

The development of international standards on the export and subsequent use of ‘armed or strike-enabled UAVs’

The use of ‘Unmanned’ Aerial Vehicles (UAVs), or drones, to conduct airstrikes has caused harm in communities, including significant casualties; raised serious legal and ethical concerns; and endangered international peace, security and human rights and rule of law by lowering political, practical, and technological impediments to the use of force. States must be aware that the specific features of these technologies risk facilitating a global expansion of the use of lethal force. Accordingly, states must not disregard the long-standing rules of international law governing the use of force. The use, deployment, and increased proliferation of drones are therefore key challenges that need to be addressed.

Concerningly, there has so far been little concerted attention paid by states at the international level to the emergence of these systems. There is now an effort by states to develop international standards on the export and subsequent use of ‘armed or strike-enabled UAVs.’¹ However, we are concerned that this initiative risks setting standards that are too low, and will not adequately address the full range of risks and harm associated with the use of drones. In this context, we make the following recommendations:

We call on the states developing these standards to undertake a process that, at all stages, and at a minimum:

- is inclusive of and open to all countries, as the issues raised by the developing role of drones in the use of force are global and pertinent to all; and
- involves meaningful consultation with a range of experts, industry, and civil society, including affected communities, who have been instrumental in bringing concerns around drones to international attention.

We also recommend to states that the standards drafted should, at a minimum:

- recognise from the outset that military force, whether using drones or otherwise, may only be deployed in accordance with well-established rules of international law, and that technological developments do not vary those standards;
- include clear expression of states’ commitment to uphold specific and applicable international human rights and humanitarian law;
- include clear commitments (and not just principles) for endorsing states, as well as a process to review the implementation of those commitments;

¹ Building on the US-led ‘Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled Unmanned Aerial Vehicles (UAVs)’, published in October 2016 with 53 endorsing states (available at: <https://2009-2017.state.gov/r/pa/prs/ps/2016/10/262811.htm>)

- supplement existing law and standards, and not include any commitments that are weaker than or that could weaken existing national, regional, or international obligations, standards, or policies.
- in articulating commitments on responsible export:
 - include robust and independent human rights assessments of the importing state;
 - be in line with the standards agreed upon in the Arms Trade Treaty;
 - ensure strong implementation and verification mechanisms;
 - involve information exchange between signatories on use; and
 - include an annual review process to ensure that the export control list is updated with technological developments in the field of drones;
- uphold principles of transparency, accountability, and oversight at both the domestic and international levels. These include, at a minimum, legal and policy transparency, and openness about actual use, harm caused, decision-making, and accountability and oversight processes. Robust and independent casualty recording, with the collection and dissemination of sex- and age-disaggregated data, as well as judicial review and meaningful legislative and other oversight of the use of armed or strike-enabled drones, must be ensured; and
- include a commitment by states to set out in detail their own international-law compliant national policies on the role of drones.

If the concept of ‘responsible use’ is to be part of this framework, specific work must also be undertaken to reach a common understanding of what this means, and which at least meets existing law and standards as discussed above.

Continued and wider engagement by the international community

States should voice their positions and/or concerns on the issues pertaining to this process in all relevant multilateral forums to strengthen the international debate.

However, while it is important to address issues of trade, proliferation and the practice of new users, we note that this initiative does not address the full range of concerns around drones. Use by current possessors and producers continues to be problematic from a legal and humanitarian perspective. Unacceptable practices, including those that undermine international law and the rule of law, must be rejected – and cannot be neglected by the international community.

International action and agreement on standards around armed drones, as well as state compliance with international law, will be key to preventing and mitigating current and future harm caused by these systems. While the standards under development could represent an important step forward for states, the goals for international agreement that appear to be being set are modest in comparison to the range of issues of concern surrounding drones

and other extraterritorial use of force by states, which the international community must also continue to address.

Endorsed by:

All Party Parliamentary Group on Drones

Amnesty International

Article 36

Center for Civilians in Conflict (CIVIC)

Coalition for Peace Action

Drone Wars UK

European Center for Constitutional and Human Rights (ECCHR)

Human Rights Clinic (Columbia Law School)

Interfaith Network on Drone Warfare

International Commission of Jurists

National Religious Campaign Against Torture

Nonviolence International Southeast Asia

Omega Research Foundation

PAX

Rete Italiana per il Disarmo

Rights Watch UK

SEHLAC Network – Red para la Seguridad Humana en Latinoamérica y el Caribe

Women's International League for Peace and Freedom