

Drone Wars

At the National Defense University (NDU) on May 23, 2013, President Barack Obama gave a major speech about terrorism—arguing that the time has come to redefine the kind of conflict that the United States has been engaged in since the 9/11 attacks. Obama asserted that “[w]e must define the nature and scope of this struggle, or else it will define us.”¹ Thus, the President focused part of his speech on the Authorization for the Use of Military Force (AUMF), which Congress had passed days after 9/11 and which gave President George W. Bush the authority to go to war in Afghanistan against al-Qaeda and its Taliban allies. Few in Congress who voted for this authorization understood that they were voting for what has become the United States’ longest war, one that has expanded in recent years to countries such as Pakistan and Yemen.

In his NDU speech, Obama said that he hoped to “ultimately repeal the AUMF’s mandate. And I will not sign laws designed to expand this mandate further.” Obama intends, in short, to end what has become a seemingly endless war. That’s because, according to Obama, “the core of al-Qaeda in Afghanistan and Pakistan is on the path to defeat. Their remaining operatives spend more time thinking about their own safety than plotting against us.”

This recalibration of the “War on Terror” has significant implications for the CIA drone program, whose legal justification relies in good measure on the AUMF.² If the AUMF were to expire when U.S. combat troops leave Afghanistan at the end of 2014, future drone strikes could only occur while responding to some kind of “imminent” threat to the United States and under the president’s authority as Commander-in-Chief. As a practical matter, this would reduce the number of drone strikes considerably.

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This is a welcome potential change to the CIA drone program, which under President Obama has expanded exponentially in both Pakistan and Yemen. While some of that expansion was undoubtedly necessary because of the threat posed by al-Qaeda from its new post-9/11 base in the tribal regions of Pakistan and the threats emanating from the Yemen-based “al-Qaeda in the Arabian Peninsula” (AQAP), the dramatic acceleration in the use of drones under Obama has sometimes overwhelmed other important objectives, such as maintaining cordial relations with the government and population of Pakistan, the world’s second-largest Muslim nation. The excessive deployment of CIA drones to target militants could also provide some unwelcome precedents for countries such as China, Russia, and Iran as they develop the capacity to target with drones those individuals that they regard as terrorists.

A Post-9/11 World

When President Bush declared a “War on Terror” twelve years ago, the United States had never used armed drones in combat. September 11, of course, changed that. The first U.S. armed drone attack, which appears to be the first such strike ever, took place in Afghanistan in mid-November 2001 and killed Mohammed Atef, the military commander of al-Qaeda. Following that, there was one drone strike in Yemen in 2002 and a smattering of strikes in Pakistan between 2004 and 2007. But the CIA’s drone campaign only really began in earnest in Pakistan in the latter half of 2008, when the Bush administration sought to eliminate leaders of al-Qaeda living in Pakistan’s remote tribal regions, where the writ of the Pakistani government has largely been nonexistent.

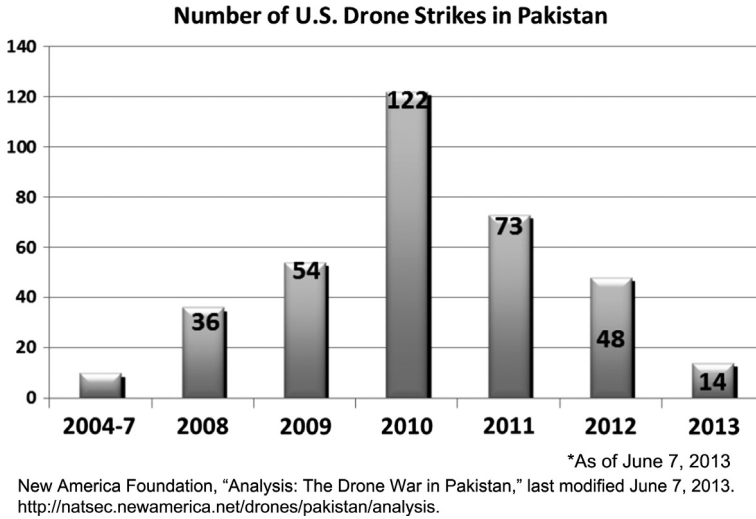
Upon taking office, Obama almost immediately made drones a key national security tool.

Pakistan: No License to Kill

During his two terms in office, Bush authorized a total of 48 strikes in Pakistan. Upon taking office in January 2009, President Barack Obama almost immediately made drones one of his key national security tools. By mid-2010, the drone program accelerated from an average of one strike every 40 days to one every 4. By early June 2013, he had already authorized 309 strikes in Pakistan, six times more than the number carried out during President Bush’s entire eight years in office.³

Using reports from a variety of reliable news outlets, we have calculated that some 2,021 to 3,350 people were killed by drone strikes in Pakistan between 2004 and early June 2013. At this point, the number

of estimated deaths from the Obama administration's drone strikes in Pakistan—somewhere between 1,633 and 2,781—is more than four times what it was during the Bush administration. Interestingly, the lowest estimate of deaths from drone strikes in Pakistan under Obama is around double the total number of detainees sent to Guantánamo by Bush.



With a record 122 strikes in 2010, that year marked the most intense period of the Obama drone campaign in Pakistan. This, combined with the May 2011 raid on Osama bin Laden's compound in Abbottabad and the November 2011 NATO air strike that killed 24 Pakistani soldiers, severely damaged the relationship between the United States and Pakistan, resulting in the eviction of CIA-controlled drones from Shamsi Air Base in Balochistan.⁴ At the same time, then-U.S. Ambassador to Pakistan Cameron Munter was urging more judicious targeting of drone strikes as well as increased consultation with the Pakistanis.⁵

Some combination of U.S. Department of State pressure, increased congressional oversight, the closure of the CIA drone base in Pakistan (along with, perhaps, a declining number of targets in the tribal regions), and a greater desire to heed Pakistani sensitivities about drone attacks led to a sharp fall in the number of strikes in 2011. These were 40 percent less than the record number of strikes in 2010.

Between 2004 and early June 2013, the drone campaign in Pakistan killed 56 militants identified by reputable news outlets as leaders. While the militant groups undoubtedly felt these 56 deaths as severe blows, they account for only two percent of all drone-related fatalities in Pakistan. Similarly, in Yemen, thirty-four leaders have been reported killed, representing around six percent of the total casualties resulting from U.S. strikes there. Given the fact that the CIA

The victims of drone strikes in Pakistan have overwhelmingly been lower-level militants.

drone program first evolved as a measure to kill hard-to-capture al-Qaeda or Taliban leaders, this is a noteworthy finding. The drone program has increasingly evolved into a counterinsurgency air platform, whose victims are mostly lower-ranking members of the Taliban (Pakistan) and lower-level members of al-Qaeda and associated groups (Yemen). In 2010, a militant told a *New York Times* reporter, “It seems they really want to kill everyone, not just the leaders.”⁶

In September 2012, President Obama told CNN that drone strikes were only used in “[situations] in which we can’t capture the individual before they move forward on some sort of operational plot against the United States.”⁷ Clearly, the threshold to mount drone strikes is far lower than this standard would suggest, given that the victims of the strikes are overwhelmingly lower-level militants who do not have the capacity to plot effectively against the United States.

Under Bush, about a third of all drone strikes in Pakistan killed a militant leader, compared to less than 13 percent from the time Obama took office to early June 2013. Drone attacks called “signature strikes”—strikes based merely on patterns of suspicious activity by a group of men, rather than against particular militants—have become a hallmark of Obama’s drone war.⁸ And they have decimated the ranks of lower-level combatants, killing somewhere between 1,567 and 2,713 reported militants in Pakistan as of early June 2013.

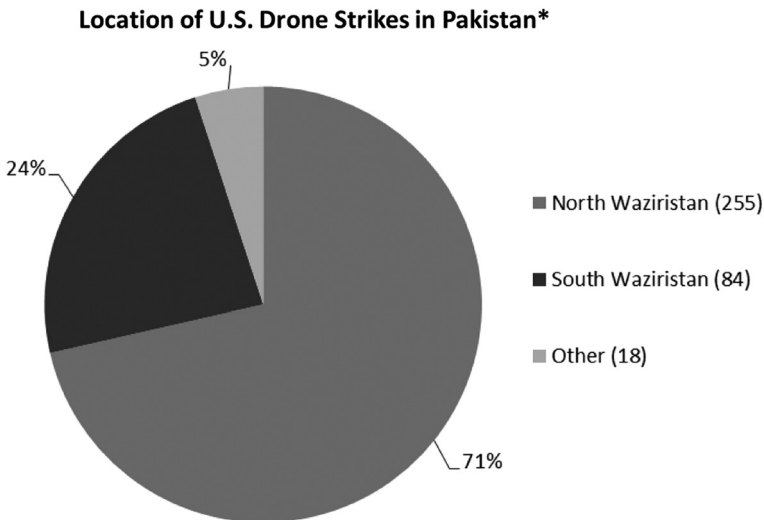
In addition to signature strikes, Obama has demonstrated a willingness to use drones to target groups less directly threatening to the United States. On October 11, 2012, for example, a drone strike killed at least sixteen militants in Orakzai Agency, a tribal district near North and South Waziristan. The sixteen were believed to be loyal to the Tehreek-e-Taliban (TTP) commander, Hafiz Gul Bahadar. U.S. military officials have linked Bahadar’s fighters to cross-border attacks on Afghan and NATO troops in eastern Afghanistan. Not only was this strike a rare deviation from the usual target areas of the Waziristan Agencies, but it was also an example of President Obama’s willingness to target Pakistani militant groups who are less likely to pose a concrete threat to the U.S. homeland than their al-Qaeda brethren.

While under President Bush, the drone program looked like a decapitation strategy aimed at al-Qaeda leaders; under President Obama it appears to be intended to take the legs out from under the entire amorphous insurgent movement in Pakistan’s tribal regions by killing off hundreds of low-level fighters. To the extent that we can ascertain the targets of drone attacks, it

appears the Bush administration killed or identified al-Qaeda members as the likely target for 25 percent of all drone strikes, compared to 40 percent for the Taliban. Under Obama, al-Qaeda militants seem to represent only 10 percent of targets, compared to just over 40 percent for the Taliban.

Despite recent Pakistani officials' vehement protests about the strikes, some of the drone attacks under Obama were designed to help Pakistani interests. In the first eight months of 2009, the United States carried out nineteen drone strikes targeting affiliates of Baitullah Mehsud, the TTP leader who carried out an extensive campaign of attacks against Pakistani police officers, soldiers, ordinary civilians, and politicians, including former Prime Minister Benazir Bhutto. Mehsud, who likely had the blood of hundreds, if not thousands, of Pakistanis on his hands, was finally killed on August 5, 2009 . . . by a CIA drone strike.

Geographically speaking, of all the U.S. drone strikes reported in Pakistan's tribal regions, over 70 percent have struck North Waziristan. This is one of seven rugged tribal districts that is home to factions of TTP and the Haqqani Network, which has often launched several operations against civilian targets in Kabul.



*As of June 7, 2013

New America Foundation, "Analysis: The Drone War in Pakistan," last modified June 7, 2013. <http://natsec.newamerica.net/drones/pakistan/analysis>.

Of the more than 350 drone strikes the CIA has mounted in Pakistan over the past nine years, none have occurred outside of Pakistan's tribal areas. The extension of the drone program to the "settled" areas of northwest Pakistan or Balochistan is highly unlikely, as it would cause very significant problems for the ever-fragile U.S.–Pakistan relationship.

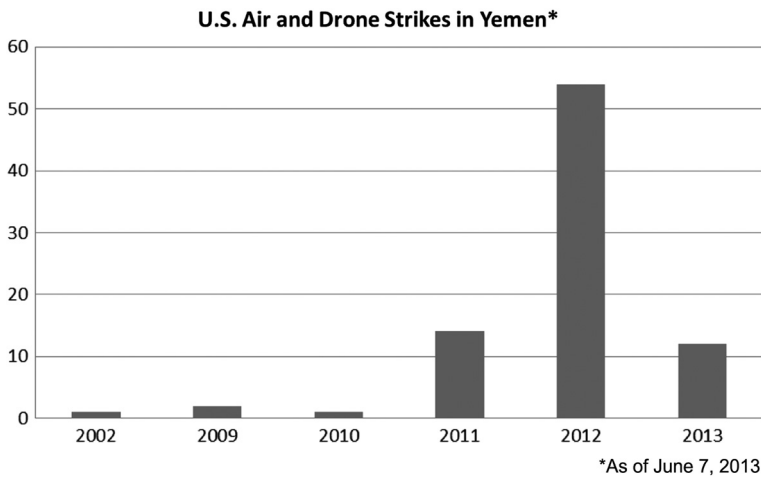
The Campaign in Yemen

On November 3, 2002, the CIA conducted its first drone strike in Yemen, on a vehicle in the province of Maarib, about 100 miles east of the capital city of Sana'a. It was also the first drone strike to kill an American citizen, Kamal Derwish, who was one of six al-Qaeda militants killed in the strike. Derwish was not the target, though. The target was Qaed Salim Sinan al-Harethi, al-Qaeda's top lieutenant in Yemen and the suspected mastermind of the bombing of the USS Cole off the Yemeni coast in 2000, which killed seventeen U.S. sailors. The Yemeni government's official story was that a gas canister had exploded in Harethi's vehicle, killing everyone on board. But news quickly leaked in Washington that the strike had in fact been carried out by a U.S. drone controlled by the CIA. Then-President Ali Abdullah Saleh was furious at being made to look like a liar and a puppet of the Americans, and put an end to the fledgling drone campaign in Yemen. That program wasn't restarted again until early 2010 following a series of attempted terrorist attacks against the United States that traced back to al-Qaeda's Yemen-based affiliate, al-Qaeda in the Arabian Peninsula (AQAP).

AQAP claimed responsibility for the would-be "underwear bomb" attack on a Detroit-bound flight by Umar Farouk Abdulmutallab on Christmas Day 2009. Fortunately for the 289 people on board Northwest Airlines Flight 253 that day, Abdulmutallab's bomb only succeeded in burning his pants rather than decimating a commercial airliner. Had his bomb exploded as intended, it would have been the most devastating terrorist attack on the United States since 9/11. This helped convince the Obama administration of the need to resurrect the dormant drone campaign in Yemen. Less than a year later, AQAP plotted to blow up international cargo planes with two bombs hidden in printer cartridges that were mailed from Sana'a. This time, authorities in the United Kingdom were able to identify and seize the packages before detonation, thanks to a tip from Saudi intelligence officials.⁹

Al-Qaeda's global strength and popularity was on the wane in 2010 and 2011, owing in part to the drone campaign in Pakistan; the group's own violent, self-defeating tactics; and then the uprisings of the Arab Spring, in which al-Qaeda played no role. Indeed, in July 2011, then-Secretary of Defense Leon Panetta said the United States was "within reach of strategically defeating al-Qaeda."¹⁰ According to Panetta, though al-Qaeda affiliates can still present a threat to the United States, particularly AQAP.

While the number of drone attacks significantly decreased in Pakistan in the 2011–2013 period, they dramatically increased in Yemen during that time. In 2012 alone, Obama authorized at least 46 drone strikes in Yemen; for the first time, the pace of the drone campaign in Yemen rivaled that of the campaign in Pakistan, according to our data.¹¹ As of early June 2013, U.S. air and drone strikes had killed an estimated 599 to 832 people in Yemen, all but six of whom were killed under Obama.



New America Foundation, National Security Studies Program. "U.S. Covert War in Yemen." Last modified June 12, 2013, <http://yemendrones.newamerica.net/>.

One reason for this acceleration in drone strikes in Yemen may have been President Obama's April 2012 authorization of the "signature" strikes, which had been approved the previous year for use in Pakistan's tribal regions. Military and intelligence officials had been pushing for the use of signature strikes in Yemen, but the president reportedly initially nixed the idea. "We're not going to war in Yemen," he told them. But by early 2012, the Arab Spring had swept Yemen, and AQAP was on the offensive against a fragile government, gaining momentum after seizing several towns in the south.¹² This led to the introduction of strikes in Yemen. They were reportedly governed by stricter rules in Yemen than in Pakistan, though, and were given a different name for good measure—TADS, or Terrorist Attack Disruption Strikes.¹³

As of mid-April 2013, U.S. air and drone strikes had killed an estimated 599 to 832 people in Yemen, 561 to 761 of whom were identified in media reports as militants. The non-militant casualty rate for U.S. air and drone strikes in Yemen from 2002 to 2013, then, is estimated to be 8 percent (38 to 71 people), roughly comparable with the civilian and unknown casualty rate from the U.S. drone program in Pakistan, which averaged 11 percent in 2012.

Measuring Casualties

The U.S. drone campaign has become increasingly controversial as it ramped up under President Obama and captured more of the public's interest. Many human rights activists claim that a substantial number of civilians have been killed in the attacks, although the president's top counterterrorism advisor, John Brennan,

said publicly in 2011 that there were no civilian casualties as a result of the strikes.¹⁴ So who is right? How many civilians have actually been killed by drone strikes?

By averaging the high and low casualty estimates of militant and non-militant deaths published in a wide range of reliable media outlets, we estimate that the civilian death rate in U.S. drone strikes in Pakistan has declined dramatically since 2006, when—due to two large-scale strikes—it was almost 100 percent. It has been reported that the Obama administration considers any military-age male in the strike target area as a “militant.”¹⁵ However, our data is not based on the U.S. official definition of a militant and does not rely on any U.S. official counting of the strikes. Rather, we record a militant only as those people identified in credible news reports as a militant or a “suspected militant.”¹⁶ Credible news reports must come from certain credible media outlets. We judge a variety of sources to be credible in collecting information, including the *Associated Press*, *Reuters*, and *Agence France Presse*; *The New York Times*, *The Washington Post*, *The Los Angeles Times*, and *The Wall Street Journal*; the British newspapers *The Telegraph* and *The Guardian*; and the Pakistani news outlets *The Express Tribune*, *Dawn*, *The Daily Times*, *Geo TV*, and *The News*; as well as the BBC and CNN. The majority of these sources get information on CIA drone strikes in Pakistan from Pakistani intelligence, security, and local government officials, as well as local villagers. With such a range of sources, one can be reasonably sure that the data avoids the official U.S. government definition of a militant.

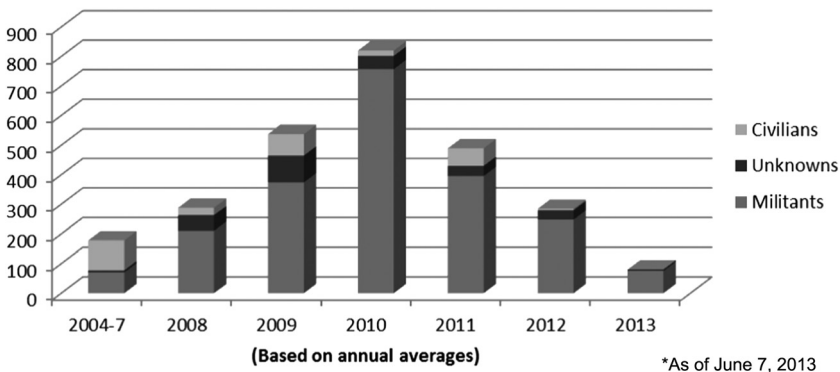
For example, if two or more media reports refer to those killed as militants, they are labeled as militants in our data. Similarly, if two or more media reports refer to those killed as civilians, they go under the civilian column. The murkiness of some reporting in the tribal regions of Pakistan and in Yemen led our researchers to designate another category for “unknown” casualties, which are assigned if different media reports on a single strike are so contradictory that researchers do not feel comfortable placing either label on those killed.¹⁷

Reporting in Pakistan’s tribal areas can be tricky, and these numbers are not concrete or indisputable. Often in areas controlled by the Pakistani Taliban or other related militant groups, armed men seal the site of a drone strike immediately following the attack, preventing journalists, locals, and even officials from entering to see the destruction or victims for themselves. In other cases, bodies are so incinerated that it is impossible for villagers to say with certainty whom they were, and identification of the victims may be based on knowledge of whether militants lived in the area, were known to be driving in a certain car, or other uncertain factors.

Over the life of the drone program in Pakistan, the estimated non-militant (civilian and unknown) death rate is 20 percent, between 454 and 637 individuals according to our data. This average was about 40 percent under President Bush; it has been 16 percent under Obama. In 2012, the proportion of total civilians (2 percent) and unknowns (9 percent) killed was down to 11 percent.

In 2013, civilian casualties are at their lowest ever. That is partly the result of a sharply reduced number of drone strikes in Pakistan—fourteen as of early June 2013, compared with a record 122 in 2010—and also more precise targeting. According to data collected by the New America Foundation, three to five “unknown” individuals were killed in drone strikes as of early June 2013. Two other organizations that track the CIA drone program in Pakistan, the London-based Bureau of Investigative Journalism and the Long War Journal, report zero to four civilian deaths and eleven civilian deaths, respectively, as of early June 2013.¹⁸

Types of Deaths in U.S. Drone Strikes in Pakistan*



New America Foundation, “The Drone War in Pakistan,” last updated June 7, 2013.
<http://natsec.newamerica.net/drones/pakistan/analysis>.

The civilian casualty rate of CIA drone strikes began to drop in 2010 for a number of reasons. On January 23, 2009, just three days after President Obama took office, a drone strike killed at least five civilians, prompting the President to demand stricter target selection criteria from the CIA. Obama also wanted to personally authorize any strikes that the Agency did not have “near certainty” would result in zero civilian casualties. At the same time, new technological innovations allowed the CIA to deploy much smaller munitions, and drones were able to circle over

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targets for longer periods of time, allowing them to target specific individuals with more precision and wait for an opportunity when no civilians were present.¹⁹

The drone program has also come under increasing congressional oversight in the past couple of years, a layer of accountability that one former CIA official said was unheard of when he left the agency in 2009.²⁰ Since early 2010, members of the U.S. House Permanent Select Committee on Intelligence and the U.S. Senate Select Committee on Intelligence have held monthly meetings at CIA headquarters to watch video recordings of specific drone strikes, as well as to review the intelligence upon which CIA agents on the ground in Pakistan based their target selection.

Even Pakistani security officials acknowledged during background interviews with *The Washington Post* in mid-2010 that better technology, a deeper network of on-the-ground informants, and better coordination between U.S. and Pakistani intelligence officials had all contributed to a significant drop in civilian deaths in drone strikes.²¹ Major General Ghayur Mahmood, a commander of Pakistani troops in North Waziristan, conceded publicly in March 2011 that “myths and rumors about U.S. Predator strikes and the casualty figures are many, but it’s a reality that many of those killed in these strikes are hardcore elements, a sizeable number of them foreigners.”²² The general went on to say that drone strikes had killed about 1,000 militants in North Waziristan.²³

In March 2013, following a visit to Pakistan, Ben Emmerson, the U.N. Special Rapporteur on human rights and counter-terrorism, emailed the *Associated Press* that the Pakistani government had told him it had confirmed at least 400 civilian deaths by U.S. drones.²⁴ This number is in the range of our figures estimating between 258 and 307 civilians and a further 196 to 330 unknowns have been killed.

Counting air and drone strikes in Yemen, however, is perhaps even more complicated than in Pakistan because it has often been unclear whether attacks were launched from drones or from fighter jets, and villagers regularly provide conflicting accounts of the kinds of aircraft used in these attacks. To make data collection on these strikes even more difficult, diplomatic cables released by WikiLeaks revealed that the Yemeni government has on several occasions taken credit for airstrikes that were in fact carried out by the United States. According to one cable, then-Yemeni President Ali Abdullah Saleh told then-CENTCOM Commander General David Petraeus in January 2010, “We’ll continue saying the bombs are ours, not yours.” Deputy Prime Minister Rashad al-Alimi then joked that he had just “lied” to the Yemeni Parliament about the U.S. role in such strikes.²⁵

After more than 33 years in power, President Saleh was forced to step down in February 2012, giving the United States an opening to ramp up its air and drone

strikes in the country. From March through May that year, the United States launched an estimated 30 air and drone strikes in Yemen. By comparison, the previous two years contained just 18. Unlike in Pakistan, where political leaders have almost universally—at least in public—condemned the strikes, current Yemeni President Abed Rabbo Mansour Hadi said during a September 2012 interview with *The Washington Post* that he personally signs off on all U.S. drone strikes in Yemen and that they hit their targets accurately. He asserted, “The drone technologically is more advanced than the human brain.”²⁶

During the Obama administration, U.S. drones have killed at least 35 key al-Qaeda militants in Yemen, including the Yemeni–American cleric Anwar al-Awlaki and Fahd al-Quso, another suspect in the 2000 bombing of the *USS Cole*.²⁷ The group’s senior leader, Said al-Shihri, reportedly succumbed to wounds sustained in an October 2012 U.S. drone strike.²⁸ (AQAP released an audio message in April 2013 purporting to be from al-Shihri, raising the possibility that the al-Qaeda leader had actually survived the attack.)²⁹ AQAP hasn’t attempted a plot against a Western target since its attempt to bring down U.S.-bound cargo planes in October 2010.

Impact on Militants and Public Opinion

One of the best ways to tell how drone strikes affect al-Qaeda and its affiliates is to examine what those militant groups are saying. Osama bin Laden himself advised his men to leave the Pakistani tribal regions (where the drone strikes have been overwhelmingly concentrated) and head to a remote part of Afghanistan, according to an October 2010 memo found during the May 2011 raid on his compound.³⁰

David Rohde, a former *New York Times* reporter held by the Haqqani Network for months in 2009, has written that his captors called the drones “a terrifying presence” in South Waziristan.³¹ Key Taliban commanders reportedly started sleeping outside under trees to avoid being targeted, and regularly executed suspected “spies” accused of providing information to the United States, suggesting they feared betrayal from within. In June 2012, a top TTP commander halted all polio eradication efforts in South Waziristan for fear that the health workers were in fact U.S. spies assisting the CIA drone program.³²

The drone attacks in Pakistan have undoubtedly hindered some of the Taliban’s operations, and have killed hundreds of their lower-level fighters and a number of their top commanders. But they may also be fueling terrorism. Faisal

Drone attacks have undoubtedly hindered militant operations, but they may also fuel terrorism.

Shahzad, a U.S. citizen of Pakistani descent trained by the Pakistani Taliban, tried to detonate a car bomb in Times Square on May 1, 2010. The plot failed, but Shahzad subsequently claimed that the drone program had fueled his anger against the United States.³³

Balanced against this success is the emergence of popular resentment—long evident in Pakistan—toward the U.S. drone campaign in Yemen. It is also stirring some of the same international controversy that the strikes in Pakistan have done for years. Human rights groups in the United States are particularly aggrieved by the targeted killing of al-Awlaki, an American citizen who was killed by a drone in Yemen on September 30, 2011, as was his teenage son.

On April 23, 2013, senators on the Senate Judiciary Committee held the first public hearing dedicated to the potential legal issues surrounding the U.S. drone campaign. One of the six experts who testified that afternoon was Farea al-Muslimi, a young Yemeni activist who spent his high school years in the United States on a State Department scholarship. Al-Muslimi began by telling Committee members that a drone strike had targeted a well-known individual believed to have ties to al-Qaeda in his village of Wessab just six days prior. In addition to killing several people and terrifying residents of the small farming village, al-Muslimi said, “What radicals had previously failed to achieve in my village, one drone strike accomplished in an instant: There is now an intense anger and growing hatred of America.”³⁴

Evolution of Public Opinion

Beginning in 2012, Pakistani officials rarely based their criticism of U.S. drone strikes on the incidence of civilian casualties and have instead pointed, quite reasonably, to another objection: the U.S. violation of Pakistan’s national sovereignty. In April 2012, the Pakistani Parliament voted to end any authorization for the program, a vote the U.S. government has so far ignored.³⁵

This may be because, despite their public protests, some senior Pakistani officials such as President Asif Ali Zardari privately support the drone strikes. In a 2008 State Department cable released by WikiLeaks, Zardari signed off on the drone program in a discussion with U.S. officials saying, “Kill the seniors. Collateral damage worries you Americans. It does not worry me.”³⁶

Further confirmation of official Pakistani support for the strikes came in April 2013, when Pakistan’s former president Pervez Musharraf acknowledged to CNN that his government had secretly signed off on U.S. drone strikes under the Bush administration. This was the first public admission by a senior Pakistani official to such a deal. Musharraf claimed that Pakistan’s government signed off on those

strikes “only on a few occasions, when a target was absolutely isolated and had no chance of collateral damage.”³⁷

Even though fewer civilians have been killed by drone strikes, the program remains deeply unpopular within the Pakistani public.³⁸ During the summer of 2010, the New America Foundation sponsored one of the few public opinion polls ever to be conducted in Pakistan’s Federally Administered Tribal Areas (FATA): it found that almost 90 percent of the respondents opposed U.S. military operations in the region.³⁹ A Pew poll conducted in June 2012 found that just 17 percent of Pakistanis support the U.S. drone campaign as a means to help combat militancy in their country.⁴⁰ The new Pakistani prime minister, Nawaz Sharif, who was elected with a clear mandate on May 11, 2013, has urged an end to the drone strikes, telling reporters, “Drones indeed are challenging our sovereignty. Of course we have taken this matter up very seriously. I think this is a very serious issue, and our concern must be understood properly.”⁴¹

Meanwhile in the United States, the drone program has enjoyed significant support. In a February 2013 Pew poll, 56 percent of Americans said they approve of lethal drone attacks in countries such as Pakistan, Yemen, and Somalia.⁴² This is hardly surprising as the human, financial, and political costs of the drone program are very low. There are no American boots on the ground, and a drone costs a tiny fraction of the price of fighter aircraft or bombers. On the other hand, some in the U.S. media and Congress have wondered whether the drone program is an effective tactic in the fight against al-Qaeda and its affiliates, or if it might undercut that very mission by driving vulnerable young men into the arms of jihadist militant groups. Others have questioned the legality of a sustained lethal campaign in countries with which the United States is not at war, or have decried the opaque nature of the program, or criticized the killing of civilians in drone strikes.⁴³

Opening Up About Drones

President Obama made his first public comments about the covert drone program on January 30, 2012, when he told participants of a Google+ Hangout that the United States only conducts “very precise, precision strikes against al-Qaeda and their affiliates, and we’re very careful in terms of how it’s been applied.”⁴⁴ The administration also maintains that international law does not prohibit the use of lethal force against an active enemy “when the country involved consents or is unable or unwilling to take action against the threat.”⁴⁵ Many U.S. officials have argued that the unprecedented precision of drones makes them by far the most effective weapon for striking a target and for avoiding civilian casualties.

Critics of the drone program—both in the public and the government—have long called for the process of choosing drone targets to be more transparent, for casualty counts to be made public, and for leaders to be held accountable for the strikes.⁴⁶ In mid-February 2013, Brennan himself said that he believes the government should publicize civilian casualty counts from drone strikes. He also said that “in those rare instances in which civilians have been killed,” the CIA conducts investigations and provides monetary compensation to the families of victims when appropriate.⁴⁷

Additionally, calls for the military to take control of the CIA’s drone program have grown. In an early February 2013 interview with NBC, then-Secretary of

Drone attacks in Pakistan may reportedly be exempt from the “playbook” for at least another year.

Defense Panetta voiced some support for such a transition, which would allow for more transparency on U.S. procedures for identifying targets and conducting strikes.⁴⁸ Officials close to Brennan said later that month that he too supports moving the bulk of the program to the military’s jurisdiction.⁴⁹ Meanwhile, in early 2013, the Obama administration was expected to receive a draft of a “playbook” codifying the policies developed during its first term to govern the use of drones for targeted killing operations. Drone attacks in Pakistan would reportedly be exempt

from this document, allowing the CIA to continue the current program without complying with any new requirements for at least another year.⁵⁰

In 2013, more than a decade after the CIA drone campaign began, the most significant changes to the program have come in the form of increasing transparency. Over the course of the previous two years, debate over the morality, legality, and efficacy of using drones to conduct targeted killing operations abroad has increasingly flooded the news media. The new Yemeni president publicly endorsed the strikes, while Pakistani officials regularly denounced them. And U.S. officials quietly provided information about the drone program to media outlets on condition of anonymity. Finally, on February 4, 2013, just before John Brennan’s confirmation hearings as director of the CIA, NBC News obtained a copy of a classified memo that provided a summary of the legal justification for killing U.S. citizens in drone strikes if they are believed to be high-level members in al-Qaeda. That memo states that a U.S. citizen may be targeted if “an informed, high-level official of the U.S. government has determined that the targeted individual poses an imminent threat against the United States,” and the individual cannot be captured. However, the imminence clause “does not require the United States to have clear evidence that a specific

attack on U.S. persons and interests will take place in the immediate future,” leaving the precise methods of targeting opaque.⁵¹

Congress was up in arms over the apparent violation of the 5th Amendment, which states, “no person shall . . . be deprived of life, liberty, or property, without due process of law.” The Senate held Brennan’s confirmation hearings hostage, demanding that the White House release the full legal memoranda from which the summary had been taken. In order to persuade the Senate to confirm Brennan as CIA director, the Obama administration eventually agreed to show the documents to both the House and Senate intelligence committees.⁵² But not before the Senate intelligence committee had a chance to grill Brennan during a public, televised hearing about the CIA drone program he had helped create from within both the Bush and Obama administrations. Before then, no member of Congress would have dared to allude even carefully to such a program, which the CIA and White House had kept covert, even while news outlets, research

As of 2013, the drone campaign is no longer Washington’s worst kept secret; it is out in the open.

organizations, and foreign governments spoke openly about it. But as of 2013, the drone campaign was no longer Washington’s worst kept secret; it was, for all intents and purposes, out in the open.

President Obama’s May 2013 speech at the National Defense University marked the beginning of a welcome public discussion at the highest levels. How this issue is settled will have important consequences for the scope of the drone program, which has already been significantly ratcheted back in Pakistan from its high point in 2010.

There are some in Congress who would like to expand the scope of the original Authorization for the Use of Military Force (AUMF) beyond its present authorities to include military operations against terrorist groups that were not involved in the 9/11 attacks. This could prolong America’s wars indefinitely, and would also add additional terrorist groups to the United States’ list of enemies it is at war with. U.S. Senator Bob Corker (R-TN), the ranking member of the influential Senate Foreign Relations Committee, for instance, in March 2013 called for an expansion of the scope of the AUMF.⁵³

Such an expansion could give any future president the authority to conduct drone strikes in many more countries around the world. It would also have potentially large international consequences because while only three nations currently are confirmed to possess armed drones (Israel, the United Kingdom, and the United States), some 70 countries have drones and a number of them may already be able to arm them.⁵⁴ In February 2013, a Chinese state-run

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newspaper reported that the Chinese government had contemplated deploying an armed drone in a remote, mountainous area to kill a drug lord, but decided instead to capture him.⁵⁵ Iran claimed that it had successfully armed a drone in 2010.⁵⁶

A possible fix to the CIA drone program that has received considerable attention is to migrate it into the control of the Pentagon. On the surface, this idea has much appeal: it would free up the CIA from what is essentially a military function, and the Pentagon is far more

accountable to Congress and to the public than the CIA is. Moreover, the families of those civilian victims of drone strikes who are inadvertently killed in drone attacks carried out by the U.S. military are compensated for their loss, whereas this doesn't seem to be the case at all for CIA strikes.⁵⁷ That said, if the drone program were simply to be taken over by Joint Special Operations Command (JSOC), which has conducted its own drone strikes in countries like Yemen, this may not be much of a fix; JSOC, which consists of the Navy's ultra-secretive SEAL Team 6 and other similar Army units, operates with much the same level of secrecy that the CIA does.

Another proposed fix to the drone program that has also received a good deal of attention is the proposal to set up some kind of "drone court." It would be analogous in some respects to the Foreign Intelligence Surveillance court (or FISA court, taking its acronym from the Foreign Intelligence Surveillance Act) that considers U.S. government requests to allow surveillance measures in the United States for those suspected of terrorism or espionage. The FISA court, however, is hardly much of a check on the power of the executive. For example, the *Wall Street Journal* reports that the FISA court has turned down only 11 of the some 33,900 surveillance requests that were made by the government during the past three decades, which is a near-zero rejection rate.⁵⁸ There is little reason to believe that a drone court would be any less of a rubber stamp on government decisions about who it can kill with a drone.

Perhaps the most practical idea to make the drone program as accountable as possible is to set up some sort of U.S. government body that is independent of both the CIA and the Pentagon. It could conduct an after-action review of drone strikes to ensure that the victims of the strikes were not civilians and did indeed pose some kind of threat to the United States. The creation of such an independent body would also allow the payment of compensation to any civilian victims of drone strikes.

As the UN special rapporteur for counterterrorism and human rights, Ben Emmerson, has rightly observed, the rapid proliferation of drone technology

means that whatever legal framework the United States finally puts together to justify its targeted killing campaign “has to be a framework that we can live with if it is being used by Iran when it is deploying drones against Iranian dissidents hiding inside the territory of Syria or Turkey or Iraq.”⁵⁹ In other words, whatever policy the United States uses will have to be a policy it can accept when used by others. Thus, the future of the AUMF and the CIA drone program has wide ramifications that go beyond simple numbers of strikes and victims. Policymakers need to understand these ramifications and start having more substantive conversations regarding the program, and they need to do it quickly.

Whatever policy the U.S. uses will have to be a policy it can accept when used by others.

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