces is problematic because the US government need to keep the public on side. Jeremy Sharp, a Specialist in Middle Eastern Affairs with the Congressional Research Service, questioned a broader implication of fake, inflated numbers of civilian casualties. He questioned whether drone strikes "alienate local populaces", strengthen "nationalist and anti- American forces", and finally increase recruitment into terrorist groups.[38] Sharp concluded that US drone strikes do impact these forms of blowback. A Pew Research poll confirmed this, and concluded that a large majority, 74 percent, of Pakistanis thought of the US as an "enemy".[39] This particular study did not take into consideration locals from Yemen or Somalia. This may be due to the campaigns in these countries not being operational for as long as in

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[37] Zulaika, Joseba. 'Drones and Fantasy in US Counterterrorism.' *Journal for Cultural Research*, Vol. 18. No. 2. pp. 171-187. 2014. p. 173.
[38] Sharp, Jeremy. *'Yemen: Background and US Relations.'* Congressional Research Service. February 11 2011. p. 11.
[39] Pakistani Public Opinion Evermore Critical of US. June 27 2012.
http://www.pewglobal.org/2012/06/27/pakistani-public-opinion-ever-more-critical-of-u-s/ Accessed March 15 2018.

the FATA. There have been no recent studies that detail the percentages of Yemenis who oppose drone strikes but the programme is viewed as an "excessive response" to terrorism in the country.[40] In 2007, an Arab Barometer survey concluded that 73.5 percent of Yemenis believed that attacks on "Americans everywhere" were justified, because of US operations in the region.[41] Although this study is not in the time frame of this research, it helps to suggest that some Yemenis will have a similar opinion to drone strikes as in Pakistan, especially since strikes in the country have increased from 2008 to 2016. Farea al Muslimi, a Yemeni activist whose village had been subject to many drone strikes, addressed the Senate Judiciary Subcommittee on Constitution, Civil Rights, and Human Rights. He stated that "drone strikes are the face of America to many Yemenis".[42] This is not surprising given the number of drone strikes in Yemen under Obama. It also implies that the US government cannot use local governments or local media outlets as trustworthy sources of Humint after a strike. This is because Sharp's research suggested alienated civilians, especially those who have had family members killed by a drone, join terrorist networks to seek revenge on the US. In a speech at the MacDill Air Force Base in Tampa, Florida, Obama confirmed this. He stated the US must be careful not to make mistakes, because errors will "serve as recruitment for new terrorists".[43] Chalmers Johnson, former lecturer at the University of California, San Diego, also claimed that this form of blowback is not unusual. He stated victims "fight back after … a US- sponsored campaign".[44] Muslimi confirmed this, as he stated that drone strikes allows AQAP to "convince more individuals that

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[40] Schwedler, Jillian. 'Is the US Drone Program in Yemen Working?' *Lawfare.* September 27 2015.
[41] Arab Barometer Survey Project: Yemen Report, 2007. p. 4.
[42] United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. *Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing. Statement of Farea al-Muslimi.* April 23 2013. p. 6
[43] Office of the Press Secretary. 2016. *"Remarks by the President on the Administration's Approach to Counterterrorism."* MacDill, Florida: White House, December 6.
[44] Johnson, Chalmers. *Blowback: The Costs and Consequences of American Empire.* Henry Holt and Company: New York, 2000. p. 9.

the US is at war with Yemen".[45] This suggests that unnecessary civilian deaths, whether actual or fictional constructs by militant governments or sympathetic news outlets, inspire people to join terrorist cells. Therefore, it can be argued that the campaign is not a sustainable way of eradicating terrorism because civilians continue to join jihadist groups as a result of attacks. This means even accidental civilian deaths play further into the hands of terrorist groups. With no US military presence in these areas, it means terrorist groups are winning "the war on perceptions" which is a key part of the programme.[46] Furthermore, it shows that the US cannot rely on local governments to accurately determine who and how many have died, as a result of a strikes. To combat this, local media teams and newspapers are used when possible.

When local newspapers have access to a strike zone, the collateral damage numbers are still confusing. An example of this happened in Yemen in December 2013 where a strike killed between 12 and 17 targets. Allegedly, the Yemeni government told journalists the strike was successful, as only militants had been targeted. However, another Yemeni government official told American news channel *CNN* that "none of the dead were on any list of wanted terrorists", whereas *Reprieve, Human Rights Watch,* and *al Jazeera America* claimed four of the dead were militants but that the rest were considered collateral damage.[47] A US official told *NBC* "it is a total mess. It is not completely clear who was killed".[48] This is just one example, but the inconsistencies suggest that Humint from foreign governments, as any other source of information, should be handled with care and to support other forms of intelligence. If

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[45] United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. *Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing. Statement of Farea al-Muslimi.* p. 7.

[46] Cronin, Audrey Kurth. 'Why Drones fail when Tactics drive Strategy'. *Foreign Affairs.* Vol. 44. pp. 44 – 54. 2013. p. 47.

[47] Bureau of Investigative Journalism. Drones Team. 'Yemen: Reported US Covert Actions 2013.' https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2013 Accessed October 17, 2016.

[48] Ibid.

military personnel or CIA agents were stationed in these areas to assist with counting the dead, it could be argued the identities and numbers of those killed would be more accurate. This is because the US government would have personnel in the field, actively counting deaths and assessing the success of strikes.[49] However, because these areas are dangerous to any US military personnel and CIA employees, Humint supplied from host countries is the only current, and safe, method of obtaining information in the aftermath of a strike. This suggests that along with Humint, other methods of intelligence collection should be used. Corroborating intelligence after a strike would enable the US to have a more accurate image of who and how many people had been targeted. This would then allow scholars, journalists, the general public, and the US government to measure how effective drone strikes are at targeting militants.

Furthermore, a lack of US personnel in the field means the US government cannot provide an apology or compensation for victims. In Afghanistan and Iraq, US forces were able to "conduct in person" apologies, providing monetary assistance to those affected.[50] This was an attempt to quell growing anti-American sentiment stemming from civilian deaths. In Yemen and Pakistan there is evidence to suggest some victims had "a modest amount of blood money" from local governments.[51] In Yemen, Mohammad al Qawli's cousin, Ali, was targeted and killed. Qawli was told by the Yemeni military to visit the governor of the Sana'a province. Here, Qawli received a "respectful… token apology and money".[52] Accepting this, however, would have

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[49] Although there is an argument to be made that the US is also guilty of skewing the numbers of civilian casualties. See Chapter One for more information, as this was analysed there.
[50] Fowler, Mike. 'The Strategy of Drone Warfare.' *Journal of Strategic Security: United States Air Force Academy, Future Challenges in Drone Geopolitics.* Vol. 7. No. 4 Special Issue Winter 2014. p. 111.
[51] Ackerman, Spencer. 'After Drones: The Indelible Mark of America's Remote Control Warfare'. *The Guardian.* April 21, 2016.
[52] Ibid.

meant Qawli was admitting his relative was a terrorist. Qawli wanted to clear Ali's name, and did not accept the money. He set up a committee for victims of drone strikes, and the government attempted to offer Qawli support for a second time. This time, Qawli received a certificate stating Ali had been killed as an "accident while criminals were targeted".[53] As well as this, a small amount of money to cover burial costs was given to Qawli. Another example of a government apology occurred in the FATA. Ramazan Khan's house was targeted by a drone, killing his grandson. Khan received no apology or explanation as to why his family were targeted but did receive "a few thousand dollars" to have his house repaired.[54] Although this is not as in-depth as Yemen's apology, it is at least something. However, after a strike in Pakistan in 2006, Senator John McCain (R-AZ), apologised for the strike, but said "I can't tell you we wouldn't do the same again".[55] This undermines the apology, and suggests the US will not stop targeting people even when there is little intelligence on a target. Money to offset deaths is a flawed strategy. Compensation is becoming one of the ways in which the US government attempt to win "hearts and minds" of civilians in war zones.[56] However, while money may provide short term relief to victims, overall it shows a lack of empathy from the US government. This is because it suggests the US uses money to justify collateral damage, making it more "palatable" to victims.[57] It implies that the US government are justified in targeting any individual as long as their family members are compensated if the target was innocent. The US Consolidated Appropriation Act (2014) section 8127, states that financial help to victims is not an

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[53] Ackerman, Spencer. 'After Drones: The Indelible Mark of America's Remote Control Warfare'. *The Guardian.*
[54] See p. 18 in this study for more information, as this example was also used there.
[55] Blum, William. *America's Deadliest Export: Democracy. The Truth about US Foreign Policy and Everything Else.* Fernwood Publishing: Halifax, 2013. p. 126. For more information on this strike, see: Blum, William. *America's Deadliest Export: Democracy. The Truth about US Foreign Policy and Everything Else.* pp. 126- 130.
[56] Gilbert, Emily. 'The Gift of War: Cash, Counterinsurgency and Collateral Damage'. *Security Dialogue.* Vol. 46. No. 5. pp. 403 – 421. 2015. p. 416.
[57] Gilbert, Emily. 'The Gift of War: Cash, Counterinsurgency and Collateral Damage'. p. 416.

"admission or acknowledgement [of] … damage, personal injury, or death".[58] This is because providing financial compensation for every victim would be unfeasible for several reasons: the campaign is not officially recognised by the US government in the FATA, and there are no US troops in the countries, unlike in Afghanistan and Iraq. However, an explanation, justification, or even an apology as to why a strike was conducted against a family member would likely help victims understand US aims in the region. This could help prevent civilians from blindly agreeing with terrorist propaganda because they would be more aware as to why strikes were undertaken. This would be achievable, because the US government could offer certificates, like in Qawli's case, to victims. If the Yemeni government can do that, there is no reason as to why the US government could not implement a similar scheme.

Local civilian sources

After 9/11, the US government had difficulty penetrating terrorist organisations as many operatives did not speak Arabic.[59] Hayden supported this claim and stated that the US government was "limited in Pashto speakers".[60] However, by building clandestine networks of locals in the remote areas not accessible to US sources, the CIA is able to closely monitor insurgents. This is because locals are physically closer to suspects, and therefore can observe smaller, but crucial details far better compared to reconnaissance. These spies are the "crown jewels" of American operations because locals can get close to a target without being suspected by militants; they understand the culture more than Americans do, and physically they will not stand out.[61] However, using locals as a source of intelligence causes many problems as the US government

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[58] Gilbert, Emily. 'The Gift of War: Cash, Counterinsurgency and Collateral Damage'. p. 416.
[59] Dunport, Alan. 'Intelligence for the Twenty- First Century.' p. 21.
[60] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 53. (Pashto is the official language of Afghanistan and in many parts of the FATA.)
[61] Klaidman, David. *Kill or Capture: The War on Terror and the Soul of the Obama Presidency.* p. 22

cannot be sure who is legitimate and trustworthy. For example, in 2001 the US "decided to work with" the United Islamic Front for the Salvation of Afghanistan to defeat the Taliban.[62] However, allegedly, these "new allies" were only "marginally better" than the Taliban.[63]

In the FATA, the CIA recruits a network of poor, Pashtun tribesmen for Humint purposes. Tribesmen are given a microchip, known as 'pathrai'. The CIA pay tribesmen to plant pathrai near homes and buildings where known militants are hiding.[64] This signals the location of the target to the drone operator, and essentially creates a "twenty first century bulls-eye".[65] However, this method of intelligence collection is unreliable, because it is known that families and rival groups use pathrai against each other to have personal enemies targeted and private vendettas settled. Joshua Foust, a military intelligence analyst, claims this was a recurring issue with Humint in Afghanistan. Pathrai were not used in Afghanistan, meaning US troops relied on locals for information on certain suspects. Foust states incorrect intelligence was often given, resulting in the US government "firing blind… without direct confirmation" that the targets were legitimate. [66] This suggests similar situations might occur in the FATA because US troops have been swapped for pathrai. It is not necessarily pathrai that is ineffective, it is who the pathrai is given to: it is not known who can be trusted. This method of tracking terrorists is unreliable if the holder of the pathrai is using it for personal reasons. To combat this, pathrai locations need to be

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[62] Ryan, Stephen. *Conflict Transformation: Reasons to be Modest* in '*Handbook of Conflict Analysis and Resolution.*' pp. 303- 314. Edited by Dennis Sandole, Sean Byrne, Ingrid Sandole- Staroste and Jessica Senhi. Routledge: London, 2011. p. 310.
[63] Ibid. For more information on the United Islamic Front for the Salvation of Afghanistan, see: Schroen, Gary C. *First In: An Insider's Account of how the CIA Spearheaded the War on Terror in Afghanistan.* Ballantine Books: New York, 2007.
[64] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* p. 270.
[65] Crandall, Russell. *America's Dirty Wars: Irregular Warfare from 1776 to the War on Terror.* p. 466.
[66] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'.* p. 39.

corroborated with reconnaissance intelligence, as well as the suspect's day-to-day behaviours and activities. This would give drone operators a clearer view of who is being targeted.

When the pathrai is used for its intended purpose and the strike is unsuccessful, consequences are disastrous for the person who planted the microchip. Habib ur Rehman, local tribesman, was paid £166, and promised protection if he were captured, to plant a pathrai in a cigarette packet in the home of a known Taliban leader. The FATA is not a wealthy area: money for the family and protection from the US if something were to go wrong with the strike seems a good deal. The strike was unsuccessful and the Taliban captured Rehman. He was not protected by the US, despite being promised otherwise. After confessing his actions on camera, he and three others were shot by the Taliban.[67] Based on Rehman's example and the extensive history of the CIA's misdemeanours, it is unlikely the CIA follows through with the offers of protection to tribesmen who are willing to help.[68] However, the more people that are caught helping the US, the fewer allies the US has in these important, remote locations. Therefore, the US government should follow up on its promises regarding protection and monetary payments to ensure the safety of FATA allies. If these are false promises, the US government should not claim to help protect local sources. Not following up on these promises risks alienating local populations. The US government could protect informants in remote areas by relocating them to different parts of the FATA or could remove them from the area into other parts of Pakistan. Although it may be difficult, it could be possible. This is because moving a couple of people out of the tribal areas would not affect or jeopardise the campaign. As the area is rife with

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[67] Walsh, Declan. 'Mysterious 'chip' is CIA's latest weapon against al Qaeda targets hiding in Pakistan's tribal belt'. *The Guardian*. May 31, 2009.
[68] For more information on the history of the CIA, see: Immerman, Richard H. *The Hidden Hand: A Brief History of the CIA*. Wiley Blackwell: Chichester, 2014.

poverty, drone strikes, and terrorists, people might be willing to move, if they knew their lives were in danger, despite the pull of attachments to the area such as family or tradition.[69] If this were achieved, it is likely more civilians would want to help, because they would be rewarded with money and protection for their time, effort, and willingness to die. This would likely reduce the risk of hiring of hiring untrustworthy locals, as they would be aware of the consequences. The Humint intelligence received then would likely be more reliable than before.

Signals Intelligence

Sigint is another method that the US uses to collect information on insurgents. It is used to track "international terrorists and foreign powers, organizations, or persons" through electronic devices used by a suspect.[70] Drones search for "signals of interest", and these can come from mobile phones, SIM cards and even computers and laptops.[71] The NSA is utilised to collect Sigint, then the information is passed on to the CIA, so it can conduct the strike. While the NSA play a vital role in the campaigns, the responsibility of conducting the strikes remains with the CIA and US government.

By geolocating a SIM card, the NSA and US government are able to track phone calls and messages. These communications can be traced back to the phone from which they originated. Therefore, Sigint has the capacity to disrupt much larger terrorist networks. This is because, from one SIM card, the net of militants the US government can potentially target is widened. Because of this advantage, it suggests the US government is increasingly dependent on it as a main source of intelligence. However, relying on Sigint like this is problematic because, rather than focus on the content and context of

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[69] Assistance of this nature is problematic as it helps to create the instability that individuals then seek to flee through facilitating drone strikes.
[70] NSA.gov. 'Signals Intelligence.' May 3 2016. https://www.nsa.gov/what-we-do/signals-intelligence/ Accessed January 17, 2017.
[71] Dunport, Alan. 'Intelligence for the Twenty- First Century.' p.22.

these calls and messages, the NSA analyses the phone's metadata. The metadata shows whom the device called, when, and the duration of the conversation. Therefore, the NSA is able to draw conclusions, and have a vague idea whether the tracked phone belongs to a militant. Hayden claimed the metadata could "determine what the owner was up to".[72] However, the metadata cannot confirm who the target is, simply because the content of the communications cannot be analysed. An individual should not be targeted based solely on the activity of their phone, especially when this information does not confirm their identity. Another problem with targeting suspects based on unknown phone activity is that terrorists deliberately deceive drone operators and the NSA in an attempt to make themselves untraceable. Bryant claims that militants meet up and "take all their SIM cards out [of their own phones], put them in a bag, mix them up, and everybody gets a different SIM when they leave".[73] After swapping SIMs in this way, the person holding the tracked SIM card is not likely to be the correct target, but is likely to be a militant. This suggests that Sigint should be used to monitor groups of insurgents, rather than individuals. Furthermore, if Sigint is used on an individual, Humint and reconnaissance are needed to corroborate, as these forms of intelligence can physically identify a potential target. Sigint should be used to strengthen intelligence, rather than alone.

Corroboration through multiple sources eliminates the risk of targeting the wrong person. It also enables drones teams to build a substantive case against a suspect. Caitlyn Hayden, spokesperson for the National Security Council, claimed the campaign is not "based on a single piece of information" but rather the assembly of

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[72] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 30.
[73] Scahill, Jeremy. *The Assassination Complex: Inside the US Government's Secret Drone Warfare Programme.* p. 97.

multiple pieces from different sources.[74] For instance, President Obama introduced legislation stating two different types of intelligence were needed on a target before a strike could be authorised.[75] However, *The Intercept* obtained leaked documents claiming that due to the lack of reliable assets, specifically in Yemen, the US government rely heavily on signals to produce enough intelligence in order to warrant a strike.[76] This is problematic because Sigint fails to confirm the identity of the target. Gabriel Margolis, Professor in Conflict Management and Resolution at the University of North Carolina, confirmed this and stated when operations are "conducted based solely" on Sigint, "some of the greatest failings in CIA history have occurred".[77] Therefore, using all available methods simultaneously would greatly benefit the campaigns in the FATA, Yemen, and Somalia, because the chances of targeting the correct militant would be increased. Margolis agreed and stated that Sigint, Humint, and reconnaissance used together "result in successful operations".[78] However, due to locations, technological issues, and lack of unreliable local clandestine networks, it is understandable this will not be possible all the time.

Somalia

It has been difficult obtaining information regarding intelligence collection methods in Somalia due to secrecy issues and the short operational span of the programme. It is likely, though, that the same issues present in the FATA and Yemen exist in Somalia. This is because the technologies and methods used, as well as targets, are the same. However, some historical evidence will help to shed light on the issues the US has

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[74] Scahill, Jeremy, and Glenn Greenwald. n.d. 'The NSA's Secret Role in the US Assassination Program.' The Intercept.
[75] Ibid.
[76] Ibid.
[77] Margolis, Gabriel. 'A Lack of Humint: A Recurring Intelligence Problem.' *Global Security Studies.* Spring. 2013. Vol. 4. No.2 pp. 43- 60. p. 44.
[78] Ibid.

experienced previously in Somalia. In 1992, US troops were deployed to Somalia for Operation Restore Hope. The aims were to re-establish trade routes and agriculture, which had been dislocated by civil war. The issues facing US troops in Operation Restore Hope can be applied to modern problems of drone teams and officials. This is because, during Operation Restore Hope, the reliability of local Humint sources was not known. Markus V. Garlauskas, an intelligence specialist with the Department of the Army, claimed the CIA's caseworkers were sent to Somalia to support US troops. These caseworkers "did not speak the language" and had very little knowledge on Somali history and "clans which ran the country".[79] Lieutenant Colonel Michael W. Pick stated in order to complete Operation Restore Hope, it was necessary to coordinate "directly with local authorities".[80] To overcome the language barrier, the CIA used Somali locals as translators in order to talk with authorities. However, this "tainted the resulting intelligence" as locals had their own, different agenda they wanted to push, similar to Yemen and the FATA.[81] Furthermore, this demonstrates a failing on the US side, as they did not have the linguistic or cultural knowledge to run a successful operation. Operation Restore Hope and the drone programme are two very different situations, one historical involving troops, and one modern with no US lives in danger. However, it is likely that using local governments and civilians as forms of Humint is still an issue in Somalia. This is because the problem is rife in both Pakistan and Yemen and has clearly been an issue in the country's past and American experience. To combat this, not only in Somalia, all sources of intelligence should be taken into account and should not be trusted unless corroborated by other forms of

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[79] Markus V. Garlauskas 'Intelligence Support of Military Operations.' *Joint Force Quarterly.* Winter.2002-2003. p. 106.
[80] Lieutenant Colonel Michael W. Pick '*What the Joint Force Commander needs to know about CI and HUMINT Operations.*' 13 May, 2002.
[81] Markus V. Garlauskas 'Intelligence Support of Military Operations.' p. 106.

intelligence. Corroboration through multiple sources eliminates the risk of targeting the wrong person. It would also enable drone teams to build a significant case against a suspect. Furthermore, drone operators can be compared to the CIA caseworkers. This is because drone operatives have not been educated in the culture and traditions of the country either. A lack of cultural awareness is problematic because drone pilots could misinterpret local practices. A Special Forces Sergeant claimed that drone operators need to be "someone that knows the culture… they just need to be familiar with what they are looking at".[82] For example, adult males traditionally carry guns.[83] To a drone operator with no understanding of this, the person with the gun could be seen as a potential threat, even if they were not. A strike could then be conducted on the individual as their behaviour is deemed 'suspicious' to drone operators when it is just part of the country's culture. Another example of this occurred when a drone targeted a group of military aged males who were washing and praying. One operator claimed he was told militants engage in this behaviour before attacking. However, thousands of Muslims do this in preparation for prayers. As the drone operator was not educated in the culture of the country, the drone targeted and killed the civilians.[84] The US government should not have the authority to target an individual when the drone operator does not know the culture. This is problematic because doing so will likely result in unintended collateral damage. If the programme were specific to militants, the civilian casualty data, although flawed, would not be so high. Better intelligence gathering methods are needed, as well as proper training for drone operators to identify legitimate terrorist behaviour. It could be argued this would result in lower levels of

[82] Cockburn, Andrew. *Kill Chain: Drones and the Rise of High Tech Assassins.* p. 16.
[83] Zulaika, Joseba. 'Drones and Fantasy in US Counterterrorism.' p. 172.
[84] Cockburn, Andrew. *Kill Chain: Drones and the Rise of High Tech Assassins.* p. 14.

civilian casualties, simply because drone operators would have a better understanding of local cultures.

Once a case has been built up against a suspect, the next stage is to target them. Five different styles of striking have been utilised, and each suits a certain situation. The next chapter will analyse this subject.

Chapter Four: Types of Drone Strikes

Drone warfare is characterised by a number of different strategies. As targets are mobile, and occupy different spaces at different times, the situation on the ground can change rapidly. Strike styles must therefore be carefully selected to ensure they are appropriate. Signature, personality, double tap, pre-planned, and finally dynamic strikes are used by the US government. The imminence of the suspect, the number of civilians present, and any existing intelligence on the target all determine what type of strike is most suitable for the situation. 'Signature strikes' target an individual whose identity is not known, and therefore not a lot of intelligence is needed. This is because they have been deemed a terrorist due to their actions. On the other hand, 'personality strikes' target known terrorists whose names are on the Kill List. 'Double tap' strikes are when multiple missiles are fired at the target in an attempt to ensure they have been killed. As others attend the injured, more missiles are fired to target those associated with the suspect. 'Pre-planned' and 'dynamic' strikes are based on time rather than how the strike will kill the target. A pre-planned strike allows the US time to collect more accurate intelligence on a target, resulting in a likely chance of killing a legitimate suspect. Dynamic strikes, on the other hand, are time sensitive but enable the US to abruptly stop suspicious behaviours. By creating different styles of strikes for various situations, the US government and CIA can claim that measures are in place that attempt to limit collateral damage. This is because each style results in different outcomes, and some are deemed more controversial than others. All these styles of striking militants are used by the US government in Pakistan, Yemen, and Somalia, and each has the ability to impact the effectiveness of the campaign. Organisations used throughout this study such as *The Bureau of Investigative Journalism*, the

Intercept, and *New America Foundation*, do not define strikes by their styles; they detail the locations and who was killed. However, by cross referencing and fact checking strikes analysed in journal articles and newspapers, as well as speeches, this section will attempt to demonstrate that some styles of drone strikes are more problematic than others.

Signature Strikes

Signature strikes make up a "significant proportion" of US government and CIA strikes.[1] The US views these strikes as "legitimate acts of war against an opposing armed enemy force".[2] Some have even claimed that they are a "hallmark" of Obama's drone war.[3] When President Obama took office in 2008, the US government no longer had to confirm the identity of a suspected militant, meaning the government could strike an individual based on their 'signature' behaviours and actions, i.e., where they travel and their relationships with others, "cataloguing a pattern of life".[4] If the behaviour of the individual meets the (secret) pre-identified criteria for labelling the target as engaged in suspicious activities, the US government and CIA had a right to target the individual in a signature strike. Stephen Grey, known for revealing details about the CIA's 'extraordinary rendition' programme, stated these targets are known as 'clean skins', because there is "no intelligence on file about them".[5] The US justifies signature strikes by claiming individuals displaying these behaviours are clearly a threat. It can be argued that civilians would not adopt terrorist behaviours or engage in

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[1] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 9

[2] Hayden, Michael. *Playing to the Edge: American Intelligence in the Age of Terror.* p. 337.

[3] Tandler, Jaclyn. 'Known and Unknowns: President Obama's Lethal Drone Doctrine' *Fondation pour la Recherche Stratégique.* Note No. 7/13. April 2013.

[4] Shaw, Ian. 'Predator Empire: The Geopolitics of US Drone Warfare.' p. 546.

[5] Grey, Stephen. *The New Spymasters: Inside Espionage from the Cold War to Global Terror.* Penguin Random House: London, 2015. p. 182. For more information on the CIA's extraordinary rendition programme, see: Sadat, Leila Nadya. 'Extraordinary Rendition, Torture, and other Nightmares from the War on Terror'. *George Washington Law Review.* Vol. 75. No. 5/6. August 2007. Also: Grey, Stephen. *Ghost Plane: The True Story of the CIA Rendition and Torture Program.* St. Martin's Griffin: New York, 2007.

militant activities. An example of a successful signature strike is analysed here because it is important to understand how and why the US government perceive signature strikes as 'effective'. This is because, later in this section, the study will analyse the issues and problems associated with signature strikes. Anwar al Awlaki's son, Abdul Rahman al Awlaki, was killed in a signature strike two weeks after his father had been targeted.[6] (For clarity in this section, the younger Awlaki will be referred to simply as Awlaki. It will be made clear when talking about his father.) Awlaki was not known to be in the area at the time of the strike, but his signature had "gone hot", due to his proximity to tracked militants.[7] By analysing Awlaki's pattern of life and his relationship with others, the US government deemed him a threat to US national security. After the strike, and after Awlaki was confirmed as being targeted, intelligence revealed that al Qaeda members called him "Usayyid", meaning 'the Lion's Cub' in reference to his relation to his father, as they wanted Awlaki to become the new face of al Qaeda on the Internet.[8] Therefore, the US government successfully stopped him becoming a "martyr" and following in his father's footsteps. This is because Awlaki was killed before he could replace his father as the new "English speaking face" of al Qaeda online.[9] This study could only find one example of a successful signature strike, because many are not confirmed by the US government or CIA, due to their controversial nature. The main reason for this, is that intelligence on a target is not needed for this type of strike. Despite this successful strike on Awlaki, there is an increasing amount of evidence that suggests signature strikes are problematic.

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[6] Anwar al Awlaki was a Yemeni American who published al Qaeda's online magazine *Inspire*. US drones successfully targeted and killed him in 2011.
[7] Williams, Brian Glyn. 'Inside the Murky World of Signature Strikes and the Killing of Americans with Drones'. *Huffington Post*. May 31 2013.
[8] Ibid.
[9] Ibid.

One example of a signature strike that targeted civilians occurred on December 12 2013 in Yemen. While many are not established, this example has been chosen because it is another confirmed signature strike. A convoy of 11 vehicles transporting 50 – 60 people was targeted; 12 – 17 were killed, and a further five - 30 suffered injuries.[10] Based on pre-identified signatures, a convoy of large, four-wheel drive vehicles would signal suspicious militant activity. Ian Shaw, lecturer in Human Geography at the University of Glasgow, states that a "motorcade or a group entering a [terrorist] safe house" would instantly render the target as a militant, and it would be "enough to authorise a strike".[11] Allegedly, the US government did not have "confidence in the underlying intelligence" on these victims in Yemen, yet the strike was authorised.[12] Extra intelligence on these targets and the region would have showed that the convoy was transporting a wedding party to the bride's home. All those targeted and killed were civilians and relatives of the bride and groom. Another confirmed signature strike also strengthens the argument that the lack of intelligence is problematic. This strike happened March 2011, in the Datta Khel area of the FATA. Four missiles were fired at unknown individuals. More intelligence on the gathering would have shown that tribal elders, known locally as *maliks* who are "crucial to local peacekeeping efforts", were targeted.[13] The *jirga* was held to discuss issues with local businesses and mining rights.[14] After the strike, Brigadier Abdullah Dogar, Pakistan's military commander in

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[10] 'Yemen: Reported US Covert Actions 2013.' https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2013 Accessed October 17, 2016.
[11] Shaw, Ian. 'Predator Empire: The Geopolitics of US Drone Warfare.' p.546.
[12] Woods, Chris. *Sudden Justice: America's Secret Drone Wars.* p. 192.
[13] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in '*Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications.*' edited by Mike Aaronson, Wali Aslam, Tom Dyson, and Regina Rauxloh. Routledge: New York 2015 pp. 95- 105. p. 100
[14] Atkins, Harrison. '*Lawnmowers in the Sky: the Turbulent Past and Uncertain Future of Drone Warfare.*' Howard H. Baker Jr Center for Public Policy at the University of Tennessee. March 2017. p. 12.

Waziristan, said "maybe there were one or two Taliban" out of the 40 casualties.[15] The *Associated Press* confirmed this and claimed that only one target was identified as a militant.[16] Civilian casualties are to be expected and Obama has acknowledged that civilians have, and will continue, to die as a result of drone strikes. However, Brigadier Dogar questioned whether the targeting and killing of "42 mostly innocent people" justify a strike that kills one insurgent.[17] *Amnesty International* shares these apprehensions, and the organisation is "gravely concerned that some drone strikes have violated the right to life".[18] It is understandable that the US government needs to pursue counterterrorism efforts in order to attempt to eliminate terrorism. However, strikes should not be undertaken when the identity of the target is unknown as there is a significant chance that civilians will be targeted. This is an issue because the US government claims it targets militants, only when there is near certainty that no civilians are present. This has been made clear in speeches and statements by US government personnel. For example, in 2013 Obama claimed that there "must be near certainty that no civilians will be killed".[19] Furthermore, Brennan claimed that no civilians had been killed in drone strikes in the FATA between May 2010 and September 2011.[20] This means that it is certain that militants are aware that the US will not strike if there are civilians present. Therefore, it could be argued that insurgents will deliberately schedule meetings in open, public spaces in order to avoid being targeted. However, based on these two examples, this study suggests the claims

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[15] Akbar, Mirza Shahzad 'The Folly of Drone Attacks and US Strategy'. CNN. October 2012. https://edition.cnn.com/2012/10/04/opinion/pakistan-drone-attacks-akbar/index.html Accessed November 2017 Accessed October 23, 2017.

[16] Shaw, Ian. 'Predator Empire: The Geopolitics of Drone Warfare'. p. 547.

[17] Akbar, Mirza Shahzad. 'The Folly of Drone Attacks and US Strategy'.

[18] Amnesty International. *Key Principles on the Use and Transfer of Armed Drones.* Amnesty International: London. October 12, 2017. p. 1.

[19] Reprieve. n.d. *'Opaque Transparency: The Obama Administration and its Opaque Transparency on Civilians Killed in Drone Strikes'.* Available at https://www.reprieve.org.uk/wp-content/uploads/2016/06/Obama-Drones-transparency-FINAL.pdf. Accessed March 16, 2018. p. 1.

[20] Bergen, Peter L., and Daniel Rothenberg. *Drone Wars: Transforming Conflict, Law and Policy.* p. 17.

made by the US government are untrue. This is because the identity of the individual is not needed and cannot be verified until after the strike.[21] This means the US government cannot be certain if the target is legitimate. *Amnesty International*'s Naureen Shah argues signature strikes "assimilate into the norm" a process of targeting and killing individuals without knowing their identity.[22] To combat this, signature strikes should not be used. This would increase the chances of the US government and CIA targeting the correct individuals. Micah Zenko from the *Council on Foreign Relations* also states that signature strikes should be stopped, saying strikes should be limited to "specific terrorists with transnational ambitions".[23] It could be argued that by eradicating signature strikes, and limiting them to high value targets, the campaign would not be cast in such a negative light. This is because the identities of all those killed would be known to the US government prior to their targeting. In traditional warfare, the enemy's identity is not required before they are killed, and some may argue this should apply to drone warfare. However, technological restraints, such as a limited field of vision and blurry camera lenses, as analysed in 'Intelligence Collection', means that the stateless, modern day enemy is much more difficult to identify – and is not marked as a combatant by uniform. Furthermore, the absence of hard intelligence required on an individual prior to a signature strike, means there is an increased likelihood of striking civilians. This is problematic because the "tight leash" Obama had on the campaign, could be jeopardised by the next president if they were to abuse the powers of signature strikes.[24] To prevent this, Obama signed an Executive Order requiring increased training and other "feasible precautions" to limit

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[21] Even after a strike sometimes it has been difficult to identify the target. This results in many 'unknowns' being killed.

[22] Ackerman, Spencer. 'US continue signature strikes on people suspected of terrorist links'. *The Guardian*. July 2016.

[23] Wenzl, Roy. 'The Kill Chain: Inside the Unit that Tracks Targets for US Drone Wars'. *The Guardian.* January 23 2018.

[24] McCrisken, Trevor. 'Obama's Drone War.' p 101.

collateral damage.[25] Increased training would help drone operators to become more culturally aware, solving a problem analysed earlier in the study. Executive Orders are not legally binding meaning the next president could formally overturn it.[26] However, in this instance, Obama's Order limits the campaign from becoming an indiscriminate killing programme. This is because overturning it would likely result in backlash from the public, as well as heads of states in other nations, because the president's reasons for doing so would have to become public.

In addition to the little amount of intelligence required, another issue with signature strikes is that a "lower command level" is required to authorise them compared to the other types of strikes. This generates a "quicker response" time for authorisation to strike.[27] By eradicating the need for a high-level official to authorise a signature strike, the US government believe this is an effective method of pre-emptively stopping a potential terrorist. This is because drone teams are able to quickly eradicate a suspect in their tracks. Hayden confirmed this, and stated that signature strikes have been effective in "shrinking the enemy's bench and [terrorist] leadership's sense of safe haven".[28] Similar to problems associated with using words such as 'baseball cards', talking about the depth of an opponent's 'bench' also evokes a sense that the US is engaged in a game, rather than a serious, political and military programme. Despite Hayden's juvenile claim that signature strikes have shrunk al Qaeda's 'bench', these strikes remain problematic. This is because as well as not knowing who is being killed, signature strikes are being authorised by someone who does not have a high level of command. Even the most experienced lawyers, drone operators, and military officials

[25] Ackerman, Spencer. 'US continue signature strikes on people suspected of terrorist links'. *The Guardian*.
[26] This was analysed in Chapter One.
[27] Hudson, Leila; Colin S. Owens; David J. Callen. 'Drone Warfare in Yemen: Fostering Emirates through Counterterrorism?' *Middle East Policy* Vol. XIX. No. 3. Fall 2012. p. 151
[28] De Luce, Dan; Paul McLeary. 'Obama's Most Dangerous Drone Tactic is here to Stay'. *Foreign Policy*. April 2016.

make mistakes (based on the number of civilian casualty examples given throughout this study). Therefore, it is likely that someone without that level of authority would make even more mistakes, given the fact that no substantial intelligence is required for signature strikes. In order to be considered effective, if strikes of this nature are to be continued, they need to be authorised by a high-ranking military or CIA official to work towards the greater likelihood that the target is legitimate.

The US government, unofficially, claims it prefers signature strikes over the other types used. This is because signature strikes have, arguably, killed "twice as many wanted terrorists" than other types of strikes.[29] However, as mentioned before in this study, there are problems associated with the identity of those who have been killed, as analysed in Chapter One. It is hard to believe that the US has killed more terrorists with signature strikes because targets are unknown to the US government and CIA. Therefore the government cannot be certain that signature strikes have been effective at targeting the correct individuals. This is an issue, because the US government should be sure of the identities of the individuals it is targeting. However, numbers of those targeted and killed in signature strikes cannot be proven. Therefore, the public cannot be sure if these claims are true. Furthermore, as the US government has an agenda to push, it is unlikely to state that drone strikes have been ineffective or have killed the wrong individuals.

Ramifications of targeting the wrong individual include swelling the ranks of terrorist organisations as friends and family members seek revenge on the US. This is problematic, because the campaign is not defeating terrorism. Arguably, then, the

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[29] Entous, Adam; Julian E. Barnes; Margaret Coker. "US doubts intelligence that led to Yemen strike." *Wall Street Journal.* December 29, 2011.

programme "kills today's enemies, but creates tomorrow's in the process".[30] To prevent this from happening, a review on signature strikes is needed. Updating legislation on signature strikes would likely decrease the numbers of collateral damage, simply because there would be more measures in place to prevent civilian deaths.

Al Qaeda's media production branch, As - Sahab, has been successful in attracting recruits by using footage of US drone strikes and claiming the strikes killed civilians. These videos enable terrorists to convince locals that the US government is an "immoral bully" that undertakes "indiscriminate violence against Muslims".[31] Moreover, Akbar Ahmed, Chair of Islamic Studies at the American University's School of International Service, claimed that deploying drones into "power vacuums" (i.e. places where there is no central government, such as the FATA), causes "ferocious backlash against central governments while destroying any positive image of the US that may have once existed."[32] Muslimi conformed this at the Senate Judiciary Subcommittee, when he stated that drone strikes have achieved "an intense anger and growing hatred of America".[33] To combat this, the US government need to revise signature strikes, the Kill List, and educate drone operators on the local cultures. This would ensure that no unnecessary civilians are killed. ('Unnecessary' because sometimes, the strategic advantages to the US government outweigh the killing of one or two civilians, and this is legal.)

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[30] Betts, Richard K. *Conflict after the Cold War: Arguments on Causes of War and Peace.* Routledge: New York City. 2017. Available at:
https://books.google.co.uk/books?id=hcuEDgAAQBAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false
[31] Cronin, Audrey Kurth. 'Why Drones fail when Tactics drive Strategy'. p. 46.
[32] Gardner, Lloyd C. *Killing Machine: The American Presidency in the Age of Drone Warfare.* The New Press: New York, 2013. p. 248.
[33] United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. *Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing. Statement of Farea al-Muslimi.* p. 4.

Distinction means to differentiate civilians from militants, as well as their objects (such as cars and houses). Proportionality requires that the cost of civilian deaths and civilian objects destroyed "may not be disproportionate to the value of the military objective".[34] Derek Gregory, a Professor of Geography at the University of British Colombia, claims that civilians killed in a strike were targeted because the strike was deemed as a "direct military advantage" to the US.[35] This means civilian casualties are not illegal so long as these principles are implemented properly. However, the Datta Khel strike in March 2011, and more broadly the continued use and preference for signature strikes, suggests these rules are not applied correctly. (Although the Datta Khel incident was only one strike, other examples given in this study support the idea that the US government does not apply the proportion and distinction principles.) Targeting individuals from smaller terrorist organisations, such as the Taliban and Haqqani Network, in signature strikes increases the risk of accidentally targeting civilians. This is because these terrorist organisations have "connections with the civilian population", meaning interactions with civilians occur on a frequent basis.[36] Terrorist groups are an "irregular enemy", meaning they do not wear a uniform and lack military equipment. [37] In traditional warfare, these factors would usually be indicative of the enemy. The absence of these features increases the likelihood of misidentifying a terrorist, meaning it is a "phenomenal gamble" that the correct militants will be targeted in signature strikes.[38] In the aftermath of the Datta Khel strike, Cameron Munter, US Ambassador to Pakistan, claimed signature strikes were a "flagrant violation of humanitarian norms and law", simply because intelligence

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[34] O'Connell, Mary Ellen. 'Drones under International Law'. p. 2.
[35] Gregory, Derek. 'From a View to a Kill: Drones and Late Modern Warfare.' p. 199
[36] Boyle, Michael J. 'The costs and consequences of drone warfare.' *International Affairs.* Vol. 89. No. 1. January 15 2013. p. 7.
[37] Lewis, Larry. 'Drone Strikes in Pakistan: Reasons to Assess Civilian Casualties'. *CNA Analysis and Solutions.* Thesis. April 2014. p. 17.
[38] *Dawn.* 'Most Drone Strikes had Unintended Targets.' October 17, 2015.

proving the status of an individual is not needed.[39] There is no evidence to suggest attempts were made by the CIA or US government to differentiate the group's actions with terrorist behaviours. Therefore, it could be argued the US government is breaking these principles, because there is no evidence proving that rigorous methods for reducing civilian casualties have been implemented by the government. As a result, this contradicts Obama's statement that "before any strike, there must be near certainty that no civilians will be killed or injured" claiming "that is the highest standard [the US government] can set".[40] This declaration is problematic because the US government cannot be certain who is being targeted, despite the technology and methods used being "exceptional".[41] This is because of two reasons. One, as mentioned, signature strikes do not need extra intelligence conforming the identity of a suspect. Therefore, how can the US government or CIA be sure an individual is a militant? And two, according to the Obama administration, between 64 and 116 non-combatants had been killed. This is a discrepancy of 52, suggesting that these individuals could be militants or civilians. This is not a 'high standard' to set, because it adds to the confusion regarding the civilian casualties. The proportion and distinction principles should be properly implemented, as this would help to ensure drones are targeted at insurgents only.

Personality Strikes

Personality strikes are much less controversial than signature strikes because those targeted in personality strikes have their names on the Kill List, meaning they are

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[39] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in *'Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications.'* p. 100.
[40] Jaffer, Jameel. *The Drone Memos: Targeted Killing, Secrecy, and the Law.* The New Press 2016. https://books.google.co.uk/books?id=-0tmDQAAQBAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false
[41] Shane, Scott. 'CIA is disputed on Civilian Toll in Drone Strikes.' *New York Times.*

identified as high value targets. Although there are problems with targeting issues, as analysed earlier in the study, it can be argued that because the individual's identity is known and there is intelligence on them, personality strikes are a less problematic way of targeting militants. Before a personality strike is conducted, drone teams are required to have "multiple sources" of intelligence on the target, from Humint, Sigint, and reconnaissance.[42] Therefore, compared to signature strikes, personality strikes seem the far superior way of targeting militants as the risk of collateral damage has been significantly reduced, due to the amount of intelligence required. However, Bryant claims that intelligence is not always from multiple sources, and that it mainly comes from Sigint.[43] (The problems of Sigint have been analysed earlier in the study in 'Intelligence Collection'. There it was stated that although Obama has signed legislation that required two different sources of intelligence is needed before a strike can be authorised, *The Intercept* revealed that this was not always adhered to, due to the lack of reliable assets on the ground. Therefore, there is an increasing reliance on Sigint.) In addition to the problems with Sigint, relying on intelligence from one source suggests the US government and CIA are not employing rigorous methods to ensure the legitimacy of a target. Using intelligence from one source means it cannot be corroborated. This is problematic because it means the resulting intelligence will not be as accurate as it could be, meaning the chances of targeting the wrong individual are increased. A *Reprieve* report claimed that each target on the Kill List had died, on average, "more than three times" before they were confirmed to have been killed.[44] For example, according to an article in the *Guardian*, 1147 civilians died as a result of

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[42] Columbia Law School Human Rights Clinic and Center for Civilians in Conflict. *'The Civilian Impact of Drones, Unexplained Costs and Unanswered Questions'*. p. 32.

[43] Scahill, Jeremy, and Glenn Greenwald. n.d. 'The NSA's Secret Role in the US Assassination Program.' The Intercept.

[44] Reprieve. 'US Drone Strikes Kill 28 Unknown People for Every Intended Target'. November 2014. https://reprieve.org.uk/press/2014_11_25_us_drone_strikes_kill_28_each_target/ Accessed March 12, 2018.

targeting 41 men.[45] Said al Shihri, a top operative in AQAP, was targeted a total of four times, which killed 57 civilians. Sirajuddin Haqqani has been targeted five times, and 82 civilians have been killed. These two men are still alive. Although these are small examples, it suggests the US does not do enough to distinguish between militants and civilians, or that insufficient care is taken to ensure that civilians are not harmed when targeting militants. If the government did, it is likely the number of times taken to strike a target would be reduced, as would the collateral damage.

This is an issue, because it suggests that personality strikes are no more effective in targeting a specific militant than signature strikes. This is because in these attempts at targeting an individual on the Kill List, civilians will have also been killed. There are many examples of this, but this one has been chosen because it shows the scale of this issue. Baitullah Mehsud, leader of the Taliban, was targeted by drones in personality strikes seven times before he was successfully killed. In these seven strikes, 164 civilians and unknowns were killed.[46] Although it can be argued that civilian casualties are inevitable, the numbers of these, as well as the number of strikes on an individual, could be reduced were the US government and CIA to use intelligence from multiple sources. By doing so, there is an increased chance that the correct target will be killed. In addition to this, if a personality strike were to go wrong, the US government and CIA could justify the strike by proving three different types of intelligence had come to the same conclusion: showing the target as a legitimate threat. Not only would more intelligence on personality strikes reduce the risk of targeting the wrong individual, it would also provide evidence to opponents of drones. This would show that drones are

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[45] Ackerman, Spencer. '41 Men Targeted but 1, 147 People Killed: US Drone Strikes- the Facts on the Ground.' *The Guardian.* November 24, 2014.
[46] Ibid.

not just an indiscriminate killing tool, as there would be evidence to support why a certain individual was targeted.

Obama claimed "the core of al Qaeda in Pakistan is on the path to defeat".[47] Panetta also claimed personality strikes have "seriously" disrupted al Qaeda and that the US government has the group "on the run".[48] However, this suggests that personality strikes against militants are simply moving the problem around, not solving it. Leila Hudson, Associate Director of the School of Middle Eastern and North African Studies at the University of Arizona, agrees with this. She states personality strikes have "shifted" the location of militants from Pakistan, to Yemen and Somalia.[49] Personality strikes, therefore, have not eliminated terrorist groups and this is problematic to the campaign. It could be argued, however, that forcing groups to constantly move is a disruption, and may well impact on their ability to plan as effectively as if they were static. But terrorist groups have not been eliminated, and therefore the US had to expand the drone campaign into Yemen and Somalia, using the same flawed strategies as in Pakistan. This study understands that completely eliminating terrorism is difficult, because it will always be present. But the programme should not be shifting the problem around, it should be dismantling the "networks that pose a direct danger" to the US.[50] Because threats are moving to Yemen and Somalia, the US government should use lessons learned in the FATA to start effectively combatting terrorism in

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[47] Office of the White House Press Secretary. 2013. *"Remarks by the President at the National Defence University"*.
[48] 'CIA Chief: 'Disrupted al Qaeda is on the Run'. *Fox News.* March 18, 2010. http://www.foxnews.com/world/2010/03/17/official-al-qaeda-leader-played-role-cia-bombing-killed.html Accessed March 12, 2018.
[49] Hudson, Leila; Colin S. Owens; David J. Callen. 'Drone Warfare in Yemen: Fostering Emirates through Counterterrorism?' p. 143.
[50] Office of the White House Press Secretary. 2013. *"Remarks by the President at the National Defence University"*.

Yemen and Somalia. This would increase the chances of the campaign becoming more effective, as problems highlighted in this study would have been resolved.

Double tap Strikes

A double tap drone strike is where a "targeted strike site is hit multiple times in relatively quick succession".[51] The aim of these strikes is to kill all those that help the wounded, as they are assumed to be militants. Double tap strikes are particularly effective when targeting large gatherings, as they kill more suspects than one drone strike would. Bruce Riedel, ex- CIA analyst and former counterterrorism adviser to Obama, compared terrorists to grass, stating "drones are like lawnmowers. You've got to mow the lawn all the time. The minute you stop mowing, the grass is going to grow back".[52] As before, there are issues with language, which is, in this case, both dehumanising and also suggests that the drone campaign is not a solution but a means of containment; grass is a notoriously hardy and resistant plant. Double tap strikes are one way of attempting to 'remove roots' rather than simply 'mow'. However, double tap strikes are only effective if the correct suspects have been targeted. This is because there have been instances where civilians have rushed to aid the injured and have been killed or injured themselves. For example, the first confirmed double tap strike happened in the FATA in May 2009. Mushtaq Yusufzai, a local journalist in the FATA, claimed that after Taliban militants gathered at a local mosque, they prepared to move into Afghanistan to attack US military forces there. However, before they could do so, US drones targeted the group killing "at least a dozen".[53] As medical aid

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[51] Delmont, Matt. 'Drone Encounters: Noor Behram, Omer Fast, and Visual Critiques of Drone Warfare'. *American Quarterly*. Vol. 65. No. 1. March 2013 pp. 193- 202. p 197.
[52] Huff, Mickey; Andy Lee Roth. *Fearless Speech in Fateful Times: Censored 2014. The Top Censored Stories and Media Analysis of 2012 – 2013*. Seven Stories Press: New York, 2011. Available on Google Books.
[53] Williams, Brian Glyn. 'New Light on CIA "Double Tap" Drone Strikes on Taliban "First Responders" in Pakistan's Tribal Areas.' *Perspectives on Terrorism* Vol. 7. No. 3 2013. pp. 79- 83. p. 80.

arrived, in the form of local villagers, a further two drones fired and killed several villagers. Brian Glyn Williams, Professor of Islamic history at the University of Massachusetts- Dartmouth, claims that the US government had dropped leaflets in the area warning local FATA tribesman that if they "assisted the militants, they would share their fate", which suggests villagers knew they would be killed if they attempted to help.[54] However, this claim is problematic because this is the first time, throughout this research, the study has encountered information like this. While leaflet campaigns were a feature of US cold warfare, granting some degree of legitimacy to the claim through past practice, strikes in the FATA are not acknowledged. Therefore it is highly unlikely that the US government and CIA would deter civilians from helping the injured and provide proof of the operation in the process.[55] In addition to this, Williams states these strikes do not kill as many civilians as the media claim, mainly because those who have helped are considered militants, even if they are not.[56] It is understandable why the US government employ this method of striking, as the kill net is expanded to those who assist militants. However, double tap strikes are problematic when combined with signature strikes. This is because in signature strikes the identity of the target is not known. Therefore, the identities of the people aiding the injured are also unknown. If it was proven that the US government and CIA were targeting civilians in multiple strikes, the agencies would be violating legal protections for medical personnel and wounded according to the fourth Geneva Convention and the

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[54] Williams, Brian Glyn. 'New Light on CIA "Double Tap" Drone Strikes on Taliban "First Responders" in Pakistan's Tribal Areas.' p. 80.

[55] For more information, see Mike Fowler, 'The Strategy of Drone Warfare.' *Journal of Strategic Security: United States Air Force Academy, Future Challenges in Drone Geopolitics*. Vol. 7. No. 4 Special Issue Winter 2014. Although Strikes are not acknowledged by the US in the FATA, the Bureau of Investigative Journalism has conducted extensive research to expose information about double tap strikes. Journalist Chris Woods claimed that until late January 2012 the US did not "confirm the programme existed". Woods, Chris; Christina Lamb. 'CIA Tactics in Pakistan Include Targeting Rescuers and Funerals'. February 4, 2012. https://www.thebureauinvestigates.com/stories/2012-02-04/cia-tactics-in-pakistan-include-targeting-rescuers-and-funerals. Accessed March 16, 2018.

[56] See Chapter One, Part One for more information, as this was analysed there.

IHL, which "affords protection to civilians, including [those living] in occupied territory.[57] Christof Heyns, UN Special Rapporteur on Extra- Judicial Killings, agrees and argues that strikes against known civilians could constitute a war crime.

Obama acknowledged that mistakes will be made and civilians will be hit. During a press conference at the Walter E. Washington Convention Center in 2016, he claimed some strikes were not as "precise" as they should have been.[58] Therefore, to avoid this, the US government must ensure that, not only should 'normal' drone strikes target known militants, it should have a clear idea on who is aiding the injured. The Datta Khel strike is an example of a double tap signature strike. The US government justified the strike by stating the men were heavily armed and were not "gathering for a bake sale", implying their meeting was suspicious.[59] The men were rendered as threats and targeted. Previous analysis has concluded that technological restraints means drone operators find it difficult to visually identify a target. In addition to this, issues with signature strikes have established that just because an individual undertakes certain actions and behaviours, it does not automatically render them a militant. Furthermore, this strike strongly suggests that double tap strikes are only effective when the target is a known militant, because intelligence after the strike found that only one of the men was a terrorist. Moreover, flippant language used to justify the strike, suggesting the men were not 'gathering for a bake sale', again undermines the seriousness of the campaign.

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[57] International Committee of the Red Cross. November. 'Summary of the Geneva Conventions of 12 August 1949 and their Additional Protocols.' 2012. https://www.icrc.org/eng/assets/files/publications/icrc-002-0368.pdf Accessed November 7, 2017.

[58] Press Conference by President Obama. Walter E. Washington Convention Center Washington DC. 4 March, 2016.

[59] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in '*Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications.*' p. 100.

Double tap strikes also add to the confusion regarding the actual number of civilian casualties, this problem is not helped in the immediate aftermath of a strike. This is because the strike zone is cordoned off by militants or local media groups, so civilians do not run to aid the injured at risk of being subjected to another Hellfire missile. Cordoning off a strike zone is problematic because media groups with access to the area will have an agenda to push. Not only do these agendas impact the accuracy of intelligence, the collateral damage numbers put forward will be reflective of whether the source supports or opposes the programme. For example, Pakistan's daily newspaper, *Dawn*, claimed that 85 percent of people killed by drones were "unintended targets".[60] This demonstrates that the newspaper does not support the campaign, because this number does not correspond with the US government's figures and testifies to its inaccuracy and inadvertent outcomes for Pakistani citizens. No body counts are established in *The Yemen Times,* but headlines such as "The Drones Return", from November 11 2013, and "Growing Hostility against Drone Campaign", dated August 18 2014, suggest the paper has a similar agenda to *Dawn*: it does not support the campaign. Rural areas are off-limits to Western journalists and news broadcasters, and this makes it increasingly difficult to determine if sources reporting on strikes are legitimate. This means local newspapers have the ability to influence civilians in the countries where the programme operates. *The Yemen Times* reported that civilians have lost faith in the central government and are now rallying behind "local leaders".[61] The extent to which people believe the media is difficult to ascertain, but such narratives contribute to a normalisation of the idea of support for 'local leaders', which, in turn, works towards fragmenting both national political discourse

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[60] *Dawn.* 'Most Drone Strikes had Unintended Targets.' October 17, 2015.
[61] *The Yemen Times.* 'Demonstrations in Ma'rib Underscored Growing Hostility against Drone Campaign'. August 18, 2013.

and the nation. This could potentially lead to a considerable propaganda victory for terrorists operating in the area. The media can also reinforce existing feelings of hostility towards the US. This is dangerous, because large portions of Yemen are either controlled by al Qaeda, or strongly support the terrorist group. When a militant is successfully killed, insurgents have been known to close the areas off to both local journalists and civilians. This leaves the civilian casualty rate open to manipulation by terrorist organisations. It could be argued that the manipulation by these groups is far worse than the agendas of newspapers, as the Taliban, al Qaeda, and al Shabaab all control large portions of land in Pakistan, Yemen, and Somalia (see Figures Two, Three, and Four located in the appendix). Terrorist organisations then have the ability to inflate the numbers of the dead and report this inaccurate number to Western media groups. Dr Simon Bennett, Director of the Civil Safety and Security Unit at the University of Leicester, confirmed this and stated terrorist organisations "aggressively push higher casualty totals to international media outlets".[62] This is problematic, because again it simply adds to the confusion about the accurate number of civilian casualties. To combat this, strikes should only be undertaken when the suspect is a known threat, and also when there is no chance, not 'near-certainty', of a civilian death. Although this may be difficult to achieve, due to the way in which terrorists operate, it would enable the US government to have a more accurate idea of collateral damage. It is impossible to physically stop terrorists from lying to media outlets. By ensuring only known, high-value targets are successfully killed, it would prove to local civilians

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[62] Bennett, S.A. 'Unintended Consequences. What lessons can risk-managers learn from the use of armed remotely-piloted vehicles for counter-insurgency in Pakistan?' In Masys, A.J. (Ed.) *Disaster Management: Enabling Resilience*. Cham: Springer International Publishing, pp. 177-200 2015. p.184.

the campaign is a succinct, well organised operation to help keep them safe from terrorists, not a "willy-nilly, let's bomb a village" programme. [63]

Dynamic Strikes

Dynamic targeting means there "is a compressed timeline to locate and prosecute" an individual. [64] This means that the decision to target an individual happens in a short period of time. Usually these are conducted as signature strikes because an individual's behaviour may be considered dangerous, so they have to be stopped immediately. However, they can be used in a personality strike if time sensitive information (such as a telephone call) detailed the target was moving to a specific location. Drones would then be deployed to that location and the individual would be targeted. The use of the word 'prosecute' is perhaps incorrectly used here, simply because drone strikes do not offer the choice of surrender to targets. Therefore, targeted individuals are denied a right to legal proceedings and a prosecution. [65]

There has been little research into dynamic targeting. Coupled with the secrecy of the campaign, it has proved incredibly difficult to find a substantial amount of information regarding dynamic drone strikes. This could mean one of two things. One, it could be that the US government and CIA rarely use this method to target militants. Or two, the absence of information could be due to the lack of transparency, which was analysed previously. This essay does not argue for full transparency, just better, clearer statements and legislation on some of the more controversial aspects of the programme, such as dynamic targeting. If the US government and CIA were using dynamic signature strikes to target individuals, this would be a major issue which

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[63] Office of the Press Secretary. "*Remarks by the President in a Conversation on the Supreme Court Nomination.*"
[64] Fowler, Mike. 'The Strategy of Drone Warfare' p. 110.
[65] See Chapter One for more information, as this was analysed there.

would need addressing. This is because the absence of intelligence required for a signature strike in conjunction with a condensed timeline, means there is an increased risk of collateral damage. This does not allow drone operators enough time to fully evaluate the situation. Although it could be argued that time sensitive targets need to be eliminated quickly, the short time scale means the room for mistakes to be made has increased. This is a major flaw with the campaign and needs addressing. In order to combat this issue, there needs to be more transparency on dynamic targeting. This would ensure the US government and CIA are implementing and adhering to proper procedures. It would also help to prove that drones do not target individuals indiscriminately, because there would be proof of the reason for striking targets in this manner.

Collateral Damage Estimate (CDE)

Pre-planned strikes target individuals whose pattern of life has been developed over "36 – 40 hours".[66] These are conducted in conjunction with personality strikes, but signature strikes can be pre-planned when drone teams have been tracking an unknown target whose actions become suspicious. Pre-planned strikes involve calculating the possible collateral damage which could occur. Officially, this process is called the collateral damage estimation (CDE), but, unofficially, the CIA uses the more crass term "bug splat".[67] A CDE is based on civilian's proximity to the target: the closer to the target they are, there is a higher percentage that civilians will be killed. This is because they will be in the blast radius of the strike. The US government attempts to cast the campaign in a positive light, and continually defends it. However, the term 'bug splat' evokes the impression that strikes are not taken seriously by drone

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[66] Derek, Gregory. 'From a View to a Kill: Drones and Late Modern Warfare.' p. 199.
[67] Zenko, Micah. '*Reforming US Drone Strike Policies.*' Council on Foreign Relations Center for Preventive Action. Council Special Report no 65 January 2013. p. 12.

operators, and as with the comments about grass above, dehumanises the target of the attack (and the civilians potentially caught up). Former drone operator Michael Haas comments on this, stating that drone operators are made to think of the targets as "black blobs on a screen", and compared it to stepping on ants, and not giving it a second thought. [68] This language also undermines the US government's claims that strikes are surgical, because a 'splat' suggests the opposite of a clean strike.

CDE's are a complex style of striking, as many components have to be considered. To make it simpler to understand, below is an image taken from the film *Eye in the Sky* (2015), directed by Gavin Hood.[69] The film centres on a drone team waiting to strike a safe-house, where known armed militants are hiding. Although it is a film, former US Air Force technician, Cian Westmoreland, stated the film is "commendable in displaying the immensity of the programme", and it did a "great job in… encompassing [the] work environment that people in the programme face".[70] This image clearly shows the different sections and each has a different CDE.

Working from the centre of the image, the target zone is red with a CDE of 100 percent. The rest of the house, the dark yellow, has a CDE of 80 - 90 percent, and the third section in pale yellow section has a 65- 70 percent CDE. These three sections only show the damage from the Hellfire missile. The house contains an unknown quantity of explosives. The pink section in the street shows an estimated range of how far these explosives are likely to travel. As the quantity of bombs and other explosives in the

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[68] Pilkington, Ed. *The Guardian.* "Life as a Drone Operator: 'Ever Step on ants and never give it another thought?" November 2015.

[69] The orange rectangle outside the house is not in the film. It has been added for this study to give clarity on a later section.

[70] Westmoreland, Cian. 'Whistle-blower's Review of 'Eye in the Sky''. Huffington Post. April 20, 2016 https://www.huffingtonpost.com/cian-westmoreland/whistleblowers-review-of_b_9737034.html Accessed March 13 2018.

house are unknown, the CDE for this area cannot be calculated. This is problematic, as there are clearly people in the pale pink zone.
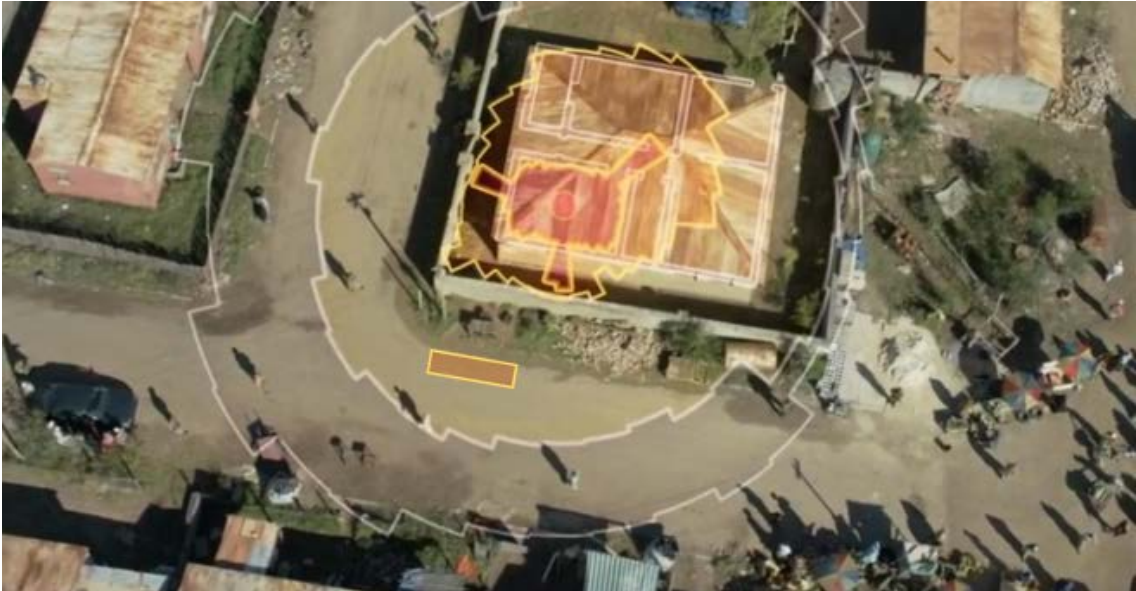
Figure 5 – Eye in the Sky (2015), dir. Gavin Hood.

Modern warfare and better technologies have enabled the reduction of the blast radius. This means the people outside of the final section are not included in the CDE, as they are farther away from the targeted strike zone. However, they are not completely safe and may suffer injuries. During the Vietnam War, the blast radius of a 500 lb bomb was 400 ft. A Hellfire missile on the other hand, has a 40 ft. blast radius. CDEs show the US government is actively taking steps to reduce the number of civilian casualties. However, 40 ft. is still a significant distance in which civilians could be killed or injured. Therefore, in heavily populated areas, such as in small towns and villages, the CDE is an effective measure to employ. This is because it shows drone teams an estimated number of how many civilians will die as a result of the strike. However, as in *Eye in the Sky,* if a target house contained unknown numbers of explosives, the CDE is difficult to calculate because it is not known how many extra metres these explosives would add on to the blast radius. Nevertheless, if a strike were to accidentally kill a high number of civilians, drone teams would have proof that the CDE was at a level

which was approved by lawyers. In order to be truly effective, the CIA and US government should use CDEs in any strike authorised, unless it is clear that there are no civilians in or near the blast radius. For example, in a remote location and the targets are known militants. Doing so would ensure collateral damage was kept to a minimum.

This study is unable to find specific examples of a pre-planned strike with a CDE because the secrecy of the campaign makes it difficult to differentiate between strikes. However, *Eye in the Sky* gives insight into CDEs. Although it is a film, the issues portrayed can easily be transferred to real-life situations, given the small fragments of information this study has been able to find out. In the film, one of the main military officials, Katherine Powell, is angered by the CDE. This is because it shows there will be a high risk to civilians if the strike were authorised. She demands the numbers of the CDE to be altered to show minimal collateral damage. The person in charge of CDEs complies with Powell, and the figures are reduced. Powell's actions suggest CDEs are not needed, because estimations will be altered and the strike will be conducted based on these changed numbers. This is problematic because CDEs are in place for a reason: to reduce the number of civilian casualties. Although this example is from a film, Powell's actions could suggest that drone operators and lawyers are pressurised into making certain decisions by military officials, a subject analysed earlier in the study in Chapter Two. Military officials discounting CDEs and authorising strikes on modified numbers suggests the campaign is not 'precise to militants'. This is because it is likely that civilians have been killed or injured as a result of disregarding CDEs, making Brennan's claim that "no non-combatants" have been killed by drone strikes between May 2010 and September 2011 highly

unbelievable.[71] This is problematic because the US government cannot then claim the campaign kills militants only. To reduce civilian casualty rates, CDEs should be adhered to and they should not be altered.

After the CDE has been altered, the film then focusses on a young girl setting up a stall where there has been a CDE of 65 – 70 per cent. In the image on page 100, this is the pale yellow section with the girl's stall being the orange rectangle. The strike is postponed and there are multiple covert attempts to move the girl to safety, including an undercover agent buying all the products from her stall in the hope she will return home. However, time is running out and Powell gets restless; nervous that if the targets are not killed soon, the government will have missed its chance to eradicate the militants. Powell states that "we have one opportunity, let's not lose it" and the drone is fired.[72] This supports Bryant's claim that militants will be targeted at the first opportunity regardless of civilian casualties, which was analysed in Chapter Two. To reiterate the point made in Target Selection, it is problematic that Powell, and likely real-life military officials, feel the need to strike at the first opportunity. This is because the chances of killing non-combatants will be increased. In the film, the militants are successfully killed, but the young girl also dies. Although this is a film, it clearly shows the problems (mainly civilian casualties) that not complying with CDEs are a real and major flaw with the campaign. The fact that the young girl dies from the strike is an emotive strategy employed by the filmmaker. However, the numbers of strikes conducted in Pakistan, Yemen, and Somalia suggest that it is likely civilians have been killed as a result of strikes. To combat this and ensure drone strikes are specific to militants, there should be a law that states CDEs must be obeyed and not altered to suit

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[71] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in '*Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications.*' p 99.
[72] Hibbert, Guy. *Eye in the Sky*. Gavin Hood. Raindog Films. April 2016. Video Clip: CDE Calculation. https://bleeckerstreetmedia.com/eyeinthesky Accessed 12 March, 2018.

military officials presiding over the strike. Doing so would likely reduce the chance of killing civilians.

In order to reduce the number of civilians accidentally killed, the US government and CIA should restrict strikes to known militants only. To do so, only personality strikes should be used. Eliminating signature strikes from the campaign, as Zenko suggests, would likely help in projecting the campaign in a positive manner. This is because the public would know that strikes are targeted against people who are a legitimate threat against the US and its interests, rather than someone who looks simply looks suspicious. This is closely linked with the problems of intelligence collection. Better, more refined methods of collecting intelligence on a suspect would also result in strikes being more accurate to authentic threats. Removing the use of double tap strikes would also likely reduce the numbers of civilians killed by US drones, and would solidify the campaign as being effective in targeting militants only. However, the lack of transparency and difficulty in obtaining information on double tap strikes means that the campaign will be seen as indiscriminate, as it is not known who is killed in these strikes. Military officials need to adhere to CDEs, and should not attempt to alter the numbers, because this results in mistakes being made which will impact how the campaign is perceived, by the US public and those living in countries where the US is operating. CDEs are implemented for a reason. With a campaign as serious as this there needs to be a law that ensures CDEs are legally adhered to. This would also likely reduce the numbers of civilian casualties, and therefore the campaign would be perceived as effective.

Conclusion

Former Press Secretary, Jay Carney, claimed that strikes against terrorist forces are "legal, they are ethical and they are wise".[1] Many scholars such as Waseem Ahmed Qureshi and Akbar Ahmed disagree. These studies identify legality as the major theme in analysing the efficacy of the drone campaign. This is because there is evidence to suggest the campaign is not observing international law. Ahmed even goes as far to claim that "Americans have never been clear as to where al Qaeda ends and civilian life begins", suggesting that some US drone strikes are illegal.[2] This was evident in Chapter One, where analysis of Koh's speech suggested that the four principles of distinction, proportionality, necessity, and humanity safeguard civilians against drone strikes.[3] Adherence to these would ensure that strikes would only hit military targets. However, evidence given throughout the study has shown that this is not the case. For example, the Datta Khel strike in 2011 is a clear example of a strike where civilians were targeted and killed when there was no military equipment present, or evidence of it, which would beyond reasonable doubt render those civilians as militants. Qureshi stated that US drones have "ignored the principles of distinction, necessity, and proportionality" and therefore US strikes fall short "of meeting the standards of international and humanitarian laws".[4]

Furthermore, domestic laws enabling the US to operate drones over Pakistan, Yemen, and Somalia, have not been updated since 2001. The technology used in Bush's War

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[1] Office of the White House Press Secretary. 2013. *Press Briefing by Press Secretary Jay Carney.* James S. Brady Press Briefing Room, February 5.

[2] Ahmed, Akbar. "The Thistle and the Drone: How America's War on Terror Became a Global War on Tribal Islam". Brookings Institution Press 2013 p. 10

[3] Koh is a legal adviser to the US Department of State.

[4] Ahmad Qureshi, Waseem. 'The Legality and Conduct of Drone Attacks'. *Notre Dame Journal of International & Comparative Law.* Vol. 7. No. 2, Article 5. 2017.

on Terror was not as sophisticated as Obama's drone war and yet the same legislation, such as the Authorization for the Use of Military Force, is being used to enable US drones to operate over Pakistan, Yemen, and Somalia, despite changing technologies and threat. This was acknowledged by Obama in 2013, when he stated that "the threat has shifted and evolved from the one that came to our shores on 9/11".[5] Although this is not necessarily illegal, the campaign would benefit from updating the AUMF. If technology can be specifically tailored to new developments, legislation should follow, or even lead, these changes in order to minimise errors. Not updating old legislation or failing to make a new law that specifically focuses on drones in areas that are not "hot battlefields" suggests that the campaign is somewhat illegitimate.[6] Moreover, it would prove the US government and CIA are operating a drone campaign in the FATA, a conflict zone where it does not acknowledge strikes.

Chapter One examined the problems with the words 'imminent threat', 'civilian' and 'zero civilian casualties'. Complete transparency would jeopardise US operations in the region; however, more transparency around these words would help the public understand the campaign is justified, legal, and would work towards demonstrating that the US is operating a precise and effective campaign against militants. While acknowledging the importance of the illegality of the campaign, journalist Chris Woods suggests the measure of civilian casualties as the predominant factor of the campaign's efficacy: the campaign cannot be considered effective if it targets more civilians than terrorists. Woods also connected the problems of civilian casualties to the bigger issue of the changed definition of the word 'civilian'. He stated that by changing the definition, the US government has "considered itself free to target

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[5] Office of the Press Secretary. 2013. *"Remarks by the President at the National Defence University"*. National Defence University, Fort McNair, Washington DC. 23 May.
[6] National Public Radio. 'John Brennan Delivers Speech on Drone Ethics'. May 2012. https://www.npr.org/2012/05/01/151778804/john-brennan-delivers-speech-on-drone-ethics

individuals" who are not terrorists.[7] As the issue of the true number of civilian casualties has to be scrutinised and questioned, it suggests the campaign is not as effective as policy makers portray: surgical, precise, and with "zero civilian casualties".[8] Although it would be difficult to achieve, a synthesis of more transparency on the legislation and language used by policy makers, while continuing to protect US operations in the region, would lead to a more complete understanding of the foundations, as well as the efficacy, of the campaign.

Childish language, such as 'baseball cards', as analysed in Chapter Two, evokes a game playing mentality when choosing which individuals to target. The campaign is not a game, and language that plays into this mentality should be eradicated. Drone operators have a responsibility to ensure correct individuals are targeted, and game playing mentalities do not reassure opponents of drones that the campaign is on a "tight leash".[9] To combat this, the reasons for target selection could be made public. This would ensure that target selection is not made on naïve assumptions, or childish remarks. However, this would not be possible because while making target selection methods public would decrease the risk of targeting the wrong person, because the US government would have to offer an explanation as to why a certain person was targeted, making these criteria public would jeopardise US operations in Pakistan, Yemen, and Somalia. This is because militants would be aware of what characteristics the US government consider as 'suspicious' and it would also be possible to attempt to 'reverse engineer' from the stated reasons how intelligence was gathered, rendering

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[7] Woods, Chris. *Covert Drone Strikes and the Fiction of Zero Civilian Casualties* in '*Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications*' edited by Mike Aaronson, Wali Aslam, Tom Dyson, and Regina Rauxloh. Routledge: New York, 2015

[8] Manes, Jonathan. American Civil Liberties Union. 'Civilian Deaths from CIA Drone Strikes: Zero or Dozens?' Jul 19, 2011. https://www.aclu.org/blog/national-security/civilian-deaths-cia-drone-strikes-zero-or-dozens Accessed March 19, 2018.

[9] McCrisken, Trevor. 'Obama's Drone War.' *Survival.* p 101.

sources of intelligence vulnerable to reprisal attacks. In turn, this would reduce the quality and quantity of intelligence available to the US, undermining its ability to run an effective drone campaign. This demonstrates one of the major difficulties of the campaign: the need for operational secrecy but the desire for transparency.

Intelligence collection techniques are another important aspect of the campaign that cannot be overlooked. Brian Burridge, former Royal Air Force officer, argued that intelligence collection methods have the ability to alter the outcome of strikes. In Chapter Three, the 'soda straw effect' was analysed, and it was concluded that drone cameras were not "suitable for wide area surveillance tasks".[10] Intelligence collection methods and drone technology needs to be updated to ensure more informed strikes. This would likely reduce the collateral damage numbers, which has been an important theme throughout the study. Other organisations, such as *Amnesty International,* cite this as being the major flaw of the campaign. However, in order to reduce collateral damage numbers, other major aspects of the campaign need to be updated. For example, data crush is a massive issue that needs to be addressed. It is a "limiting factor" in the effectiveness of intelligence collected, because important details have the capacity to be lost among the sheer volume of intelligence drone operators receive before striking a target. Donald Rumsfeld echoed this thought in a recently declassified memo, where he states that there is "more data" than can be translated into "usable knowledge".[11] This shows that policy makers are aware of the data crush problem but have failed to implement factors to limit the dangers of data crush. In Chapter Three, the study analysed cases where unnecessary civilian deaths have occurred because of data crush. Employing more analysts to disseminate intelligence could likely help with

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[10] Burridge, Brian. 'UAVs and the Dawn of Post Modern Warfare: A Perspective on Recent Operations.' p. 22
[11] Rumsfeld, Donald. Memorandum to Richard Haver. *Visualising the Intelligence System of 2025.* February 23, 2001.

reducing collateral damage. This is because there would be more people to sift through intelligence, therefore reducing the chances of vital pieces of information going missing prior to a strike being authorised. However, employing more people would mean they needed to be trained, which would take up time and money. If the US were to take analysts from other branches of government, this could likely result in a turf war within the US Intelligence Community.

Another major issue with the drone campaign is signature strikes. These are problematic because no intelligence beyond conformity to certain 'signatures' is needed, and therefore there is an increased chance of targeting civilians. This is an important thing to consider because the US claims to operate a tight campaign. However, targeting individuals without evidence that they are engaged in terrorist activities is problematic. Although they may be effective at "reducing the size of the enemy's bench", signature strikes come with a high risk of targeting civilians because no evidence on the suspect is required.[12] Therefore, signature strikes should not be a key component of the campaign. More intelligence on individuals is needed before the decision to strike is authorised. Many aspects of the campaign cannot be revealed to the public, due to secrecy issues. However, on one hand, declaring why a strike was undertaken would likely help in targeting militants only, because the US government would be forced to explain why a strike was undertaken. However, doing so would reveal the machinery of the decision-making process to combatants, meaning they would be able to avoid strikes. Personality strikes require intelligence that a suspect is a militant, unlike signature strikes. However, evidence exists that suggest personality strikes are forcing terrorists to move to other locations. Leila Hudson, a historian at the University of Arizona, claims that strikes have not decapitated or disrupted "US

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[12] De Luce, Dan; Paul McLeary. 'Obama's Most Dangerous Drone Tactic is here to Stay'. April 2016.

foes" in the FATA; rather, they have "shifted location" to escape drone strikes.[13] In this article, the author suggests terrorists are known to have fled from the FATA to Yemen and Somalia. This explains why there are al Qaeda splinter groups in Yemen and Somalia (AQAP and al Shabaab). When personality strikes miss a target, it simply encourages key terrorist operatives to move to other countries. This means the US government also has to operate the drone campaign in other parts of the globe. More intelligence and better technology on suspects might not necessarily stop this, but implementing more rigorous intelligence collection methods and updating drone technology would be beneficial to the campaign. Double tap strikes should only be used when there is hard evidence that bystanders are militants because examples given in the study strongly suggest the US government does not have intelligence on many of the bystanders at *jirgas*. As analysed in Chapter Four, the strike which targeted a wedding convoy on December 12 2013 is a good example of this. The US government failed to distinguish this convoy from a terrorist group, and 12 – 17 civilians were mistakenly targeted. The US government and CIA have access to state of the art, modern equipment, so simple mistakes such as this should not be made. Mistakes like this only fuel the idea that the campaign is ineffective at targeting combatants and eliminating terrorism.

The drone programme could indeed be a useful, effective method of assisting the US win the war against al Qaeda. However, major aspects need to be refined, repositioned, and ultimately operated with leadership and a clear goal. Legislation and technology needs to be updated, transparency needs to be better in order to quell growing criticisms, and striking methods need to be improved and well-regulated in order for a

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[13] Hudson, Leila; Colin S. Owens; David J. Callen. 'Drone Warfare in Yemen: Fostering Emirates through Counterterrorism?' Middle East Policy Vol XIX no 3. Fall 2012. p. 143.

strike to be targeted at militants with minimal civilian casualties.[14] Doing so would ensure the US government is doing everything possible to effectively eradicate terrorism whilst maintaining "the highest standards".[15] In turn, this would help civilians in Pakistan, Yemen, and Somalia to realise the US is not a "swaggering- super arrogant- superpower- cowboy on steroids".[16]

The campaign should not be fully transparent, as that would jeopardise US objectives in Pakistan, Yemen, and Somalia. However, the secretive nature of the campaign means it is incredibly difficult to measure the effectiveness of US operations. More transparency on major themes covered in this study is needed so the public can know vaguely what the government is doing. The "trust, but don't verify" message is no longer working: drone usage is proliferating and the government still cannot provide the public with answers to important questions.[17] This study does not argue for full transparency. However, open debate and conversation by policy makers would afford the US government the opportunity to prove the programme is legal and justified, and ultimately effective at eliminating militants harmful to US interests. Silence suggests the campaign is inadequate in its aims.

It is important to understand the effectiveness of this campaign, because if left unchecked, the president may abuse these powers and the campaign could be open abuse by future presidents. Although it does not directly impact US lives, people should be aware of US operations in Pakistan, Yemen, and Somalia. This is because the number of terrorist attacks are increasing, year by year, on Western countries,

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[14] 'Minimal' because zero civilian casualties is difficult to believe in a warzone.
[15] Office of the White House Press Secretary. 2013. *"Remarks by the President at the National Defence University"*. National Defence University, Fort McNair, Washington DC. 23 May.
[16] Blum, William. *America's Deadliest Export: Democracy. The Truth about US Foreign Policy and Everything Else*. p. 127.
[17] Scahill, Jeremy. *The Assassination Complex: Inside the US Government's Secret Drone Warfare Programme*. p. 3.

specifically in Europe. Whether they are undertaken by home-grown terrorists who have been radicalised online, or by militants trained in terrorist training camps, it suggests the campaign is not as effective at eradicating terrorism as US policy makers claim it to be.

The drone campaign in Pakistan, Yemen, and Somalia signals that the War on Terror is not over; rather it has entered an updated, more modern, allegedly more sophisticated stage in fighting terrorism.

Figure 1: Baseball Cards. [1]

Figure one shows a baseball card. This was examined on page 38, in Chapter Two, 'Target Selection'.

[1] Begley, Josh. 'A Visual Glossary: The Drone Papers'. *The Intercept.* October 2015

Map showing the regions in Pakistan controlled by the Taliban. The FATA is clearly

marked, and the map shows the area is under the influence of the Taliban.

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[2] Office of the Director of National Intelligence. Counterterrorism Guide. 'Terrorist Groups: Tehrik- e- Taliban Pakistan'. https://www.dni.gov/nctc/groups/ttp.html Accessed March 26 2018.

Map showing the regions in Yemen which are under al Qaeda control, influence, or

show support for the group.
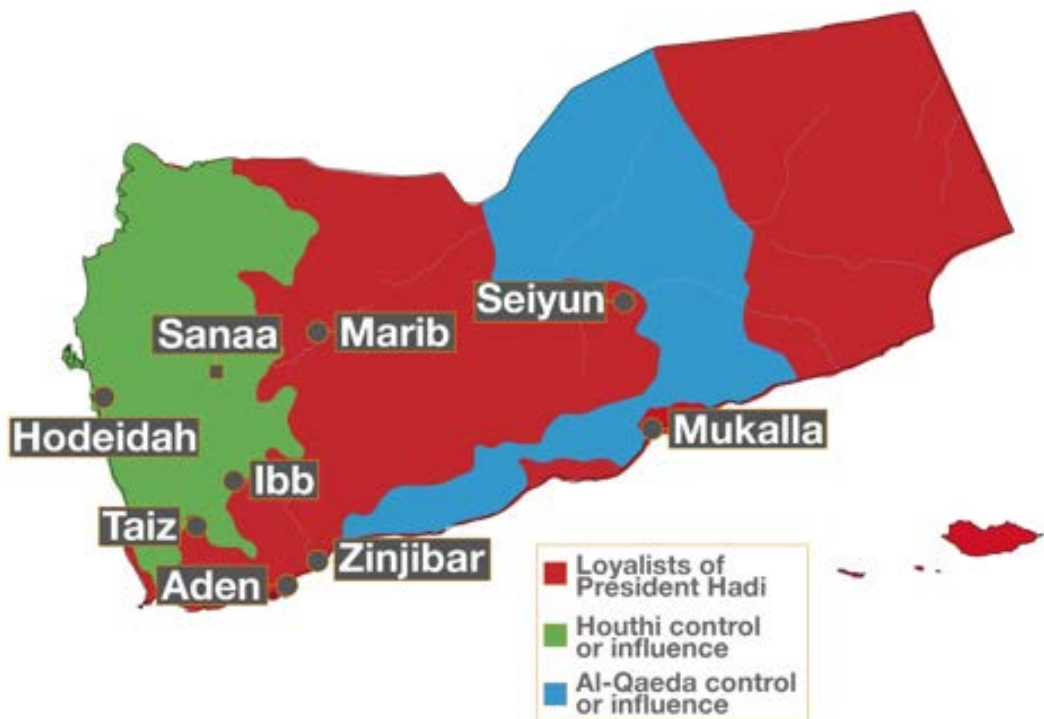
Al Shabaab is a terrorist organisation operating in Africa. The group is far smaller than the Taliban or al Qaeda, but with an estimated 7 000 to 9 000 militants it is still recognised by the US government as a terrorist group. Furthermore, al Shabaab is allied with both the Taliban and al Qaeda. The map below shows al Shabaab presence in Somalia.
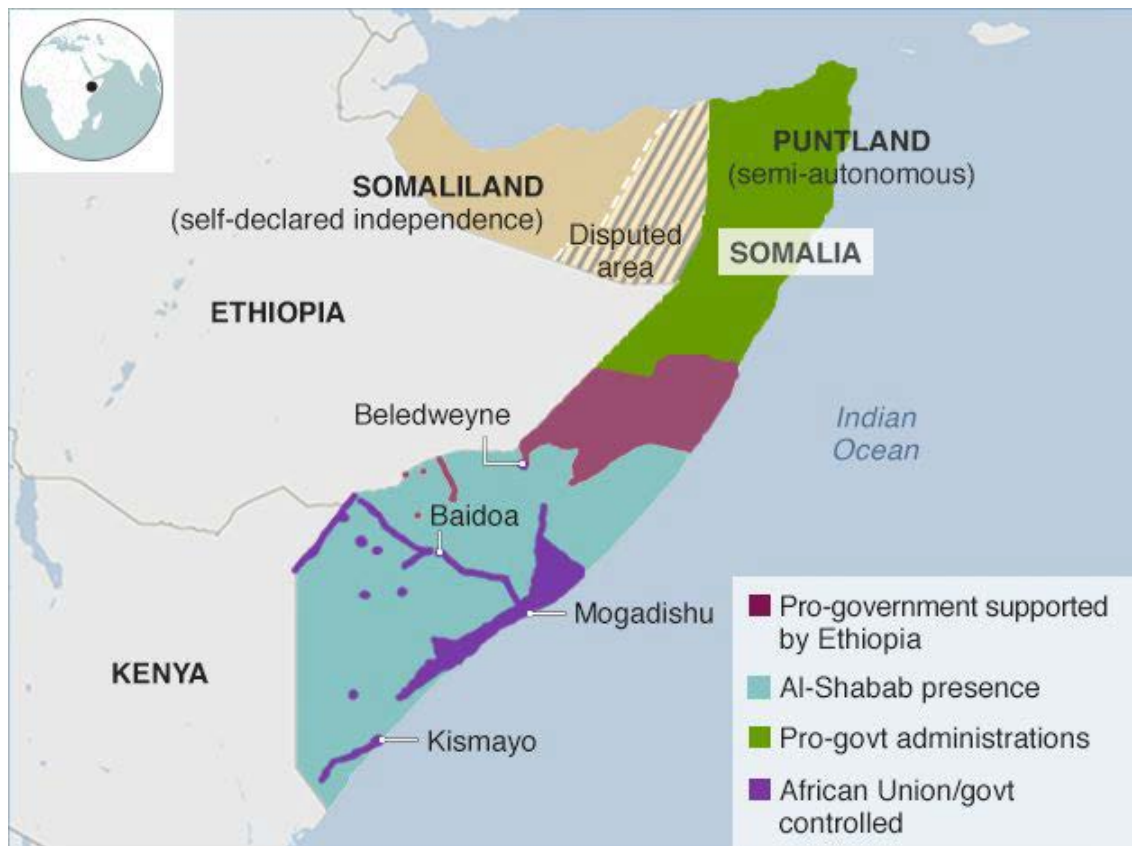
[4] BBC. 'Who are Somalia's al Shabaab?' December 9 2016 http://www.bbc.co.uk/news/world-africa-15336689 Accessed March 12 2018.

Figure Five shows a 'Collateral Damage Estimate' from the film *Eye in the Sky.* This was analysed on page 100, in Chapter Four. The orange box in the yellow section was added for clarity on a subject discussed in this study.

[5] Hibbert, Guy. *Eye in the Sky*. Gavin Hood. Raindog Films. April 2016.

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