



Committee on International Justice and Peace

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[This letter was sent to the Chairs and Ranking Members of the following committees: Armed Service, Foreign Affairs, Foreign Relations, Homeland Security and Governmental Affairs, Select Committee on Intelligence, Permanent Select Committee on Intelligence, Judiciary, and Oversight and Government Reform]

Dear [Senator / Representative],

The Administration's use of unmanned aerial vehicles (UAVs) to kill Al Qaeda and other terrorists around the world has provoked widespread public discussion. The use of these weapons in counter-terrorism raises serious moral questions that suggest a need for Congressional oversight.

In the wake of 9/11, the U.S. bishops argued: "While military action may be necessary, it is by no means sufficient to deal with this terrorist threat. From bolstering homeland security and ensuring greater transparency of the financial system to strengthening global cooperation against terrorism, a wide range of non-military measures must be pursued." An effective counter terrorism policy should employ non-military assets to build peace through respect for human rights and addressing underlying injustices that terrorists unscrupulously exploit.

There is a right to use force in self-defense, but not every attack justifies war as a response and not every use of force in self-defense is war. Counter-terrorism, even against an organization as uniquely dangerous as Al Qaeda, is not war when it takes place outside war zones. Counter-terrorism is primarily a law enforcement activity which at times may require the use of military assets and force. To name it a war may overemphasize the utility of military force and underappreciate other critical strategies to address terrorism. In addition, terrorists have little in common with those in the military who honorably serve the cause of peace. Instead, they are criminals. Naming the struggle with terrorism a "war" would seem to enhance the status of terrorists who are non-state actors, operating entirely outside the framework of just war.

Even when viewed through the prism of just war principles, the use of unmanned aerial vehicles (UAVs) for targeted killings raises serious moral questions. The Administration seems to have focused narrowly on the just cause of protecting citizens, but other elements of the tradition pose significant questions, including discrimination, imminence of the threat, proportionality and probability of success.

Targeted killing should, by definition, be highly discriminatory. The Administration's policy appears to extend the use of deadly force to alleged "signature" attacks and reportedly classifies all males of a certain age as combatants. Are these policies morally defensible? They seem to violate the law of war, international human rights law, and moral norms. Since imminence is more attenuated in counter-terrorism than in war, should not discrimination in counter-terrorism meet a higher standard? And shouldn't the fact that targeted drone killings take place outside any "war" zone mean that operators should be reasonably certain that no innocents will be endangered? Would we tolerate frequent "collateral damage" in U.S. police actions?

When targeted killing may be used in counter-terrorism raises additional moral challenges. A Department of Justice White Paper argues that the "condition that an operational leader present an 'imminent' threat of violent attack against the United States 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." What role does imminence play in making decisions to employ deadly force? We recognize that imminence is more

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attenuated in counter-terrorism than in war; however, the *Compendium of the Social Doctrine of the Church* reminds us that “engaging in a preventive war without clear proof that an attack is imminent cannot fail to raise serious moral and juridical questions” (No. 501). By analogy, the use of deadly force without specific evidence of an individual's involvement in planning or implementing a specific act of terror poses ethical problems.

Proportionality and probability of success are morally relevant in actions that involve deadly force. People in areas where terrorists operate are likely to share, in some measure, in the sense of injury and loss of dignity which often underlies terrorism. A proper understanding of proportionality in counter-terrorism would elevate the bar against the use of deadly force above its setting in war, and would call for a much wider range of economic, political and diplomatic responses in order to get at the root causes and injustices that terrorists exploit.

Success in a counter-terrorism campaign cannot be simply measured in terms of “combatants” killed. Our Church rightly teaches that “the struggle against terrorists must be carried out with respect for human rights and for the principles of a State ruled by law... [I]t is essential that the use of force, even when necessary, be accompanied by a ‘courageous and lucid analysis of the reasons behind terrorist attacks’” (*Compendium*, No. 514). Those underlying reasons may be extended, aggravated, and compounded by military action. Targeted killing may contribute to terrorism by reinforcing a community's sense of being subject to domination and injustice. In addition, if targeted killings occur in violation of a state's sovereignty, they are likely to exacerbate anti-American sentiment, encourage recruitment by extremists, and undermine the international collaboration necessary to combat terrorism. Isn't it important to consider the longer-term social and political impacts of targeted killings by drones on the struggle against terrorism?

Given the relative low cost and ease of use of military attack drones, might our leaders fall prey to the temptation to use the weapons to excess? Doesn't this risk violating the norm of force being used as a last resort? And doesn't the prospect of widespread deployment of UAVs by other nations and non-state actors put a spotlight on our nation as the primary developer and user of UAV armed and unarmed technology? The U.S. should exercise leadership in advancing international norms, standards and restrictions for their use.

We understand the necessity for operational secrecy in counter-terrorism, but isn't it critical to have a public discussion of the terms of the Administration's policy of employing drones for targeted killings? Don't the moral and strategic issues involved require broader discussion? Shouldn't a policy with such wide potential consequences be subject to public scrutiny, at a minimum by representative institutions in a democratic society?

We recognize the Administration's primary obligation to protect the lives and welfare of our citizens, and we do not underestimate the threat posed by terrorist organizations such as Al Qaeda. We hope that our concerns on the use of UAVs and targeted killings will contribute to the formulation of a more comprehensive, moral and effective policy to resist terrorism.

Sincerely yours,

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Most Reverend Richard E. Pates
Bishop of Des Moines
Chairman, Committee on International Justice and Peace