“Will I be next?”
US drone strikes in Pakistan

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1. Introduction

[PICTURE]

> I wasn't scared of drones before, but now when they fly overhead I wonder, will I be next?
>
> Nabeela, eight-year-old granddaughter of US drone strike victim Mamana Bibi

On a sunny afternoon in October 2012, 68-year-old Mamana Bibi was killed in a drone strike that appears to have been aimed directly at her. Her grandchildren recounted in painful detail to Amnesty International the moment when Mamana Bibi, who was gathering vegetables in the family fields in Ghundi Kala village, northwest Pakistan, was blasted into pieces before their eyes. Nearly a year later, Mamana Bibi's family has yet to receive any acknowledgment that it was the US that killed her, let alone justice or compensation for her death.

Earlier, on 6 July 2012, 18 male laborers, including at least one boy, were killed in a series of US drone strikes in the remote village of Zowi Sidgi. Missiles first struck a tent in which some men had gathered for an evening meal after a hard day's work, and then struck those who came to help the injured from the first strike. Witnesses described a macabre scene of body parts and blood, panic and terror, as US drones continued to hover overhead.

The use of pilotless aircraft[1], commonly referred to as drones, for surveillance and so-called targeted killings by the USA has fast become one of the most controversial human rights issues in the world. In no place is this more apparent than in Pakistan.

The circumstances of civilian deaths from drone strikes in northwest Pakistan are disputed. The USA, which refuses to release detailed information about individual strikes, claims that its drone operations are based on reliable intelligence, are extremely accurate, and that the vast majority of people killed in such strikes are members of armed groups such as the Taliban and al-Qa'ida. Critics claim that drone strikes are much less discriminating, have resulted in hundreds of civilian deaths, some of which may amount to extrajudicial executions or war crimes, and foster animosity that increases recruitment into the very groups the USA seeks to eliminate.

According to NGO and Pakistan government sources the USA has launched some 330 to 374 drone strikes in Pakistan between 2004 and September 2013. Amnesty International is not in a position to endorse these figures, but according to these sources, between 400 and 900 civilians have been killed in these attacks and at least 600 people seriously injured.[2]

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[1] Various terms are used for these aircraft, including "remotely piloted aircraft" (RPAs), "unmanned aerial vehicles" (UAVs) and, more colloquially, "drones". In this report, AI uses the term "drones".

[2] Reference to figures provided by the Government of Pakistan in Statement of the Special Rapporteur Following Meetings in Pakistan, Office of the High Commissioner for Human Rights, 14 March 2013 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13146&LangID=E (Accessed 13 September 2013). Figures for NGOs based on publicly available data compiled by The Bureau of Investigative Journalism, The New America Foundation, and The Long War Journal.

Focus of this report

This report is not a comprehensive survey of US drone strikes in Pakistan; it is a qualitative assessment based on detailed field research into nine of the 45 reported strikes that occurred in Pakistan's North Waziristan tribal agency between January 2012 and August 2013 (see Appendix) and a survey of publicly available information on all reported drone strikes in Pakistan over the same period.

An area bordering Afghanistan, North Waziristan is one of the seven tribal agencies that make up the Federally Administered Tribal Areas (Tribal Areas), a loosely-governed territory in northwest Pakistan that has been the focus of all US drone strikes in the country. Research was also carried out on the general impact of the US drone program on life in North Waziristan, as well as attacks by Pakistani forces and armed groups. The report highlights incidents in which men, women and children appear to have been unlawfully killed or injured. By examining these attacks in detail, Amnesty International seeks to shed light on a secretive program of surveillance and killings occurring in one of the most dangerous, neglected and inaccessible regions of the world.

Arbitrary deprivation of life

Because the US government refuses to provide even basic information on particular strikes, including the reasons for carrying them out, Amnesty International is unable to reach firm conclusions about the context in which the US drone attacks on Mamana Bibi and on the 18 laborers took place, and therefore their status under international law. However, based on its review of incidents over the last two years, Amnesty International is seriously concerned that these and other strikes may have resulted in unlawful killings that constitute extrajudicial executions or war crimes.

The prevailing secrecy surrounding drone strikes, restrictions on access to drone-affected areas, and the refusal of the US administration to explain the international legal basis for individual attacks raise concerns that other strikes in the Tribal Areas may have also violated human rights. This includes drone strikes before 2012, the period prior to the incidents documented in this report, when killings were more frequent and widespread across these areas.

Armed groups operating in North Waziristan have been responsible for unlawful killings and other abuses constituting war crimes and other crimes under international law in Pakistan, Afghanistan and elsewhere. Pakistan has a very poor record of bringing these perpetrators to justice in fair trials without recourse to the death penalty. Since the creation of Pakistan, North Waziristan and the rest of the Tribal Areas have been neglected and under-developed, and their residents do not enjoy key human rights protections under Pakistani and international law.

Obligation to investigate

All states have a duty to take robust action to protect the life and physical integrity of people within their jurisdiction, and to bring to justice perpetrators of crimes under international law. But in doing so, these governments must respect their obligations under international human rights law and, in the exceptional situations where it applies, under international humanitarian law (also known as the laws of war).

Amnesty International calls on the USA to comply with its obligations under international law to ensure thorough, impartial, and independent investigations are conducted into the killings documented in this report. The USA should make public information it has about all drone strikes carried out in Pakistan. The US authorities should investigate all reports of civilian casualties from drone strikes. Where there is sufficient admissible evidence that individuals may be responsible for an unlawful killing or other serious human rights violation, the authorities must ensure they are brought to justice in fair trials without recourse to the death penalty. Victims of violations must be provided with compensation and meaningful access to full reparation including restitution, rehabilitation, satisfaction and guarantees of non-repetition.

Amnesty International is also extremely concerned about the failure of the Pakistani authorities to protect and enforce the rights of victims of drone strikes. Pakistan stands accused of a range of human rights failings: from the possible complicity of some organs or officials of the Pakistan state in unlawful killings resulting from the US drones program, to the failure to protect people in the Tribal Areas from unlawful drone strikes or to adequately assist victims of such strikes. Pakistan has a duty to independently and impartially investigate all drone strikes in the country and ensure access to justice and reparation for victims of violations.

Apart from Pakistan, other states, including Australia, Germany and the UK, appear to be providing intelligence and other assistance to the USA in carrying out drone strikes.[3] In tackling threats from armed groups in the Tribal Areas, Pakistan, the USA and other states providing assistance must act in full conformity with their obligations under international human rights law and, where applicable, international humanitarian law. Secrecy, technology and an elastic interpretation of law and policy may have given the USA unrivalled access to one of the most remote and lawless parts of the world. But immediate security concerns, whether real or perceived, must not and cannot be addressed by trampling on the rights of people living in Pakistan's tribal areas.

1.1 Methodology

Amnesty International conducted research for this report from late 2012 to September 2013. The organization carried out over 60 interviews with survivors of drone strikes, relatives of victims, eyewitnesses, residents of affected areas, members of armed groups and Pakistani government officials.[4] These took place in North Waziristan, neighboring areas of Khyber Pakhtunkhwa province, Islamabad and Rawalpindi. Interviews were conducted in Pashto, Urdu, and English.

Amnesty International obtained rare access to some parts of North Waziristan, where more drone strikes have occurred over the past two years than anywhere else in Pakistan. Amnesty International corroborated written and oral testimony against

[3] See section 8 of this report

[4] Amnesty International tried to interview women and girls, as well as men and boys, in order to obtain a balanced picture of events and to assess whether gender plays a role in these issues. Our access to women, and girls in particular, was, however, quite limited. Women and girls in the Tribal Areas region face particularly severe restrictions on both their movements and their communications with individuals outside the family unit.

photographic and video evidence and satellite imagery for every strike discussed in this report. Through this research, Amnesty International was able to determine the exact locations of the two main drone strikes documented in this report.

Obtaining reliable information about drone strikes in North Waziristan is extremely difficult due to ongoing insecurity and barriers on independent monitoring imposed by armed groups like the Taliban and the Pakistani military. Independent observers risk accusations of espionage, abduction and death at the hands of these actors for seeking to shed light on human rights in North Waziristan. In addition, the Pakistani military restricts access to the region on the grounds of security risks, which are a legitimate concern, but also to tightly manage reporting on the area. Given the highly politicized debate around the US drones program in Pakistan, Amnesty International was also concerned that local actors would seek to influence its research by coercing those interviewed for this report, or providing false or inaccurate information. To address this, Amnesty International assembled a number of local investigative teams, which worked independently from one other, and then cross-corroborated the information they gathered, including against other sources.

The Pakistan armed forces did not allow Amnesty International to travel to North Waziristan with them, citing security concerns. However, it agreed in principle to escort the organization to South Waziristan, which has also faced significant drone strikes. In any event, victims and residents said that they were reluctant to meet in North Waziristan during any visit facilitated by and under escort from the armed forces out of fear of retribution from them or from armed groups; for example, if they criticized the conduct of Pakistani forces, or armed groups, or for being seen as aligned with the Pakistani military. Given these obstacles, Amnesty International was not able to conduct on-site investigations in all areas targeted by drone strikes documented in this report, especially those carried out in 2013.

Many of the people interviewed for this report did so at great personal risk, knowing that they might face reprisals from US or Pakistani authorities, the Taliban, or other groups. They spoke out because they were anxious to make known the human cost of the drone program, and the impact on themselves and their communities of living in a state of fear. One witness said:

> It is difficult to trust anyone. I can't even trust my own brother… After I spoke to you some men in plain clothes visited me [in North Waziristan]. I don't know who they were, whether they were Taliban or someone else; they were not from our village. I was clearly warned not to give any more information about the victims of drone strikes. They told me it is fine if I continue to do my work but I should not share any information with the people who come here.[5]

Amnesty International discussed the possible risks carefully with the people who provided information for this report, and wishes to thank all those who shared their stories with us despite the dangers, as well as those who assisted in the research in other ways. However, because of ongoing security concerns , many of the names in this report have been changed to protect the identity of those who spoke with us, and

[5] Amnesty International interview in 2013.

we continue to monitor the situation of our contacts. Most of the Pakistani officials we spoke to also requested anonymity due to the sensitivity of the issues.

Amnesty International wrote to the relevant authorities in the USA and Pakistan regarding the specific cases documented in this report and the overall US drone program in Pakistan. The organization wishes to thank the Governor of Khyber Pakhtunkhwa province, the Secretariat of the Federally Administered Tribal Areas, and the Pakistan Foreign Ministry for speaking candidly and on the record regarding the US drone program in Pakistan and the broader law and order situation in the tribal areas. However, despite written requests and a number of follow ups by Amnesty International, none of the Pakistani authorities answered questions regarding specific drone strikes or the possible role of some Pakistani officials or private citizens in the US drone program.

The US government's utter lack of transparency about its drone program posed a significant research challenge. The USA refuses to make public even basic information about the program, and does not release legal or factual information about specific strikes. None of the US authorities contacted by Amnesty International were willing to provide information regarding the specific cases documented in this report or the legal and policy basis for the drone program in Pakistan. The Central Intelligence Agency (CIA), which is believed to be responsible for the US drone program in Pakistan, said that questions regarding the drone program should be put to the White House. As at time of publication, the White House had not responded to Amnesty International's repeated requests for comment.

2. Background

[quote]
"We are scared that at any time there could be a blast [from an armed group] and then the Army will fire mortars without caring who they hit."
- Rafeequl Rehman, Tappi village, July 2013
[quote ends]

The vast majority of US drone strikes in Pakistan have taken place in the North Waziristan tribal agency, which shares a porous and largely unregulated border with Afghanistan, a fact of geography that has had considerable impact on events in the area. Since late 2001, when thousands of Taliban and al-Qa'ida members fled to North Waziristan to escape US military operations in Afghanistan, the area has become a refuge for militants, as well as a training ground and base for attacks in Pakistan and Afghanistan.

North Waziristan has also been a staging ground for armed groups planning attacks on the USA, Europe and other international targets. A number of US drone strikes appear to have been carried out in response to alleged plots linked to groups present in North Waziristan. For example, according to studies carried out by rights groups and journalists, there was a sharp rise in drone strikes in 2010 during the periods when the USA and other state authorities said they had uncovered plots to carry out bombings in New York and Europe that were planned by al-Qa'ida in North Waziristan.[6]

[6] Amnesty International interviews in 2013 with The Bureau of Investigative Journalism and journalists privy to classified US intelligence records in 2010 whose names have been withheld to protect their

Missiles fired from US drone aircraft have reportedly inflicted significant losses on the Taliban and other armed groups operating in northwest Pakistan. Many senior armed group leaders like al- Qa'ida's Abu Yahya al-Libi (whose killing is detailed in section 3.4 below) and the Pakistani Taliban's Wali-Ur Rehman Mehsud, have been killed in drone strikes carried out in North Waziristan. While parts of the tribal agency serve as a base for insurgent operations, they are also home to around 840,000 people[7], who face the constant fear of being killed by armed groups, the Pakistan armed forces or US drone strikes. As documented in this report, local communities have little control over the activities of the different actors in the area.

2.1 History of US drone operations in Pakistan

The first known drone strike in Pakistan occurred in November 2004. In an attack allegedly conducted at the behest of the Pakistani military, Taliban commander Nek Mohammad, three of his close associates, and two boys – brothers Irfan Wazir and Zaman Wazir, 14 and 8 years old respectively - were killed in the village of Dhok in South Waziristan.[8]

After taking office in January 2009, President Barack Obama markedly expanded the use of drone aircraft for killings. During the Bush Administration, the USA indicated that it generally targeted only specific, known individuals on a "kill list". Under the Obama Administration, there has been an increased use of "signature strikes" – attacks in which the victim's identity is unknown but their behavior appears suspicious to US security authorities undertaking surveillance of the Tribal Areas.

According to US Senator Lindsay Graham, the USA had killed a total of 4,700 people using drone aircraft as of early 2013.[9] It is not clear, however, whether this figure is based on official sources and whether it includes individuals killed by drones in Afghanistan and Iraq.

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identity. See also Faisal Shahzad Sentenced in Manhattan Federal Court to Life in Prison for Attempted Car Bombing in Times Square, Federal Bureau of Investigation, 5 October 2010, http://www.fbi.gov/newyork/press-releases/2010/nyfo100510.htm; France unusually rattled as reports of Europe terror plots emerge, Christian Science Monitor, 29 September 2010, http://www.csmonitor.com/World/Europe/2010/0929/France-unusually-rattled-as-reports-of-Europe-terror-plots-emerge; and Issam Ahmed, Pakistan drone attacks kill Germans in response to Europe terror plot, Christian Science Monitor, 5 October 2010, http://www.csmonitor.com/World/Asia-South-Central/2010/1005/Pakistan-drone-attacks-kill-Germans-in-response-to-Europe-terror-plot (all accessed 2 August 2013).

[7] North Waziristan Agency, FATA Research Center, undated, http://frc.com.pk/administrative-units-2/agencies/north-waziristan-agency/ (accessed 31 August 2013).

[8] Amnesty International, Pakistan: US involvement in civilian deaths, (Index: ASA 33/002/2006), 31 January 2006, http://amnesty.org/en/library/asset/ASA33/002/2006/en/bb6191d1-d462-11dd-8743-d305bea2b2c7/asa330022006en.html See also: Mark Mazzetti, "Rise of the predators: A Secret Deal on Drones, Sealed in Blood," The New York Times, 6 April 2013, http://www.nytimes.com/2013/04/07/world/asia/origins-of-cias-not-so-secret-drone-war-in-pakistan.html?pagewanted=all&_r=0 (accessed 26 July 2013).

[9] Jason Evans, Graham Denies Leaking Classified Info at Easley Rotary, Easley Patch, 21 February 2013, http://easley.patch.com/groups/politics-and-elections/p/graham-denies-leaking-classified-info-at-easley-rotary (accessed 11 August 2013). See also Spencer Ackerman, Senator Lists the Death Toll From US Drones at 4,700 People, Wired, 21 February 2013, http://www.wired.com/dangerroom/2013/02/graham-drones/ (accessed 11 August 2013).

Amnesty International does not have comprehensive data on the total number of US drone attacks or the numbers killed and injured, and is not in a position to endorse the findings of others. Below is a table of current estimates for the period 2004 to 2013 gathered from various sources.

[PICTURE OF DRONE]

	Number of drone strikes	Total killed	Civilians killed	Total injured
Government of Pakistan[10]	> 330	2,200	400-600	> 600
Long War Journal/New America Foundation/Bureau of Investigative Journalism[11]	348-374	2,065-3,613	153-926 including, (168-200 children according to The Bureau of Investigative Journalism)	1,117-1,505
US government[12]	classified	4,700 (unclear whether this refers to all drone strikes or just some countries, including Pakistan)	classified	classified

Amnesty International's concerns about the US drone program are not limited to the 2012-2013 period or only to North Waziristan.[13] We were not able to conduct first-hand research into incidents between 2004 and 2011, when such killings were more frequent. But we have investigated some of the most serious incidents and repeatedly called on the USA to disclose factual information about all strikes and all casualties, and have expressed concern about their legal basis. [14] Some drone attacks during this

[10] Despite several requests no representative of the Pakistani authorities provided Amnesty International with officially recorded statistics about the number of drone strikes and casualties. However, the Pakistan Foreign Ministry provided a break down to the Special Rapporteur on counterterrorism and human rights during his visit to Pakistan in March 2013. See: Statement of the Special Rapporteur Following Meetings in Pakistan, Office of the High Commissioner for Human Rights, 14 March 2013 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13146&LangID=E (Accessed 13 September 2013).

[11] Figures for total number of drone strikes and casualties from US drone strikes in Pakistan from November 2004 to September 2013 based on publicly available data compiled by The Bureau of Investigative Journalism, The New America Foundation, and The Long War Journal.

[12] See footnote 9. Figure refers to strikes from 2002 to February 2013.

[13] See Amnesty International, United States of America: 'Targeted killing' policies violate the right to life (2012), (Index: AMR 51/047/2012), http://www.amnesty.org/fr/library/info/AMR51/047/2012/en.

[14] Amnesty International, 'As if hell fell on me': the human rights crisis in northwest Pakistan (2010), (Index: ASA 33/004/2010), pp 38-48.

period, which reportedly resulted in heavy civilian casualties, may have violated international human rights law or, where applicable, international humanitarian law. These include the killing of at least 82 people, many of them children as young as six, in a *madrassa* on 30 October 2006 near the border with Afghanistan in Bajaur tribal agency (to date, the deadliest single attack by a US drone in Pakistan)[15]; and a series of drone strikes on 17 March 2011 that killed between 26 and 42 people in Datta Khel, North Waziristan, during a *jirga*, or tribal council, convened to resolve a local mining dispute.[16] Amnesty International is seriously concerned that these strikes may have resulted in unlawful killings, constituting extrajudicial executions or war crimes.

Like the more recent drone strikes covered by this report, all of the killings carried out by US pilotless aircraft in Pakistan have been conducted in virtual secrecy aided by the remote and lawless nature of the region, and arbitrary restrictions on freedom of expression and movement enforced by Pakistan government forces and by armed groups who operate there with impunity.

[box]
The first known US drone strike was against suspected members of al-Qa'ida on 3 November 2002, when a CIA-controlled Predator drone aircraft killed six men in Yemen.[17] The UN Special Rapporteur on extrajudicial, summary or arbitrary executions described the killings as constituting "a clear case of extrajudicial killing".[18] The US government disagreed, arguing that the killings were lawfully carried out during "the course of an armed conflict with al Qa'ida" even though there was no recognized zone of armed conflict in Yemen at the time.[19]

Since then US drone attacks have been conducted in a number of countries, including Afghanistan, Iraq, Libya, Somalia, Yemen and Pakistan.[20]
[box ends]

2.2 Armed groups in North Waziristan

[15] Amnesty International, Pakistan: Over 80 people victims of possible extrajudicial execution in Bajaur, (Index: ASA 33/046/2006), 1 November 2006, http://www.amnesty.org/en/library/info/ASA33/046/2006.
[16] See Stanford University & New York University, 'Living under drones': Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan, September 2012, pp 57-62. http://livingunderdrones.org/wp-content/uploads/2012/10/Stanford-NYU-LIVING-UNDER-DRONES.pdf (accessed 12 July 2013).
[17] See Yemen/USA: Government must not sanction extrajudicial executions, 8 November 2002, http://www.amnesty.org/en/library/info/AMR51/168/2002/en (accessed 20 May 2013).
[18] UN Doc.: E/CN.4/2003.3, 13 January 2003. Report of the Special Rapporteur, Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2002/36, paras. 37-39.
[19] UN Doc.: E/CN.4/2003/G/80, 22 April 2003. Letter dated 14 April 2003 from the Chief of Section, Political and Specialized Agencies, of the Permanent Mission of the United States of America to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights.
[20] The USA may have also carried out drone programs in the Philippines and Mali. See D.B. Grady, Drone warfare... in the Philippines?, The Week, 18 July 2012, http://theweek.com/article/index/230649/drone-warfare-in-the-philippines (accessed 23 August 2013) and Did the US launch a drone strike on AQIM in northern Mali?, The Long War Journal, 24 June 2012, http://www.longwarjournal.org/threat-matrix/archives/2012/06/did_the_us_launch_a_drone_stri.php (accessed 23 August 2013).

Three main armed group networks operate in North Waziristan, although there is significant overlap in their membership and they are known to cooperate with each other: the Afghan Taliban, which carries out military operations against US, Afghan and allied forces in Afghanistan and occasionally against Pakistani forces; the Pakistani Taliban, which seeks to overthrow the Pakistani state and is responsible for attacks on state forces in North Waziristan and others across Pakistan; and al-Qa'ida-linked groups consisting of local and foreign fighters which plan and promote attacks globally.[21] All three of these groups have been targeted by US drone strikes.

Armed groups based in North Waziristan are responsible for indiscriminate attacks and direct attacks on military forces and the general public that have killed and injured thousands of people in Pakistan and Afghanistan over the last decade, some of which constitute war crimes.[22] They have regularly carried out suicide and IED (improvised explosive device) bombings, targeting marketplaces, mosques, schools, and other populated places that either indiscriminately or deliberately cause scores of civilian deaths.[23] The Pakistani Taliban and al-Qa'ida-linked groups also abduct and kill individuals accused of spying on behalf of the USA and Pakistan, often employing quasi-judicial proceedings that are arbitrary and lack even the most elementary components of a fair trial.[24] Seeking to maintain and expand their control of the region, these groups have also killed hundreds of ordinary residents of North Waziristan, including tribal elders who are the key link between the Pakistan state and local communities.[25]

Over the last decade, the Pakistani armed forces have regularly made formal and informal accords promising not to conduct military operations against the Taliban in North Waziristan. Despite these accords, Pakistani forces and Taliban-linked groups have engaged in a long series of sporadic clashes (see section 2.3 below). The Pakistani Taliban-linked Ansarul Mujahideen group claimed responsibility for a 1 September 2013 attack on the paramilitary Frontier Corps which left at least nine soldiers dead.[26] The group said it was in response to a US drone strike in Mir Ali two days earlier reportedly targeting members of al-Qa'ida.[27] The Pakistani Taliban-linked group Jandullah claimed responsibility for a twin suicide bombing in a Peshawar church on 22 September 2013 during the Sunday service, killing 81 men, women and children and injuring over 120; the worst attack on Pakistan's Christian community on record.[28]

The Pakistan state has a poor record of dealing with human rights abuses by armed groups, and very rarely prosecutes the perpetrators of such abuses before the courts in

[21] For more information see 'As if hell fell on me' (2010), pp 29-31.
[22] For a more detailed summary of Taliban abuses in northwest Pakistan over the last decade see 'As if hell fell on me' (2010), pp 38-48; and 'The hands of cruelty': abuses by armed forces and Taliban in Pakistan's tribal areas (2012), (Index: ASA 33/019/2012), pp 34-37.
[23] Ibid.
[24] For details on this see Amnesty International, 'The hands of cruelty' (2012), pp 31-34.
[25] 'As if hell fell on me' (2010), pp 44-48.
[26] Amnesty International interview, September 2013.
[27] Ismail Khan, "Drone Strike Is Said To Kill 4 Militants in Pakistan", The New York Times, 31 August 2012 http://www.nytimes.com/2013/09/01/world/asia/drone-strike-kills-suspected-militants-in-pakistan.html (Accessed on 31 August 2012).
[28] "Pakistan blasts: Burials amid anger after Peshawar church attack", BBC, 23 September 2013, http://www.bbc.co.uk/news/world-asia-24201240 (accessed 23 September 2013).

fair trials.[29] Some local and international observers have also accused the Pakistan armed forces of supporting Afghan Taliban groups in North Waziristan, a claim denied by Pakistani authorities.[30] There is no doubt, however, that armed groups are able to perpetrate abuses with impunity and significant portions of North Waziristan are under their effective control.

2.3 Operations by Pakistan armed forces

Operations by Pakistan's armed forces are another serious concern for people living in North Waziristan and across the Tribal Areas. Although the intensity of fighting between the Pakistan armed forces and groups like the Taliban have decreased considerably since 2009, there remain sporadic clashes and regular curfews, forcing the local population to live under the constant fear of inescapable violence. In pursuing armed groups, the armed forces frequently use military, rather than policing, tactics -- despite the fact that the government insists that there is no armed conflict in Tribal Areas.[31]

Even if the rules of international humanitarian law are applied to their conduct, army operations raise many concerns. The military often fails to differentiate between civilians and fighters, and has attacked populated areas of North Waziristan, causing numerous deaths and injuries and frequent small-scale displacement.[32] Just after midnight on 21 June 2013, dozens of fighters attacked the Pakistani military's Amin check post on the main road between the Pakistan Army base in Miran Shah and the village of Darpa Khel around 1.5 miles to the southeast. The area has a strong presence of Afghan Taliban belonging to the Hafiz Gul Bahadur group from the Hamzoni branch of the Dawar tribe who are from the area.

In response to the attack, the Pakistan armed forces fired mortar shells towards the village. Villagers told Amnesty International that the military fired in the general direction of the village. "The army started firing everywhere adjacent to Amin check post on the south west side [where Darpa Khel village lies]," one resident, Riaz, said.[33] One of the mortar shells landed in the home of 18-year-old twin sisters Waja Hassan and Wajeeha Hassan. The two women were sleeping at the time of the attack and both sustained severe injuries to the abdomen and head. Waja died instantly while Wajeeha succumbed to her injuries a short while later. "They were Muhammad Noor's only children and both Noor and his wife have mental health problems because of the incident," Ahmed, a close family friend, told Amnesty International.[34] A cousin of the two girls recalled, "We were all in a panic that night. Everyone was running for a safe place. In fact, people had already made bunkers in their homes [because of previous shelling], but that night some of us couldn't reach the bunkers in time." Darpa Khel residents said more than 10 houses were seriously damaged in the shelling.

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[29] See Amnesty International, 'The hands of cruelty' (2012); and 'As if hell fell on me' (2010).
[30] See, for example, "Pakistan helping Afghan Taliban – Nato", BBC, 1 February 2012, http://www.bbc.co.uk/news/world-asia-16821218 (accessed 1 September 2013).
[31] Amnesty International interviews with Pakistani authorities 2011-2013. See also Statement of the Special Rapporteur Following Meetings in Pakistan, Office of the High Commissioner for Human Rights, 14 March 2013.
[32] See 'As if hell fell on me' (2010), pp 74-82.
[33] Amnesty International interview, August 2013. Name changed to protect identity.
[34] Amnesty International interview, August 2013. Name changed to protect identity.

Amnesty International found little evidence that government forces gave adequate pre-attack warnings to the population in this and other previously documented incidents.[35] Once government forces attacked, they often failed to target armed group fighters and military objectives with necessary precision. Instead, they used inappropriate, imprecise weapons such as mortars, artillery and unguided, air-dropped bombs on areas where insurgents were believed to be intermingled with civilians. Given the physical harm to civilians and mass displacement that these military operations caused, the attacks were not only indiscriminate but also appear to have been disproportionate, and therefore unlawful.

Caught in the middle: residents of North Waziristan trapped as Pakistan forces clash with armed groups

"Our routine life is affected as curfew is imposed every Sunday," explained Gulab Khan of Mir Ali town. "Our children and even grown-ups remain in constant tension and distress, as if something happens during the curfew then you have to face the music in the shape of mortar shelling from the [Pakistan Army] cantonments and from the [Pakistan military] helicopters."

Pakistani forces often fire mortars after their convoys are attacked by the Pakistani Taliban or other armed groups, using roadside IEDs, a weekly occurrence in North Waziristan. Such an incident occurred during a curfew on 30 June 2013. "Last Sunday, around 3-4pm, a remote control blast killed four security personnel in [a] convoy on the main Bannu-Miran Shah road [1.2miles northwest of Ghundi Kala]," recalled Rafeequl Rehman, son of drone strike victim Mamana Bibi. "Through the PA [Political Agent], the Army announced that all people have to vacate our village of Tappi."

According to Rehman and other Tappi residents, this is a regular occurrence; PA staff call residents, usually the elder males, by phone and tell them to vacate. "Hundreds of people have to make their own way to nearby villages," said Nisam Khan, a local journalist. "At 10pm the PA authorities called and said everyone must leave [the village] 'til 4am. Everyone." Then, just before 4am, the Army fired flares into the air and at exactly 4am started firing mortar shells towards Tappi village.

"Three shells were fired, one exploded in the air and two exploded in the village, but luckily this time it only caused minor damage," said Rafeequl Rehman. But, he added, "As far as I know, no one has got compensation for [damage due to] mortar shells. The Army decides when there will be no more mortars to be fired and then people can come back. They don't tell us, but speak to the PA who [then] tells our elders who tell our families they can now return. We are scared that at any time there could be a blast [from an armed group] and then the Army will fire mortars without caring who they hit."

As Amnesty International documented in its December 2012 report, *The Hands of Cruelty* (ASA 33/019/2012), Pakistan's armed forces have subjected thousands of men and boys to extrajudicial executions, arbitrary detention, torture and other violations. The armed forces perpetrate these violations, often after men and boys have been detained on little or no evidence of any wrongdoing, using security laws that provide sweeping powers and immunities in breach of human rights and even the basic protections of international humanitarian law.[36]

[35] See 'As if hell fell on me' (2010), pp 49-56.
[36] See 'The hands of cruelty' (2012). See also Amnesty International, "Pakistan: Investigate deaths in lawless Tribal Areas", (Index: PRE01/025/2013), 17 January 2013, http://www.amnesty.org/en/for-media/press-releases/pakistan-investigate-deaths-lawless-tribal-areas-2013-01-17.

Although the Pakistan Army is present in North Waziristan and the paramilitary Frontier Corps operates check posts in different parts of the tribal agency, both forces are largely confined to fortified barracks. Despite this, Pakistan has come under regular pressure from the USA and the NATO-led International Security Assistance Force (ISAF) in Afghanistan to conduct military operations against armed groups from North Waziristan fighting in Afghanistan.[37] The Pakistani authorities have resisted these pressures, claiming that their force of over 150,000 soldiers across the Tribal Areas is already overstretched and that a negotiated settlement with armed groups in North Waziristan and other parts of these areas would bring a more durable end to violence. Afghanistan, the USA and ISAF officials have at times refuted this and accused Pakistan of refusing to conduct a military operation in North Waziristan because it supports Afghan Taliban groups fighting in Afghanistan.[38]

3. Lives torn apart – case studies

[opening quote]

> When we went to help people, we saw a very horrible scene. Body parts were scattered everywhere. [I saw] bodies without heads and bodies without hands or legs. Everyone in the hut was cut to pieces.
>
> - Ahsan, resident of Zowi Sidgi, recalling the US drone strike of 6 July 2012[39]

[quote ends]

Amnesty International reviewed all 45 reported US drone strikes in Pakistan from January 2012 to August 2013, and conducted detailed research on nine separate drone strike cases in North Waziristan (a list of these strikes is in the Appendix below). As noted above, Amnesty International went to great lengths to verify as much of the information obtained as possible. However, due to the challenges of obtaining accurate information on US drone strikes in North Waziristan, we cannot be certain about all the facts of these cases. The full picture will only come to light when the US authorities, and to a lesser extent the Pakistani authorities, fully disclose the facts, circumstances and legal basis for each of these drone strikes.

3.1 Mamana Bibi, Ghundi Kala village, October 2012

Mamana Bibi, aged 68, was tending her crops in Ghundi Kala village (see map on page XX) on the afternoon of 24 October 2012, when she was killed instantly by two Hellfire missiles fired from a drone aircraft. “She was standing in our family fields gathering okra to cook that evening,” recalled Zubair Rehman, one of Mamana Bibi’s grandsons, who was about 119ft away also working in the fields at the time. Mamana

[37] Amnesty International interviews with Pakistani authorities 2011-2013. See also Anita Joshua, “Pakistan resists U.S. pressure on North Waziristan”, The Hindu, 16 October 2010, http://www.thehindu.com/news/international/pakistan-resists-us-pressure-on-north-waziristan/article832630.ece (accessed 24 July 2013); and “Kabul attacks will help US press Pakistan: Analysts”, Agence France-Presse, 20 April 2012, http://tribune.com.pk/story/367518/kabul-attacks-will-help-us-press-pakistan-analysts/, (accessed 24 July 2013).

[38] Amnesty International interviews with Pakistani authorities, 2011-2013. See also “Pakistani Taliban vow not to attack troops stationed in N Waziristan”, Reuters, 13 January 2013, http://tribune.com.pk/story/493200/pakistani-taliban-vow-not-to-attack-troops-stationed-in-n-waziristan/ (accessed 15 June 2013).

[39] Amnesty International interview 2013. Name changed to protect identity.

Bibi's three granddaughters: Nabeela (aged eight), Asma (aged seven) and Naeema (aged five) were also in the field, around 115 and 92ft away from their grandmother to the north and south respectively. Around 92ft to the south, another of Mamana Bibi's grandsons, 15-year-old Rehman Saeed, was walking home from school with his friend, Shahidullah, also aged 15.

[PICTURE - Satellite image obtained by Amnesty International showing the exact location of Mamana Bibi, killed by US drone aircraft, and the children who witnessed her killing on the afternoon of 24 October 2012.]

Accustomed to seeing drones overhead, Mamana Bibi and her grandchildren continued their daily routine. "The drone planes were flying over our village all day and night, flying in pairs sometimes three together. We had grown used to them flying over our village all the time," Zubair Rehman continued. "I was watering our animals and my brother was harvesting maize crop," said Nabeela. Then, before her family's eyes, Mamana Bibi was blown into pieces by at least two Hellfire missiles fired concurrently from a US drone aircraft.

"There was a very bad smell and the area was full of smoke and dust. I couldn't breathe properly for several minutes," said Zubair. "The explosion was very close to us. It was very strong, it took me into the air and pushed me onto the ground," added Nabeela. She later ventured to where her grandmother had been picking vegetables earlier in the day. "I saw her shoes. We found her mutilated body a short time afterwards," recalled Nabeela. "It had been thrown quite a long distance away by the blast and it was in pieces. We collected as many different parts from the field and wrapped them in a cloth."

[PICTURE Mamana Bibi was killed by a US drone aircraft while tending to her crops on the afternoon of 24 October 2012.]

Asma and Nabeela both sustained shrapnel injuries to their arms and shoulders. Shahidullah received shrapnel injuries to his lower back while Rehman Saeed sustained a minor shrapnel injury to his foot. But three-year-old Safdar, who had been standing on the roof of their home, fell 10ft to the ground, fracturing several bones in his chest and shoulders. Because he did not receive immediate specialist medical care, he continues to suffer complications from the injury.

Zubair too required specialist medical care after a piece of shrapnel lodged in his leg. According to his father Rafeequl Rehman, Zubair underwent surgery several times in Agency Headquarters Hospital Miran Shah. "But the doctors didn't succeed in removing the piece of shrapnel from his leg," he said. "They were saying that his leg will be removed or he will die." Distraught at the loss of his mother and the prospect that his eldest son may be crippled by the attack, Rafeequl took Zubair to Ali Medical Center in Islamabad but could not afford the medical fees. "The doctor asked for a lot of money," he explained. "So we decided to take him to Khattak Medical Center in Peshawar and, after selling some land, we could afford the operation for him." Doctors at the hospital successfully removed the shrapnel and Zubair is now making a full physical recovery.

Second strike

A few minutes after the first strike a second volley of drone missiles was fired, hitting a vacant area of the field around 9ft from where Mamana Bibi was killed. Mamana Bibi's grandsons Kaleemul and Samadur Rehman were there, having rushed to the scene when the first volley struck. Kaleemul Rehman recalled: "I was sitting at my home drinking tea [when] suddenly I heard a sound of explosions. I ran outside and saw the rocket had left a big crater in the field and dead animals, and the area was full of smoke and dust. I could not see my grandmother anywhere."

As the two boys surveyed the area, they discovered their grandmother had been blown to pieces. Fearing further attacks, the two tried to flee the area when the second volley of missiles was fired. Kaleemul was hit by shrapnel, breaking his left leg and suffering a large, deep gash to that thigh. "This time I felt something hit my leg and the wave of the blast knocked me unconscious," Kaleemul said. "Later I regained consciousness and noticed that my leg was wounded and my cousin was carrying me on his back to the main road, about 1.5 miles away." From there a car drove Kaleemul to the Agency Headquarters Hospital in Miran Shah, where surgeons operated on him, inserting metal pins into his left thigh bone.

The family home was badly damaged in the strikes, with two rooms rendered uninhabitable. In total, nine people – all of them children except Kaleemul Rehman – were injured in the drone strikes that killed Mamana Bibi.

[PICTURE: Impact crater left by the second US drone strike that hit a vacant area of land a few feet from where Mamana Bibi was killed minutes earlier.]

On the day Mamana Bibi was killed, her son Rafeequl Rehman – father of Zubair, Nabeela, Asma and Safdar – was in a market in Miran Shah. He was buying gifts for the family in anticipation of the Muslim holy day of Eid ul Adha the next day "After finishing my evening prayers in Miran Shah, I returned to my village and on the way I saw that villagers had gathered near our home," he said. At first nobody would tell Rafeequl what had happened that afternoon. Then some village children approached him and said his house had been hit by a drone attack and his children were wounded. "I was shocked and rushed to my home and saw a big gathering of people. I rushed passed them and saw my mother's dead body wrapped in a cloth – her body was in pieces." For a brief moment that felt like an eternity, Rafeequl thought the rest of his family had also been killed in the strike. But one of his brothers finally confirmed that all of their children had survived.

"I'm still in shock over my grandmother's killing," said Zubair. "We used to gather in her room at night and she'd tell us stories. Sometimes we'd massage her feet because they were sore from working all day." Asma added: "I miss my grandmother, she used to give us pocket money and took us with her wherever she went.

The matriarch of her household, Mamana Bibi belonged to a family of educators. Her husband Haji Wreshman Jan is a respected, retired headmaster and three of her sons are teachers in local schools. "We are ordinary people working in the education field," said Rafeequl. "All of my brothers work in the schools; four as teachers, the fifth as a school assistant. My father is a renowned principal. They even named a school after him."

[PICTURE: Mamana Bibi's husband Wreshman Jan (extreme right) with the rest of family. A renowned former head teacher, a local school is named after him. Picture courtesy Rafiqul Rehman. 2012]

Mistaken identity?

Pakistani intelligence sources told Amnesty International that a local Taliban fighter had used a satellite phone on a road close to where Mamana Bibi was killed about 10 minutes before the strike, and then drove away.[40] They were not aware of the reason for Mamana Bibi's killing but said they assumed it was related to the Taliban fighter's proximity to her. However, if a member of the Taliban was indeed in the area, he was some distance away from Mamana Bibi. Based on detailed descriptions of the incident site by several witnesses and residents which were corroborated against satellite images of the fields and buildings where the incident occurred, the two closest roads to where Mamana Bibi was killed appear to be some 990ft to the northwest and 930ft to the southeast respectively. Witnesses also said that there was, in the words of Mamana Bibi's son Rafeequl Rehman, a "very clear blue sky."

Witnesses and family members, interviewed separately and by different research teams at different times, all denied that any militants were anywhere near Mamana Bibi at the time of the attack. Amnesty International's investigation found no evidence of military or armed group installations, hideouts or fighters. The people physically closest to Mamana Bibi at the moment of the attack were the children who witnessed her being killed. As Rafeequl Rehman explained, "There was no [Pakistan military] operation at that time; it was completely calm and peaceful. The children were playing, some others were coming from school. The farmers were busy on their lands; everyone was busy at work."

[PICTURE: Relatives show debris from the missiles fired from a US drone aircraft that killed Mamana Bibi.]

[quote]
[quote: "I'm still in shock over my grandmother's killing. We used to gather in her room at night and she'd tell us stories. Sometimes we'd massage her feet because they were sore from working all day." – Zubair Rehman]
[quote ends]

The killing of Mamana Bibi has had a profound impact on the family. Her elderly husband Wreshman Jan is grief stricken and rarely leaves the home. "He has become mentally disturbed and cries about his dear wife," said Rafeequl Rehman. Mamana Bibi's grandchildren now live in constant fear that they too will be killed by one of the US drones that continue to hover over Ghundi Kala. "Ever since that day I am always worried," said Zubair. Refeequl Rehman observed: "My daughter [Asma] suddenly gets scared and tells me she is going to be killed. She is living in constant fear. My children are worried even to just gather outside."

Arbitrarily deprived of life

[40] Amnesty International interviews in 2013. Names withheld on request.

It is not possible for Amnesty International to fully assess the reasons behind the killing of Mamana Bibi without further information from the US authorities. If the drone attack took place as part of an armed conflict, then international humanitarian law would apply alongside international human rights law. Under international humanitarian law, not all civilian deaths that occur as a result of armed attacks are unlawful (see section 6 for details). But even if the killing of Mamana Bibi was part of an armed conflict, it still raises serious concerns. For example, if she was killed after being mistaken for a Taliban fighter engaged in hostilities at the time of the strike, then it does not appear that the necessary precautions were taken – particularly given the touted capabilities of drones, which enable their operators to survey a target for a considerable period of time before launching an attack. The fact that an elderly woman who clearly was not directly participating in hostilities was killed, suggests some kind of catastrophic failure: she was misidentified as the intended target; the target was selected based on faulty intelligence and the attack was not cancelled after it became apparent that the target was a civilian; or drone operators deliberately targeted and killed Mamana Bibi.

Mamana Bibi's family said up to three drones were hovering above their home for some hours before and at least several minutes after her killing. This suggests that drone operators had sufficient time to observe Mamana Bibi and her grandchildren before making the decision to kill her.

If the attack took place outside an actual situation of armed conflict, then only international human rights law would apply to this case, rather than the more permissive rules of international humanitarian law. The law enforcement standards that uphold the right to life prohibit the use of intentional lethal force except when strictly unavoidable to protect life.

Amnesty International has serious concerns that Mamana Bibi was unlawfully killed. Depending on the applicable international legal framework (discussed in more detail in section 5 below), this attack may have constituted a violation of international humanitarian law, an arbitrary deprivation of life, and possibly an extrajudicial execution. For the Rehman family, the tragedy of Mamana Bibi's death and the trauma it has caused for everyone has been compounded by the lack of redress. They received no remedy from the US authorities, which has not even acknowledged that a US drone killed Mamana Bibi and injured her grandchildren. Nor have they received compensation or any other remedy from the Pakistani authorities, despite having sent a formal request following a meeting with the Political Agent for North Waziristan Siraj Ahmed Khan, the most senior representative of Pakistan's civil authorities in the tribal agency[41].

Amnesty International calls for a prompt, thorough, independent and impartial investigation of the drone strikes that killed Mamana Bibi on 24 October 2012. As part of this, the US authorities must fully disclose all information regarding her killing, including details of the legal and factual justification for carrying out the attacks. US

[41] Letters dated 7 November 2012 and 8 March 2013. See also section 5.4 below. As a semi-autonomous region, North Waziristan and the rest of the Tribal Areas are administered by Political Agents operating on behalf of the President under the supervision of the Governor of Khyber Pakhtunkhwa province. Relations between local communities and the Political Agent are based on contact between community elders and representatives of the Political Agent.

officials must also disclose details of any investigation into anyone involved in planning, ordering, and carrying out this attack. Where there is sufficient admissible evidence that an individual may be responsible for an unlawful killing or other serious violation of international humanitarian law or human rights law, the authorities must ensure they are brought to justice in fair trials without recourse to the death penalty.

For Mamana Bibi's family, no steps could be sufficient solace for the grief they feel. But there will be no sense of closure until those responsible for her killing are brought to justice. As Rafeequl Rehman told Amnesty International, "If I get some money, I will get a lawyer and fight for my right to get justice from the world. I am waiting for my justice."

3.2 18 laborers, Zowi Sidgi village, July 2012

At dusk on 6 July 2012 a group of laborers from Zowi Sidgi village had gathered at a tent after a long day of work in the summer heat. "It was our gathering place; usually at the end of the day after work the villagers sit together and talk to each other about our daily business," said Ahsan, a chromite miner and Zowi Sidgi resident who was praying in a local mosque at the time. Four drones that had been hovering overhead for some minutes and were clearly visible to residents in the crimson dusk light. Suddenly, witnesses recalled, the sound of multiple missiles could be heard piercing the sky, hitting the tent and killing at least eight people instantly.

"When we went to where the missiles hit to help people; we saw a very horrible scene. Body parts were scattered everywhere. [I saw] bodies without heads and bodies without hands or legs. Everyone in the hut was cut to pieces," recalled Ahsan. "We started to panic and each person was trying to escape to different directions," said Junaid. "Some persons were running towards their homes, some towards the trees."[42]

Some villagers ventured to where the tent once was to search for survivors and sift through the devastation. "The people tried to collect their bodies, some were carrying stretchers, blankets and water," Junaid explained. Then, a few minutes later, the drones, which witnesses recalled hearing hovering overhead after the first attack, fired another series of missiles targeting those who had come to the scene. At least six people died instantly, and at least another two died minutes later from wounds sustained in the attack. According to witnesses and relatives of victims interviewed by Amnesty International, 18 people were killed in the drone strikes that evening and at least 22 others were injured, including an eight-year-old girl named Shehrbano who sustained shrapnel injuries to her leg.

[Picture taken by a Zowi Sidgi resident reportedly of missile debris from the drone strike on 6 July 2012 that killed 18 people and injured at least 22. 2012. Copyright unknown.]

Residents described a scene of total panic following the second strike. "It was a very bad situation," Nabeel told Amnesty International.[43] "Some people lost their hands. Others had their heads cut off. Some lost their legs. Human body parts were scattered

[42] Amnesty International interview 2013. Name changed to protect identity.
[43] Amnesty International interview 2013. Name changed to protect identity.

everywhere on the ground. The bodies were burnt and it was not possible to recognize them." Like several other villagers, Nabeel visited the site of the strike the next morning, well after the drones had left, out of fear he too would have been killed had he ventured to assist victims immediately after the attacks. "After the second attack no one dared go near the tent until the following morning," Aleem, another Zowi Sidgi resident, said.

[PICTURE of Nabeel: Nabeel (not his real name) spoke to Amnesty International researchers about the fear and panic caused when US drones attacked his village of Zowi Sidgi in Julu 2012.]

Victims of US drone strike on Zowi Sidgi village, 6 July 2012

Killed (all male)
1 – Gul Dad Khan (aged 21-22), married with two children, chromites miner
2 – Kashmir Khan (aged 30),, married with three children, chromites miner
3 – Wolayet Khan (aged 25), daily wage worker
4 – Saleh Khan (aged 14), sold wood
5 – Shamroz Khan (aged approx. 24), sold wood
6 – Fazel Rehman (aged 18), sold chromites
7 – Wali Ullah (aged 18-19), married, sold chromites
8 – Sahibdin (aged 18-19), sold vegetables
9 – Mir Ajab Khan (aged 22), sold vegetables
10 – Min Gul (aged 23-24), daily wage worker
11 – Bangal Khan (aged 28), married with four children, farmed and sold vegetables
12 – Dil Gir Khan, age and occupation unknown
13 – Sahid Din, age and occupation unknown
14 – Mir Ajat, age and occupation unknown
15 – Haq Nawaz, (aged 23), occupation unknown. Died of his injuries on the way to a local medical dispensary that was also a makeshift clinic for the area.
16 – Hatiqullah, (aged 18), occupation unknown. Received serious shrapnel wounds to the head and died shortly after the strike.
17 – Akram, age and occupation unknown
18 – Shoaib, age and occupation unknown

Injured
At least 22 people, including Shehrbano (female, aged 8).

Among the dead was Bangal Khan, a 28-year-old father of four children – two boys and two girls – who farmed and sold vegetables in the village. Known affectionately as Jangai, friends spoke fondly of him. "May God have mercy on Jangai. I think of him constantly, he was very funny and always smiled," recalled Nabeel. "He would sing *ghazal* [religious devotional songs] and other songs, and we'd just talk about this and that and he'd make everyone in the village laugh. He was a very kind man and very sociable, I miss him a lot." As the sole breadwinner of the family and with women having restricted access to public life, Jangai's death has made his family destitute. "Now his orphan children have no one to support them," said Nabeel. "When Jangai was alive he worked very hard as a daily wage worker on other people's agricultural lands from which he sold and provided food for his children. He was a simple, hard working man."[44]

[44] Amnesty International interview, June 2013. Name changed to protect identity.

[A satellite image of Zowi Sidgi taken in October 2012. It shows the exact location of the first US drone strike that killed at least 8 people on 6 July 2012. A second strike near the same area appears to have targeted 'rescuers', killing a further 10 people.]

A corridor for Taliban fighters

Only three miles from the border with Afghanistan, Zowi Sidgi is part of an important corridor for Afghan Taliban fighters transiting to and from Pakistan, especially those belonging to the Hafiz Gul Bahadur faction. While residents said the area is not under the direct control of any armed group, it is not effectively governed by the Pakistani state either. Residents of Zowi Sidgi said some locals were sympathetic to the Taliban. In any event, all were powerless to prevent them from entering the village. All of the people who spoke to Amnesty International – each interviewed separately in detail and at different times and locations to corroborate testimony as accurately as possible – were adamant that all of those killed in the strikes were ordinary villagers, not fighters, and that none had engaged in attacks against US or Pakistani forces. Most of the victims worked as laborers in a local chromite (iron ore) mine, while others cut and sold wood from the village forests, farmed, or drove vehicles for a living.

Unlawful killings, extrajudicial executions and war crimes

If this attack was carried out as part of the non-international armed conflict with the Afghan Taliban, then international humanitarian law would apply alongside international human rights law. It is possible that some of the 40 or more people killed or injured in Zowi Sidgi had at some point been involved in attacks on US forces, its allies or Pakistani security forces, however all residents interviewed by Amnesty International strongly denied that this was the case.

Even if international humanitarian law applied, and some of the individuals struck in the attack were affiliated with an armed group, serious concerns about its lawfulness would remain. To be a lawful target, an individual must be directly participating in hostilities; so-called membership in an armed group is not in itself sufficient. Even if there were individual fighters directly participating in hostilities in the area, that still would not be sufficient to deprive the rest of the civilians of their immunity from being directly targeted.

Questions of discrimination and proportionality would also arise. If particular individuals could lawfully be targeted, could they have been attacked at a time and in a manner that did not put so many uninvolved civilians at risk? Would the harm to civilians and damage to civilian objects be excessive in relation to the concrete and direct military advantage anticipated by attacking such individuals? In short, even if there were individual members of an armed group at the site of the strike, this would not in itself make this a lawful attack.

Furthermore, how could the USA attempt to justify the second missile strike which appeared to target those who had gone to rescue people injured in the first strike and recover the dead? Attacking the injured and those who are *hors de combat* is prohibited under international humanitarian law; and medical personnel and first-responders trying to treat the wounded must be respected and protected.

If the attack occurred outside any actual armed conflict, then it would have violated the prohibition of arbitrary deprivation of the right to life, and could constitute extrajudicial executions.

It is the responsibility of the US authorities to present the legal and factual justification for this attack. Amnesty International has serious concerns that this attack violated the prohibition of the arbitrary deprivation of life and may constitute war crimes or extrajudicial executions. Amnesty International calls for a prompt, thorough, independent and impartial investigation of the Zowi Sidgi drone strike on 6 July 2012. Where there is sufficient admissible evidence, anyone responsible for unlawful killings must be brought to justice in public and fair trials without recourse to the death penalty, and all victims provided full reparation.

3.3 Signature strikes

[quote]

> The people think that if we gather at the incident site after the drone attack there is a possibility of further attacks on them because the drones might think Taliban have gathered and fire again.
> - Zalan, resident of Mir Ali

[quote end]

Successive US administrations have reportedly approved practices of so-called "signature strikes" and "Terrorism Attack Disruption Strikes" where the identity of the individuals or groups targeted is not known, but their activities as viewed from the sky appear to fit a pattern that has been deemed suspicious.[45] This may explain reports from journalists privy to classified US intelligence records that "hundreds of suspected lower-level Afghan, Pakistani and unidentified "other" militants" were killed in drone strikes between 2006 and 2011".[46]

Signature strikes do not appear to require specific knowledge about an individual's participation in hostilities or an imminent threat, raising concerns that such strikes are likely to lead to unlawful killings. They appear to be incompatible with the requirements of human rights law and, where applicable, could also lead to violations of international humanitarian law. In an armed conflict, individuals are entitled to a presumption of civilian status, which the practice of signature strikes may effectively deny, leading to direct attacks on civilians and disproportionate civilian casualties, in violation of international humanitarian law.

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[45] The first reported case of a signature strikes occurred under President Bush in 2008: How does the recent shift in U.S. drone policy impact "signature strikes"?, Council on Foreign Relations, 11 June 2013, http://www.cfr.org/drones/does-recent-shift-us-drone-policy-impact-signature-strikes/p30885 (accessed 30 June 2013).

[46] Jonathan S. Landay, "Obama's Drone War Kills 'Others', Not Just Al Qaida Leaders", McClatchy DC, 9 April 2013. http://www.mcclatchydc.com/2013/04/09/188062/obamas-drone-war-kills-others.html (Accessed 30 July 2013); and Richard Engel and Robert Windrem, "CIA Didn't Always Know Who It Was Killing in Drone Strikes, Classified Documents Show", NBC News, 5 June 2013 http://investigations.nbcnews.com/_news/2013/06/05/18781930-exclusive-cia-didnt-always-know-who-it-was-killing-in-drone-strikes-classified-documents-show (Accessed 30 July 2013).

Across North Waziristan and the rest of the Tribal Areas, the signature strike policy increases the scope of killings as it is very difficult to differentiate between local residents going about their business while carrying arms and individuals who are directly participating in hostilities. "Anyone who grows a beard and has a gun and drives a car – people think he might be a Taliban fighter," said a resident of Esso Khel, one of the most drone-affected areas in North Waziristan. "But over here every man carries a gun so you cannot tell who is Taliban and who is just a local in his village."[47] According to a resident from Darai Nishtar: "There is no difference in the dress; Taliban have long beard and we have beard as well but a bit proper and cleaner than them."[48]

Local communities have little control over the presence of armed groups in their villages and districts. In many cases documented for this report, residents came to the scene of an initial drone strike only to be themselves targeted in follow-up attacks, possibly on the presumption that they too were members of the group being targeted by the USA. This makes it virtually impossible for drone strikes to be surgically precise as claimed by US Administration officials, even if certain attacks comply with the necessary standards under international law.

In the May 2013 reforms announced by President Barack Obama, the USA signaled that signature strikes would decrease over time but not immediately end.[49] The US authorities have also said they do not presume that all military-aged males in an area are lawful targets.[50] But the killing of 18 male laborers in Zowi Sidgi (see above) may represent an example of the human toll of an approach that is prone to target military-aged males, even in the absence of specific evidence that they were directly participating in hostilities in an actual armed conflict or posing an imminent threat to life. This might also be the cause of some of the so-called "rescuer attacks" on military-aged males who come forward to assist victims of an initial drone strike (see below).

3.4 Rescuer attacks

[Quote starts]

> Locals have now realized that they have to avoid trying to help after a drone attack
>
> - a resident of Shinakai Narai, Shawal district, North Waziristan, in an interview with Amnesty International following a strike on 28 July 2013

[Quote ends]

Amnesty International investigated cases in which secondary drone strikes were carried out, that is, strikes that appeared to target those trying to help victims of initial drone strikes. As previously documented by CIVIC, Reprieve and other

[47] Amnesty International interview, July 2013. Name changed to protect identity.
[48] Amnesty International interview in 2013.
[49] Andrew Rosenthal, "The 'Signature Strikes' Program", The New York Times, 29 May 2013, http://takingnote.blogs.nytimes.com/2013/05/29/the-signature-strikes-program/ (accessed 5 June 2013).
[50] Office of the President, "Fact Sheet: US Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Area of Active Hostilities" (May 23, 2013).

organizations[51], these so-called "rescuer attacks" have had a devastating impact on people in North Waziristan, with many residents fearing they will be killed whether or not they belong to an armed group. As noted above, in the 6 July 2012 attack on Zowi Sidgi, drones appear to have deliberately fired missiles at people who came to assist victims of the initial strike, resulting in at least a further six deaths, numerous injuries, and sowing fear and panic among Zowi Sidgi residents. "Because of the second attack [on rescuers] no one dared return to the site until the next morning," said Irfan.

In another attack, in Darai Nishtar on 23 July 2012, US drones targeted, according to residents, fighters from the Maulvi Ihsanullah group which are part of the Haqqani network of the Afghan Taliban. "It was evening time and it was very difficult to understand how many planes were there," recalled eyewitness Shakeeb. "It was fast-breaking time and we were sitting together to break our fast. Then the first drone attack took place on the Taliban Centre near Shaingai Shrine. The missiles, about six or seven, hit the building direct."[52]

At least six residents who, as far as Amnesty International could determine, were not directly participating in hostilities, were killed by a follow-up strike as they were attempting to rescue those injured in the initial attack. Among the local residents killed in the follow-up strike were Khatim, Noor Wali, Sabirkai and Bashirullah. According to residents interviewed by Amnesty International, these four men and possibly the two others killed, were not members of al-Qa'ida, the Taliban or other armed groups but ordinary residents. "Some locals came to offer help when the second strike occurred. By then I tried to get as far as possible from there," Shakeeb added. According to him and other witnesses, the Taliban began stopping residents who tried to venture towards the strike area after the attack on rescuers. "Taliban prevented people from going near the incident site. They cleaned the area themselves and took all the dead bodies with them," Shakeen said. But for ordinary villagers the strike has created a lingering sense of fear. "People are scared of the drone attacks, they don't walk together; they sit only in pairs and if they gather in large groups, it would be only for a very short time. When the drone plane comes and we hear the sound of 'ghommm' people feel very scared. The drone plane can launch missiles at any time."

Around 4am on 4 June 2012, US drones fired missiles at a building in the village of Esso Khel, near Mir Ali, killing five men and injuring four more. Several minutes later around 12 people, including foreigners whom villagers said were Arabs and Central Asians who were likely to be members of al-Qa'ida, and local residents arrived at the scene to assist victims. As one resident explained to The Bureau of Investigative Journalism, which also did research on this case, "They started rescue work and were collecting body pieces of the slain people and pulling out the injured from debris of the building when the drones started firing again."[53] According to villagers, one of those killed in the second strike was senior al-Qa'ida leader Abu Yahya al-Libi who was overseeing the rescue efforts. Ten to 16 people were killed in

[51] See Columbia Law School Human Rights Clinic & Center for Civilians in Conflict, The civilian impact of drones: unexamined costs, unanswered questions, 29 September 2102, p 74; and Stanford University & New York University, "Living under drones": Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan, September 2012, pp 74-76.
[52] Amnesty International interview, July 2013. Name changed to protect identity.
[53] Amnesty International interview, August 2013. Name withheld on request.

total, including six local tribesmen who, as far as Amnesty International could determine, had come only to assist victims.

Deliberate targeting of rescuers – war crimes

It is possible that the USA was trying to target al-Libi as he is a prominent member of al-Qa'ida with a significant international profile owing to his frequent appearance in the group's propaganda videos and other materials. However, he would need to have been directly participating in hostilities on behalf of a party to an actual armed conflict with the USA (whether as part of the spillover armed conflict in Afghanistan or an armed conflict in Pakistan) to have been considered a lawful target. Even if he could be considered to have been directly participating in hostilities, those planning and carrying out the attack would need to have taken into consideration the presence of civilians and the possibility that attacking him in such circumstances would have been disproportionate. Deliberately attacking civilians rescuing the wounded, or the wounded themselves, is a war crime.

If the attack on al-Libi was not part of an actual armed conflict, then human rights law would apply to the exclusion of international humanitarian law. Deliberately killing al-Libi if he was not posing an imminent threat to life would be an arbitrary deprivation of the right to life and constitute an extrajudicial execution.

Amnesty International is deeply concerned about reported incidents of drones carrying out follow-up strikes on wounded survivors of initial strikes, killing not only the intended targets but also anyone attempting to rescue the injured. Outside armed conflict, where only international human rights law applies, such attacks are in all circumstances unlawful, constituting arbitrary deprivation of life and, in some cases, extrajudicial executions. Even in the context of armed conflict, the compatibility of such a practice with international humanitarian law is doubtful. International humanitarian law clearly prohibits attacks on the injured and others who are *hors de combat*.[54] Medical personnel and first-responders attempting to rescue the wounded must be respected and protected.[55] Intentionally attacking persons *hors de combat*, or civilians not participating in hostilities involved in rescue and recovery are serious violations of international humanitarian law and constitute war crimes.[56]

4. Fear of drones in North Waziristan

[quote starts]

> The fear of the drone attacks always exist in the mind of the local people. How can we know that drone's missile may not hit our houses? It can hit anywhere.
> - Raza, resident of Esso Khel, Mir Ali[57]

[quote ends]

For over a decade the people of North Waziristan have faced serious threats to life and livelihoods due to the activities and presence of the Taliban, al-Qa'ida and other armed groups, the Pakistan armed forces, and US drone strikes. While the frequency

[54] ICRC , Customary IHL, Rule 47.
[55] ICRC, Customary IHL, Rule 25, 28, 29
[56] ICRC, Customary IHL, Rule 156.
[57] Amnesty International interview, July 2013. Name changed to protect identity.

of drone attacks has reduced over the last two years, the aircraft remain ever present in North Waziristan skies. "Local tribal people generally live in fear and stress and feel psychological pressure. They think they could be the target of a drone attack because wrong information might be given to drone operators," a resident of Tappi village, the population center next to the village of Ghundi Kala where Mamana Bibi was killed, told Amnesty International.

"Everyone is scared and they can't get out of their house without any tension and from the fear of drone attacks. People are mentally disturbed as a result of the drone flights," said a resident of Esso Khel, one of the most frequent sites of drone attacks. "We can't sleep because of the planes' loud sound. Even if they don't attack we still have the fear of attack in our mind."[58]

A number of people, including local doctors and medical dispensary operators, said some residents of drone-affected parts of North Waziristan had started taking sleeping pills in the evening as the constant whine of drones overhead and fear of being killed made it impossible to fall asleep naturally. "I have mental tension and anxiety during the night time because of the drone attack. I keep tablets under my bed in order to get sleep at night," said Atif, a resident of Darai Nisthar who witnessed the drone strike on 23 July 2012 that killed 11 people including so-called rescuers.[59]

Residents also said that they avoided meeting in large groups, including in areas such as community meeting spaces such as the household guestroom known as the 'hujra' and the mosque. "When I go to mosque to pray; we have the fear of drone attack at the back of our mind," said Shakeeb from Darai Nishtar. "We get especially scared in the mosque because more people are gathered there for praying, and the drone planes don't understand that the people in the mosque are locals [and may] not [be associated with] the Taliban, so they might attack."

Some residents criticized the Taliban and other armed groups for living among the general population and consequently inviting the risk of death from a drone strike. "If a foreign fighter or Taliban is living with a local family, they are scared of a [drone] attack. The host family lives in fear," explained Fauzia, a student from Edak.[60] Many said that they did not choose to host members of armed groups but dared not refuse them out of fear of reprisals and social pressure in areas with a strong presence of Taliban and al-Qa'ida-linked groups like Mir Ali and Datta Khel.

[PICTURE of Taliban: The Taliban and other armed groups in North Waziristan are responsible for attacks that have killed thousands of people in Pakistan and Afghanistan over the last decade.]

Impact on women and girls

The US drone program has a particular impact on women. North Waziristan society is intensely patriarchal, and most women and girls have limited access to education and public life. Although it was difficult to interview women and girls due to the restrictions placed upon them, those who were able to speak with Amnesty International complained about their inability to influence their communities'

[58] Amnesty International interview, July 2013.
[59] Amnesty International interview in 2013. Name changed to protect identity.
[60] Amnesty International interview, April 2013.

involvement with armed groups like the Taliban, including their recruitment of local men and boys.

"I am scared that my boys might get hired by Taliban to become a suicide bomber or join the Taliban ranks," said one mother from the Edak area. She added, "Because women cannot go out freely or to schools to check on their children and know what are they really doing, we are scared that they will be seduced outside the home."[61] Her thoughts were echoed by Fahmida, a mother living in Datta Khel, "I have a lot of reservations over bringing Taliban inside the house. Multiple times I asked my younger son not to bring Taliban in our *hujra* [guest room] but he never listens. My only fear is that it can be targeted any time by *binganna* [drone] or *paouj* [army]."[62] Fahmida also pointed out that men dominated her community, and women "have no option but to follow what they decide. All the major decisions are being taken by the male members of a family," including whether or not to invite members of the Taliban and other armed groups into the home or provide them with other assistance.

The movement of women, girls, boys and the elderly outside their homes and villages is also hampered by the limited transport links and constant violence. Many feel trapped in areas that are under constant surveillance, and frequent attacks by drones make matters worse. "The children are very scared of drone planes. When they hear the sound of explosions from drones or [Army] shelling they cry, run home and hide under the bed or take shelter behind their mother or father," one father from Esso Khel told Amnesty International. "What choice does a mother have if a drone strike kills her children? She cannot even leave the home, does not know if any militant is in the house [who might become the target of a drone strike]," said Rubina, a resident of Mir Ali.[63]

"Children have lost their mental balance, they are afraid all the time," said Nabeel from Zowi Sidgi. "After seeing the body parts and hearing the screaming of the victims[of the 6 July 2012 drone strike that killed 18 people], my young nephew is always scared and crying, running towards his mother saying the drone could come and strike again."[64]

4.1 Threat of reprisals

[Quote]
You can put a gun to my head but do not record my interview.
- resident of North Waziristan to Amnesty International[65]
[Quote ends]

Given that armed groups operate with impunity in North Waziristan, frequently attacking those they accuse of spying for the USA or Pakistan,[66] and given that some

[61] Amnesty International interview, May 2013.
[62] Amnesty International interview, March 2013.
[63] Amnesty International interview, September 2013. Name changed to protect identity.
[64] Amnesty International interview, June 2013.
[65] Amnesty International interview, June 2013.
[66] See 'The Hands of Cruelty' (2012), pp 31-34. See also Declan Walsh, "Drone War Spurs Militants to Deadly Reprisals," The New York Times, 30 December 2012,

elements of the Pakistan state may offer tacit support to the drone program, local residents are reluctant to speak openly about the program and specific incidents.

A group known as Mujahideen Khorasan, an al-Qa'ida-linked outfit that undertakes counter-intelligence to prevent fighters and leaders from being targeted by US drones, has quickly turned into one of the most feared groups in North Waziristan. "The group's main function is the identification and elimination of spies," a resident of Mir Ali, where the group is very active, told Amnesty International. "They have killed dozens of people accused of spying in North Waziristan."[67] Residents of Mir Ali said bodies are routinely seen dumped by the side of streets with written messages. "They usually say something like 'anybody else accused of spying will meet the same fate,'" a resident said. Mujahideen Khorasan and other groups also plaster threatening posters on walls and market buildings in different towns of North Waziristan, warning people not to carry out espionage for US drone strikes. "After some militants in vehicles were killed in drone strikes in Mir Ali, some car mechanics were killed by Mujahideen Khorasan after they accused them of spying for the CIA for drone strikes."[68]

Some of the individuals who spoke to Amnesty International about specific US drone strikes said they had then faced threats for doing so. A handful of individuals were personally confronted by unknown men in plain clothes warning them of dire consequences if they spoke again to Amnesty International investigators about the drone strikes they witnessed. As one man said when approached for further information regarding a particular drone strike:

> You know when you left, some persons came to me here, I didn't know them, whether they were Taliban or the people from the Agency; they warned me to behave. I can't give the victims' addresses, because I was clearly threatened that I should not give any information about the victims. They told me it is fine if I continue my work but I should not share any information with the people who come here. I don't know the people who came and warned me; they were not from our village. And the drone planes are flying over the area regularly. I have children, where should I flee [to] from here?

Others were contacted on their cell phones. "After you spoke to me I got a call from an unknown number," said Shahbaz, a frequent visitor to North Waziristan. "The man spoke to me in Urdu. He told me not to do any work for them [Amnesty International]." Shahbaz took this call to mean that he would be killed or face other harm if he continued to assist Amnesty International's investigation into US drone strikes.[69]

"People cannot openly criticize the militants or army here because they will kill us," explained Nabeel, who witnessed the drone strike in Zowi Sidgi on 6 July 2012. "At first most of the locals were happy to give their houses in order to help their Muslim brothers, and many militants rented houses from the locals in the nearby streets. But

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http://www.nytimes.com/2012/12/30/world/asia/drone-war-in-pakistan-spurs-militants-to-deadly-reprisals.html?pagewanted=all (accessed 5 February 2013).

[67] Amnesty International interview in 2013. Name withheld to protect identity.

[68] Amnesty International interview in 2013.

[69] Amnesty International interview, September 2013. Name changed to protect identity.

with the passage of time we started hating them but now cannot get them out from the region because of the local Taliban who also support them," a resident of Esso Khel told Amnesty International.[70] "Nobody dares to disobey the Taliban. Apart from [Pakistan armed forces imposed] curfew, the Taliban move freely around. Even the locals have no choice if they decide to live in their homes," said Fauzia, a student from Edak. Most North Waziristan residents were only willing to discuss groups like the Taliban on the promise that their names and details would not be recorded.[71]

It is virtually impossible for residents to complain to the authorities about armed groups. For example, four foreign fighters and four local Taliban were killed instantly in a village in Esso Khel when a series of drone strikes hit the building they were resting in on the evening of 24 May 2012. While local residents confirmed details of the incident, most refused to confirm the presence of these fighters or whether they had any choice about them residing in their village.

5. Survivors denied justice and reparation

[PICTURE: Wire service picture of drones victims at protest or after strike?]

> [quote starts]
> It is only the poor villagers who help each other, we have been left to God to help us. No one else is giving us any assistance.
>
> - resident of Zowi Sidgi, speaking about a drone strike on 6 July 2012 that killed 18 people

[quote ends]

The survivors of drone attacks and the families of the victims have had little or no chance of securing justice. The USA and Pakistan both have obligations under international law to investigate these and any other cases where unlawful killings might have occurred, and deliver justice. But the USA's persistent refusal to acknowledge these strikes, coupled with Pakistan's ambiguous attitude towards the drone program and limited governance in the Tribal Areas (see section 8), make it almost impossible for victims to secure the redress they need.

[box begins]

Access to justice and effective reparation

Crimes under international law, such as extrajudicial executions and war crimes, must be investigated and those responsible must be brought to justice in public and fair trials without recourse to the death penalty. Under international human rights law states have an obligation to investigate allegations of human rights violations and bring the perpetrators to justice as part of the right to an effective remedy,[72] a right

[70] Amnesty International interview, July 2013.
[71] Amnesty International interviews in 2013.
[72] Article 2(3) ICCPR. See Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, paras 15, 16 and 18. See also UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9 to 20.

which is applicable at all times.[73] Under international humanitarian law, states must investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, as well as other war crimes over which they have jurisdiction, and ensure that perpetrators are brought to justice.[74]

States responsible for violating their obligations under international human rights and/or international humanitarian law are also required to provide victims with adequate, effective and prompt reparation for the harm suffered, which can take the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[75] States have an obligation to respect the prohibition of arbitrary deprivation of life, and an obligation to take all appropriate measures to prevent, investigate, punish and redress the harm caused by human rights abuses by private persons or entities.[76] A failure to investigate an alleged violation of the right to life could in and of itself constitute a breach of the right.[77]
[box ends]

5.1 US obligations – investigate, prosecute, remedy

The USA has an obligation under international law to ensure prompt, thorough, independent and impartial investigations are conducted into the cases documented in this report and in all other strikes where there are reasonable grounds to indicate that unlawful killings have occurred.[78] Where there is sufficient admissible evidence, the US authorities must bring those responsible to justice in public and fair trials without recourse to the death penalty.

President Barack Obama and other US officials have stated that the USA does not conduct a strike unless there is "near-certainty that no civilians will be killed or injured."[79] However, the USA has never described what post-strike investigation standards, protocols and mechanisms exist to systematically verify compliance with this policy standard. It has also failed to commit to conducting investigations into

[73] See Human Rights Committee, General Comment No 29 on states of emergency, CCPR/C/21/Rev.1/Add.11, para.14.
[74] See International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rules 151, 157 and 158.
[75] See Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para 16(HRC, General Comment No 31); International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 150; UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, paras 15 to 23. See also International Law Commission, Responsibility of States for internationally wrongful acts, annexed to UN General Assembly Resolution 56/83, articles 31 and 33.
[76] See HRC, General Comment No 31, para 8.
[77] HRC, General Comment No 31, para 25.
[78] Article 2(3) ICCPR. See Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, paras 15, 16 and 18. See also UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9 to 20; UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para 3; ICRC, Customary IHL, Rule 158.
[79] Remarks of President Barack Obama, "The Future of our Fight against Terrorism," National Defense University, 23 May 2013.

credible allegations of potentially unlawful deaths from Central Intelligence Agency (CIA) drone strikes, in line with its obligations under international law.

CIA director John Brennan has stated that the USA tries "to determine whether there was any collateral damage, including civilian deaths" after strikes, and leaks by US officials suggest that the USA relies on drone video to identify the number of individuals killed and their identities. [80] It is crucial that the US government not presumptively count the bodies of "military-aged males" as combatants or individuals lawfully killed, as suggested by past statements from US officials.[81] Moreover, there are reports that the USA relies on information provided by local paid informants or the Pakistani government about deaths, but this is not sufficient to discharge its obligations under international law to investigate credible allegations of potentially unlawful deaths.

After drone strikes, armed groups have in some cases recovered dead bodies and shifted them to unknown areas, which impedes identification of those killed.[82] This includes strikes documented for this report on 24 May, 4 June, and 23 July 2012 and 8 January, 3 July and 28 July 2013. Misinformation and politically driven propaganda about drone strike deaths is abundant, making it especially difficult for observers to determine the veracity of any claims about the identity of those killed. For this reason, Amnesty International went to great lengths to independently verify all information on drone strikes it documented (see section 1.1 Methodology for more details).

These circumstances underscore the need for the USA to conduct systematic, independent and comprehensive investigations into allegations of potentially unlawful deaths, which go beyond basic post-strike assessments that can miss crucial information. Moreover, US government bodies charged with oversight of the CIA – including Congress, Inspectors General and other agencies – should seek and be given full access to classified materials necessary to review CIA strikes in depth. In assessing allegations of potentially unlawful deaths they should not rely exclusively on CIA accounts or portions of drone video feeds.

Given the persistent allegations of serious violations of international law, US authorities should open their drone program to independent and impartial scrutiny. The authorities must also ensure that victims of unlawful drone strikes, their families and communities have effective access to remedies, including in the form of

[80] John O. Brennan, Speech at Woodrow Wilson International Center for Scholars, Apr. 30, 2012, available at http://www.wilsoncenter.org/event/the-efficacy-and-ethics-us-counterterrorism-strategy. Many news and book accounts contain references to drone operators "counting bodies" after drone strikes. See, for example, Daniel Klaidman, "Daniel Klaidman on the Mind of a Drone Operator," The Daily Beast, 9 June 2012, describing a conversation between State Department Legal Adviser Harold Koh and a drone operator in which the latter describes counting bodies and "watch[ing] the funerals" after strikes.

[81] In May 2012, The New York Times reported that, according to unnamed Obama Administration officials, the US "counts military-age males in a strike zone as combatants...unless there is explicit intelligence posthumously proving them innocent." Jo Becker and Scott Shane, "Secret "Kill List" Proves a Test of Obama's Principles and Will," The New York Times, 29 May 2012, http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html (accessed 22 August 2013).

[82] See, for example, "North Waziristan Agency: Eight Militants Killed in Drone Attacks," The Express Tribune, 28 May 2012, http://tribune.com.pk/story/385172/drone-strike-kills-five-militants-in-pakistan-officials/ (accessed 23 August 2013).

restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Where it has been determined that civilians have been killed or injured in circumstances that did not amount to violations of international law, the USA should nevertheless offer adequate compensation.

5.2. Pakistan's obligations – investigate abuses, provide effective remedy

Although Pakistan publicly condemns drone attacks, elements of the state are suspected of colluding in them (see section 8). This ambiguous position on drone attacks is a key reason why the results of any investigations by Pakistani officials into specific incidents remain secret.

As far as Amnesty International is aware, information gathered by organs of the Pakistan state have not been fully disclosed by Pakistani authorities to the public. Nor have the authorities systematically followed up cases of killings, injuries and other damages with victims to ensure they receive effective remedies, including by seeking reparation from the USA.

In a landmark judgment, the Peshawar High Court ruled in April 2013 that US drone strikes breach Pakistan's sovereignty and constitute an act of aggression "in clear violation of the UN Charter".[83] Drone strikes are a "blatant violation of Basic Human Rights", international instruments and provisions of the Geneva Conventions, the Court stated.[84] The ruling ordered the Pakistan government to take steps to prevent further drone strikes, including "by force or to shot [sic] down the intruding drones".[85] It also ordered the Pakistan government to bring the issue to the Security Council (it did so in September 2013) and to request the UN Secretary-General to set up an independent tribunal to investigate all strikes in Pakistan and determine whether they constitute war crimes. The Court ordered the Pakistan Ministry of Foreign Affairs to request the Security Council or General Assembly to pass a resolution condemning the drone strikes.[86] If the US authorities do not comply, the Peshawar High Court ruling would compel the government of Pakistan to "severe [sic] all ties with the USA" and "deny all logistic & other facilities to the USA within Pakistan."[87]

As far as Amnesty International can tell, the government of Pakistan has not taken all steps to enforce the judgment, particularly with respect to the order to protect the people of the Tribal Areas from US drone strikes and improve their access to remedies, health services and other assistance. At time of writing, the government of Pakistan had not appealed against the judgement to the Supreme Court of Pakistan.

Amnesty International calls on the Pakistani authorities to ensure independent and impartial investigations into US drone strikes that violate human rights, including of any Pakistani officials involved in these violations. Where there is sufficient admissible evidence, anyone responsible for unlawful killings must be brought to justice in public and fair trials without recourse to the death penalty. The authorities

[83] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 16 p 14.
[84] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 22(i) p 17.
[85] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 17, p 14.
[86] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 22(viii), p 21.
[87] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 22(ix), p 22.

must publicly disclose all available information on US drone strikes, including casualties and all assistance provided to victims. The Pakistani authorities must facilitate access for independent human rights investigators to North Waziristan and the rest of the Tribal Areas to document cases of killings by US drone strikes and other possible human rights violations by Pakistani forces and armed groups.

5.3 No effective remedies

According to Pakistan Foreign Ministry spokesperson Aizaz Ahmed Chaudhry, Pakistan has not formally sought reparations from the USA for deaths, injuries and damages due to drone strikes.[88] Nor has the Pakistan government formally sought remedies from the USA via any international forum or mechanism. Pakistan receives significant military and economic aid from the USA and risks a loss of this support if it takes strong measures to prevent US drone aircraft from entering its airspace.[89] As Faisal Karim Kundi, former deputy speaker of the National Assembly, told International Crisis Group researchers in February 2013, "What can we do aside from ordering our air force to shoot them down? This would mean declaring war on a superpower."[90]

Despite this, there are precedents for strong Pakistan actions taken in protest against acts of the USA or its allies. When ISAF forces killed 24 Pakistan Army soldiers at Salala on the border with Afghanistan in November 2011, the Pakistan government immediately closed ISAF supply lines via Pakistan. Supply lines only reopened in July 2012 after the USA apologized for the incident. The incidence of drone strikes in Pakistan has since reduced, presumably due to a combination of operational and political considerations, which may include resistance from the Pakistani authorities.

At the same time, the Pakistani authorities have done very little to provide remedies and other assistance to drone strike victims and their communities. Dr Jamal Nasir, Secretary for Law and Order for the Tribal Areas, told Amnesty International that the authorities do not actively seek to contact victims of drone strikes and other attacks in North Waziristan.[91] Instead, victims and their communities are expected to contact the authorities through their local elders and representatives of the Political Agent. Victims and communities were contacted by representatives of the North Waziristan Political Agent following the strike in some of the attacks documented by Amnesty International. But efforts to assist residents were limited and rested largely on those of the affected community rather than the Pakistani authorities.

[box]
The role of political agents
All state powers and responsibilities for each tribal agency are placed under the direct executive control of 'Political Agents', a body of civil servants headed by the

[88] Amnesty International interview, April 2013.
[89] See comments of Ben Emmerson QC during speech at New America Foundation: "Drone Wars: Counterterrorism and Human Rights" in collaboration with the American Society of International Law, 14 May 2013, http://www.newamerica.net/events/2013/drone_wars_human_rights (accessed 29 July 2013).
[90] "Drones: Myths and Realities in Pakistan", (2013), International Crisis Group, p 5.
[91] Amnesty International interview, 9 July 2013.

Governor of the Khyber Pakhtunkhwa on behalf of the President of Pakistan. The Tribal Areas are excluded from the jurisdiction of Pakistan's superior courts and from laws passed by parliament, and it is administered separately from Pakistan's provinces. The Political Agents wield significant administrative, executive, and judicial powers including the application of a harsh, antiquated criminal justice system known as the Frontier Crimes Regulations 1901 (FCR) that dates back to the British colonial era.[92] The Pakistan Constitution enshrines a range of "fundamental rights" into domestic law, many of them similar or corresponding to Pakistan's international human rights obligations under, for example, the ICCPR. But these protections are not generally enforceable in the Tribal Areas because of the absence of effective mechanisms such as courts and other state authorities.[93]
[box ends]

5.4 No compensation

The victims of unlawful death, injury and damage from US drone strikes in Pakistan have no accessible means or process for seeking redress from the USA. In the absence of such mechanisms, victims and their communities have been forced to seek assistance from the Pakistani authorities, only to face significant hurdles. Pakistani government officials told Amnesty International that they had arranged to compensate individuals and communities affected by US drone strikes.

However, in all of the cases investigated for this report, including those in which people with no apparent connection to the Taliban or other armed groups were killed or injured, or had their property damaged, the victims and their communities said that they either did not receive compensation or other assistance from the Pakistan government or that it was inadequate. As noted above, the Peshawar High Court ordered the Pakistan government to file a complaint against the USA with the UN Secretary-General with a view to bringing it before the Security Council or General Assembly. The Court ordered the government to provide "complete details" of those killed by drone attacks and seek "complete and full compensation… for life & properties at the rate and ratio laid down under the international standards."[94] As far as Amnesty International is aware, the Pakistan government has not carried out these orders.

Within Pakistan, the authorities have done very little to assist victims. For example, in every case documented for this report, contact between residents affected by drone strikes and the Political Agent for North Waziristan was facilitated by local tribal elders. Many of the residents complained that the authorities were difficult to approach because they were not readily available in their area, or due to the prevailing insecurity.

Nobody listens
"Nobody listens to us, and sometimes the army is carrying out raids and blocks the roads so we cannot go to the military base or the Political Agent to make a complaint,"

[92] For further information on this see 'The hands of cruelty' (2012).
[93] Article 247(7), Pakistan Constitution. Further, acts of parliament do not apply to the Federally Administered Tribal Areas unless the President otherwise specifies: Article 247(3), Pakistan Constitution. For further details see 'The hands of cruelty', (2012).
[94] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, pp. 20-21.

said Irfan, a resident of Zowi Sidgi village who tried to go to Miran Shah, the headquarters of North Waziristan, to speak to the Political Agent's office about the strike that killed 18 laborers on 6 July 2012 (see section 3.2 above). Irfan finally approached Political Agent representatives when they visited Zowi Sidgi, but they refused to speak to him directly, telling him to approach them through local elders.

In some instances, victims simply did not seek compensation from the government because of the absence of any state authorities in their district or because they were not confident that the state would effectively investigate their claim.

"The government doesn't assist us, only the local residents and the neighboring shop keepers," said a Miran Shah resident when asked about assistance provided by the government after the bakery he worked in was destroyed in a drone strike on 26 May 2012. The strike destroyed the entire building, including the bakery operated by two brothers, thus depriving them and their employees of their livelihood. According to the bakery owners, Pakistani authorities did not give them any financial or other assistance. "Four tractors were working all the day to clean the debris, all at our own expense," said one of the owners. "I did not receive nor expect anything from the government." In other cases, victims and their relatives lodged formal requests for compensation, but said they had yet to receive adequate financial or other assistance.

In the case of Mamana Bibi, the Political Agent for North Waziristan gave the family 10,000 Rupees, around US$100, to cover the costs of medical expenses for the children injured in the strike. Yet, according to the family, the total cost for medical expenses, repairs to their home and loss of livestock in the strike was about 950,000 Rupees or US$9,500. "I wanted to refuse it [the 10,000 Rupees] but because of jirga elders I accepted it," said Mamana Bibi's son Rafeequl Rehman. The family subsequently requested further compensation and the Political Agent personally acknowledged receipt of their request (see copy of letter below). But according to the family they have not received any further assistance, financial or other, from the Pakistani authorities.

[Letter from the North Waziristan Political Agent on 8 March 2013 acknowledging receipt of a compensation request from the family of Mamana Bibi. The family has yet to receive adequate assistance from the Pakistani authorities.]

Similarly, residents of Zowi Sidgi said that representatives of the Political Agent visited their village soon after the 6 July 2012 drone attack, but none of the victims or their families received compensation or other assistance, such as medical treatment, from the authorities and all were left to make arrangements on their own.

Community protests

Despite these challenges, many residents do actively seek recognition from the authorities about drone attacks and other violence they suffer in North Waziristan. As noted in section 3.1 above, the family of Mamana Bibi has frequently demanded justice from the US and Pakistani authorities for her killing. Local communities also regularly hold public gatherings to protest against deaths from drones and attacks by the Pakistan armed forces. "When drone strikes kill innocents, local *maliks* (tribal elders), who are regularly paid by local political administration, come to the site and

after their funeral, they organize a protest with the relatives of the killed people against drone strikes," said Tarek Dawar, a resident of Mir Ali.[95] For example, elders from Ghundi Kala held a press conference in Miran Shah two days after the killing of Mamana Bibi condemning her death and demanded that US authorities visit local hospitals to see that those targeted were not militants.[96] Similar though less frequent protests are held after residents are killed, injured or displaced by Pakistani military operations (see, for example, the killing of Waja and Wajeeha Hasan by Pakistan army mortars detailed in section 2.3 above); but only rarely in response to attacks by the Taliban and other armed groups, presumably out of fear of repercussions for the community.

Relatives of the twin sisters Waja and Wajeeha Hassan, killed in a Pakistan Army mortar shelling on 22 June 2013, held a protest in front of Miran Shah Press club the next day. Some local journalists met the North Waziristan Political Agent and other authorities on behalf of the family requesting compensation. A local tribal chief, Malik Muhammad Mashar, also urged the government to investigate the incident. But according to the family, the Pakistani authorities have not offered any assistance. As far as Amnesty International is aware, there has not been an investigation into the killings by the Pakistani authorities.

Residents of North Waziristan routinely hold public meetings in Peshawar and Islamabad, away from the areas where drones operate, to discuss the situation in their tribal agency. Local political parties and the Pakistani authorities often attend these events and promise redress. In response to these protests and public gatherings, and under strong public pressure across the country, Pakistan's provincial and federal parliaments have over the last five years frequently passed non-binding resolutions calling for an end to US drone strikes. As at time of writing, however, the Pakistan state had failed to establish adequate, systematic mechanisms for assisting victims of drone strikes and other violence in North Waziristan.

5.5 Limited medical and other basic services

People in drone-affected areas of North Waziristan generally lack access to medical facilities in their villages and towns. As Darai Nishtar village resident Shakeeb told Amnesty International:

> There is no hospital in this area. We are in a severe trouble because of this. Sometimes when someone is ill he dies on the way before reaching the nearest hospital in Miran Shah. It takes 10 hours by car to reach Miran Shah. It is only 60 miles away but because of the dirt roads, check posts, curfews and fighting there are many delays and always you are worried about [being killed] by a bomb planted on the road by militants.[97]

[95] Amnesty International interview, June 2013.
[96] Amnesty International interviews, February-July 2013. See also Malik Mumtaz Khan and Mushtaq Yusufzai, "Tribesmen protest drone strike in North Waziristan", The News International, 26 October 2012, http://www.thenews.com.pk/Todays-News-7-139621-Tribesmen-protest-drone-strike-in-North-Waziristan (accessed 28 August 2013).
[97] Amnesty International interview, July 2013.

As noted in section 2.3 above, Wajeeha Hassan was seriously injured in a mortar shell attack on her village by the Pakistan Army; her sister Waja died instantly. But Wajeeha, too died soon after as her family anxiously waited for an army-imposed curfew to end. "We tried to rush the girls to the hospital but because of curfew [by the army] we couldn't reach there in time," recalled one of her cousins. "Wajeeha succumbed to the injuries and got martyred."[98] As their father Muhammad Noor told local media, "My daughters died in front of my eyes because I couldn't provide them medical care."[99]

Even when victims reach hospitals in North Waziristan like Agency Headquarters Hospital Miran Shah and Civil Hospital Mir Ali, medical staff cannot treat them due to inadequate training or facilities and they are advised to go to Peshawar or other major cities outside the Tribal Areas. This causes further delay and increases the chances of complication or death.[100]

After the Zowi Sidgi drone strike on 6 July 2012, people rushed with the injured to a local medical dispensary where the owner provided medical services despite limited formal training. "I opened my shop and started to see the wounded persons," Bashir recalled.[101] "I check the young Haq Nawaz [who was critically injured in the drone strikes], his legs were completely broken and when I checked his blood pressure, I noticed that he was already dead; he had died on the way to my shop. The other person was Hatiqullah an 18-year-old boy. He had serious wounds in his head from shrapnel. Despite my efforts I couldn't save him and he died after 20 minutes."

Apart from the obligation to provide reparation for acts or omissions constituting violations attributable to them, the Pakistani authorities should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.[102] The Pakistani authorities must also take measures to protect against intimidation and retaliation.[103]

6. US drone strikes under international law

[quote]
"the use of armed drones - like any other weapon should be subject to long-standing rules of international law, including international humanitarian law… Every effort should be made to avoid mistakes and civilian casualties"
- UN Secretary-General Ban Ki-moon speaking at the National University of Science and Technology, Islamabad, Pakistan 13 August 2013

[98] Amnesty International interview, August 2013.
[99] Nasruminallah, "Collateral damage...: Twin sisters die as mortars hit residences", Tribune Express, 22 June 2013, http://tribune.com.pk/story/566613/collateral-damage-twin-sisters-die-as-mortars-hit-residences/ (accessed 13 September 2013).
[100] Amnesty International interview with medical staff at Agency Headquarters Hospital Miran Shah, June-July 2013. Names withheld on request.
[101] Amnesty International interview in 2013.
[102] UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of international humanitarian law, para 16.
[103] See, inter alia, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of international humanitarian law, para 12(b).

[quote ends]

A significant challenge to assessing the legality of US drone strikes in Pakistan is uncertainty about which set of international laws and standards apply. This is primarily due to the failure of the US authorities to provide an adequate legal and factual justification for drone strikes, and the total secrecy under which they are carried out. The uncertainty has also been compounded by the possible continued assistance of Pakistan state organs or officials to the US drone program (see section 8). Although international human rights law applies to the use of drones by the USA at all times, another set of rules known as international humanitarian law also applies during armed conflict. Uncertainty as to whether there is an armed conflict in North Waziristan and other areas where drones operate in Pakistan also makes it difficult to make a conclusive assessment of the applicable laws and, therefore, the legality of US drone strikes.

6.1 Arbitrary deprivation of life

Whether or not US drone strikes occur in the context of an armed conflict the USA must abide by Article 6(1) of the ICCPR, an international treaty binding on both the USA and Pakistan. Article 6(1) states that "every human being has the inherent right to life. No one shall be arbitrarily deprived of his life." This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, be it in times of peace or in times of war.[104] The question of whether a killing in a conflict zone committed as part of an armed conflict constitutes an arbitrary deprivation of life will be determined by the relevant rules of international humanitarian law. Killing a civilian who has taken no direct part in hostilities is an arbitrary deprivation of life.

6.2 Extrajudicial executions

Amnesty International is deeply concerned that targeted killings by US drones occurring outside the conditions of armed conflict violate the prohibition of arbitrary deprivation of life and may constitute extrajudicial executions. If international humanitarian law does not apply, the intentional use of lethal force by the USA is governed by law enforcement standards under international human rights law. Outside a situation of armed conflict, the US authorities must demonstrate, in each strike, that intentional lethal force was only used when strictly unavoidable to protect life, no less harmful means such as capture or non-lethal incapacitation was possible, and the use of force was proportionate in the prevailing circumstances.[105]

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[104] See article 4(2) ICCPR and, inter alia, Human Rights Committee, General Comment No 29 on states of emergency, CCPR/C/21/Rev.1/Add.11, paras 7 and 11; see also Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para 11.

[105] See Principles 9 and 10 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and article 3 of the UN Code of Conduct for Law Enforcement Officials and its Commentary. "A State killing is legal only if it is required to protect life (making lethal force proportionate) and there is no other means, such as capture or non-lethal incapacitation, of preventing that threat to life (making lethal force necessary). The proportionality requirement limits the permissible level of force based on the threat posed by the suspect to others. The necessity requirement imposes an obligation to minimize the level of force used, regardless of the amount that would be

Amnesty International believes it is highly unlikely that any US drone strikes in Pakistan satisfy the law enforcement standards that govern intentional use of lethal force outside armed conflict. Whether or not the individuals or groups targeted are considered enemies of the USA, or have carried out or planned crimes against US nationals or others, their deliberate killing by drones outside an armed conflict would therefore very likely violate the prohibition of arbitrary deprivation of life and may constitute extrajudicial executions. Unlawful and deliberate killings carried out by order of government officials or with their complicity or acquiescence amount to extrajudicial executions; they are prohibited at all times and constitute crimes under international law.[106] Deliberate killings by drones, taking place outside armed conflict, without first attempting to arrest suspected offenders, without adequate warning, without the suspects offering armed resistance, and in circumstances in which suspects posed no immediate risk to security forces, would be considered extrajudicial executions in violation of international human rights law.[107]

6.3 Drone strikes as part of an armed conflict

As noted above, it is possible that US drone strikes are being carried out as part of a non-international armed conflict in North Waziristan. However, difficulties arise because this can only be assessed on a case by case basis. If a strike occurs in a specific zone of armed conflict and in connection to that conflict, then both international human rights law and international humanitarian law will apply. For example, this would be the case if a drone strike targets a Taliban fighter in North Waziristan who is directly participating in the non-international armed conflict in Afghanistan (to which the USA is a party). This means that the USA must abide by the non-derogable international human rights law prohibition of the arbitrary deprivation of life even if strikes occur in an armed conflict and during a declared emergency. In such circumstances, respect for this prohibition normally is assessed according to international humanitarian law's rules governing the conduct of hostilities (explained below).

[box]
What is a non-international armed conflict?

According to the International Committee of the Red Cross (ICRC), a non-international armed conflict is a "protracted armed confrontation occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State [party to the Geneva Conventions]. The armed confrontation must reach a minimum level of intensity and the parties involved in the conflict must show a minimum of

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proportionate, through, for example, the use of warnings, restraint and capture", UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, Report to the Human Rights Council, A/HRC/14/24/Add.6, para 32.

[106] See UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 1. See also Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para 18.

[107] UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, Report to the Human Rights Council, A/HRC/14/24/Add.6, para 33.

organisation".[108] However, international humanitarian law does not apply to "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature".[109] The fighting in Afghanistan between US forces (allied with Afghan government forces) and the Taliban meets the criteria for non-international armed conflict. To the extent that drone attacks target Taliban fighters in North Waziristan they may be part of the armed conflict in Afghanistan. But this would be the case only if these fighters are directly participating in hostilities in Afghanistan and use North Waziristan as a staging ground for attacks on US and Afghan government forces. There has also been a non-international armed conflict in North Waziristan between Pakistani Taliban and other armed groups against Pakistan security forces. But whether this armed conflict persists is unclear. US drone attacks targeting members of the Pakistani Taliban may have taken place in the context of armed conflict, although it is unclear whether the current intensity of fighting in North Waziristan is sufficient to qualify it as such. Armed clashes are less frequent and intense than they were in 2008-2009. But the Pakistan armed forces continue to conduct military operations using battlefield weapons in attacks that result in deaths and injuries to local residents, destruction of homes and property, and displacement.
[box ends]

Under international humanitarian law, US drone operators must at all times abide by the principle of distinction; namely, distinguish between civilians and combatants.[110] All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel. A civilian is any individual who is not a member of the armed forces.[111] US drone strikes may only be directed against combatants,[112] and civilians are protected against attack unless and for such time as they take a direct part in hostilities.[113] All feasible precautions must be taken in determining whether a person is a civilian and, if so, whether that civilian is directly participating in hostilities. In case of doubt, the person must be presumed to be protected against direct attack.[114]

There is also the question of whether individuals in North Waziristan carry out acts that amount to direct participation in hostilities (and if so, when such participation begins and ends) that would make it lawful under international humanitarian law for US drones to target them. According to the ICRC, an act constitutes direct participation in hostilities if it meets three cumulative criteria: it must reach a requisite threshold of harm (likely to adversely affect the military operations or capacity of the

[108] International Committee of the Red Cross, How is the Term "Armed Conflict" Defined in international humanitarian law?, Opinion Paper, March 2008, p 5. See also Article 3 Common to the Geneva Conventions of 12 August 1949 (Common Article 3) and Protocol II Additional to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) and authoritative interpretations, particularly by the International Criminal Tribunal for the former Yugoslavia (ICTY).
[109] Article 1(2) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.
[110] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 1.
[111] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rules 3 and 5.
[112] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 1.
[113] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 6.
[114] International Committee of the Red Cross, Interpretative Guidance on the Notion of Direct Participation in Hostilities under international humanitarian law, Recommendation VIII.

opposing party); there must be direct causation between the act and the harm; and there must be a belligerent nexus (it must be specifically designed to cause the harm to a party to the conflict).[115] As regards duration of direct participation, the ICRC has argued that "measures preparatory to the execution of a specific act of direct participation in hostilities, as well as the deployment to and the return from the location of its execution, constitute an integral part of that act."[116]

Speeches by US officials suggest that the Administration believes that it can lawfully target people based merely on their membership in armed groups, rather than on the basis of their conduct or direct participation in hostilities. Membership in an armed group alone is not a sufficient basis to directly target an individual. For example, reports that the USA targets individuals on a 'kill list' suggest the USA is not doing a case-by-case analysis of whether those persons are taking direct part in hostilities at the time they are targeted. International humanitarian law is clear on this issue: making the civilian population or individual civilians not taking direct part in hostilities the object of attack is a war crime.[117]

[box]
Who does the USA consider a civilian?

The US government says that a drone strike does not occur unless there is near certainty civilians will not be killed, and in the past has made claims of extremely low civilian casualties. In 2011, for example, President Barack Obama's National Security Adviser John Brennan claimed that no civilians had been killed in US drone strikes in "almost a year."[118] President Barack Obama himself said drones had "not caused a huge number of civilian casualties" during a public discussion in January 2013. In May 2013, while providing the most detailed outline of his administration's counter-terrorism policies, he acknowledged the "hard fact" that civilian casualties had occurred due to drone strikes and that there was a "wide gap" between US government figures on casualties and human rights groups. The extremely low civilian casualty numbers the US government has given arguably imply that they do not presume unidentified individuals are civilians. The supposed precautionary measures that the USA takes, such as "near certainty" civilians are not present prior to carrying out an attack, are only relevant if the USA applies the status of "civilian" to unidentified individuals rather than presuming they are combatants whom they deem directly targetable. Otherwise, these killings could constitute war crimes or extrajudicial executions.
[box ends]

In addition to distinguishing between civilians and combatants, an attack must "distinguish between civilian objects and military objectives".[119] Civilian objects are protected against attack, unless and for such time as they are part of military objectives; that is, "objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture

[115] International Committee of the Red Cross, Interpretative Guidance on the Notion of Direct Participation in Hostilities under international humanitarian law, Recommendation V
[116] International Committee of the Red Cross, Interpretative Guidance on the Notion of Direct Participation in Hostilities under international humanitarian law, Recommendation VI.
[117] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 156, p 591.
[118] C-Span, "Obama Administration Counterterrorism Strategy", 29 June 2011, http://www.c-spanvideo.org/program/AdministrationCo (accessed 7 August 2013).
[119] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 7.

or neutralisation, in the circumstances ruling at the time, offers a definite military advantage".[120] Making civilian objects the object of attack is a war crime.[121]

Flowing from the principle of distinction is the prohibition of indiscriminate attacks;[122] that is, attacks that do not distinguish between military objectives and civilians or civilian property.[123] In addition, attacks must not be disproportionate. An attack would be disproportionate if it "may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated".[124] Launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian loss, injury or damage is a war crime.[125]

The protection of the civilian population and civilian objects is further underpinned by the requirement that all parties to a conflict take precautions in attack**,** and in defence. In the conduct of military operations, then, "constant care must be taken to spare the civilian population, civilians and civilian objects"; "all feasible precautions" must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.[126] Everything feasible must be done to verify that targets are military objectives, to assess the proportionality of attacks, and to halt attacks if it becomes apparent they are wrongly-directed or disproportionate.[127] Where circumstances permit, parties must give effective advance warning of attacks which may affect the civilian population.[128]

Forces must also take all feasible precautions in defence to protect civilians and civilian objects under their control against the effects of attacks by the adversary.[129] In particular, each party must to the extent feasible avoid locating military objectives within or near densely populated areas, and remove civilian persons and objects under its control from the vicinity of military objectives.[130] For example, Taliban fighters using civilian homes to carry out attacks or store ammunition violates international humanitarian law.

6.4 Use of force in another state's territory

[120] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rules 8 and 10.
[121] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 156, p 597.
[122] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 11.
[123] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 12.
[124] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 14.
[125] International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 156, page 599.
[126] ICRC Customary IHL Study, Rule 15. See also Protocol II, article 13(1).
[127] ICRC Customary IHL Study, Rules 16-19.
[128] ICRC Customary IHL Study, Rule 20.
[129] ICRC Customary IHL Study, Rule 22.
[130] ICRC Customary IHL Study, Rules 23 and 24.

Separate to the rules governing international humanitarian law and international human rights law, is the international law governing the use of force in another state's territory, known as extraterritorial force. This would require Pakistan's consent to drone strikes in its territory, obtaining a specific mandate of the UN Security Council under Chapter VII of the UN Charter, or compliance with the specific requirements of the right to self-defence under article 51 of the UN Charter.[131] It has also been argued that the USA may invoke a so-called "right to anticipatory self-defence" allegedly existing in international law, according to which there would be a "right to use force against a real and imminent threat when 'the necessity of that self-defence is instant, overwhelming, and leaving no choice of means, and no moment of deliberation'".[132]

Amnesty International does not take a position on the issue of when the use of extraterritorial force is justified or legal. But the issue of whether Pakistan consents to the US drone strikes is relevant to whether Pakistan shares responsibility for violations by the USA on its territory. Regardless of whether or not its use of drones in Pakistan is lawful under the law on use of extraterritorial force, the USA would still need to adhere to its obligations under international human rights law and, where applicable, international humanitarian law.

7. US policy on the use of drones

[quote]
"From our use of drones to the detention of terrorist suspects, the decisions that we are making now will define the type of nation — and world — that we leave to our children."
- US President Barack Obama speaking at the National Defense University, Fort McNair, United States, 23 May 2013[quote end]

Amnesty International has serious concerns that the USA continues to apply the more permissive rules of international humanitarian law to attempt to justify killings by drone aircraft whether or not those targeted are present in recognized zones of armed conflict.

7.1 The USA's "global war" doctrine

In his 23 May 2013 speech on US drone policy and other counter-terrorism measures, President Barack Obama said he rejected a boundless global war on terror (see section 7.2 below for more details). But in practice, US authorities continue to apply a "global war" doctrine, as demonstrated in a statement made to the UN Human Rights Committee only two months after the President's speech. The US administration said that "the United States is in an armed conflict with al-Qaida, the Taliban, and associated forces, and may also use force consistent with our inherent right to self-defense… These strikes are conducted in a manner that is consistent with all

[131] For a discussion about the very limited set of circumstances where the right to self-defence against attacks by non-state actors, such as armed groups, can be validly claimed, see UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, Report to the Human Rights Council, A/HRC/14/24/Add.6, paras 40-41.
[132] See, inter alia, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, Report to the Human Rights Council, A/HRC/14/24/Add.6, paras 45 and 86.

applicable domestic and international law."[133] The USA told the Committee that "a time of war does not suspend the operation of the [ICCPR] to matters within its scope of application". But it implied that the USA does not necessarily accept that human rights law applies to "a State's actions in the actual conduct of an armed conflict". In effect, the USA continues to claim that its drone program and other counter-terrorism practices are part of "the actual conduct of an armed conflict" domestically and worldwide against al-Qa'ida and allied groups and to which human rights obligations do not apply.

Amnesty International recognizes that international law allows a wider latitude for the use of lethal force in the exceptional circumstances of an armed conflict. The organization also recognizes that the USA has, over the past decade, participated in a number of specific armed conflicts of an international and non-international character on the territory of several states, including across the border from Pakistan in Afghanistan. The conflict in Afghanistan might also extend to some of the drone strikes the USA carries out in parts of Pakistan's Tribal Areas. However, Amnesty International does not accept the USA's view that international law allows it to engage in a global and pervasive armed conflict against a diffuse network of non-state actors or that it is lawful to kill individuals anywhere in the world at any time, whenever the USA deems appropriate. To accept such a policy would be to endorse state practices that fundamentally undermine crucial human rights protections that have been painstakingly developed over more than a century of international law-making.

Amnesty International recognizes the USA's duty to take robust action to protect the life and physical integrity of people within its jurisdiction, and to bring to justice perpetrators of crimes under international law. But in doing so, the US government must respect its obligations under international human rights law and, under international humanitarian law in the exceptional situations where it applies. Amnesty International calls on the USA to genuinely disavow the "global war" doctrine and fully recognize the applicability of international human rights obligations to the use of drones and all other US counter-terrorism measures at home and abroad, in areas of armed conflict and outside.

7.2 Continued secrecy and limited oversight

Amnesty International is concerned about the USA's continued failure to provide the public with basic factual and legal information about its drone program in Pakistan. Since 2012, US officials have repeatedly pledged commitment to greater transparency about drone strikes.[134] Yet the extensive secrecy surrounding counter-terrorism

[133] "United States Written Responses to Questions From the United Nations Human Rights Committee Concerning the Fourth Periodic Report", Department of State, 3 July 2013, http://www.state.gov/j/drl/rls/212393.htm (accessed 12 July 2013).

[134] See Barack Obama, Remarks by the President in the State of the Union Address, 12 February 2013, White House Office of the Press Secretary; McClatchy (wire service), "White House responds to drone pressure: 'We will continue to disclose as much as we can,'" 12 April 2013; Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence Agency, United States Senate Select Committee on Intelligence, 7 February 2013, http://intelligence.senate.gov/130207/transcript.pdf (accessed 29 August 2013); John O. Brennan, Speech at Woodrow Wilson International Center for Scholars, 30 April 2012,

practice in general, and the drone program in particular, has stymied attempts to ensure accountability for human rights violations committed in the context of such operations.

US drone strikes are carried out by the CIA and the military's Joint Special Operations Command (JSOC). [135] Both organizations routinely operate with little or no public transparency about their actions or adherence to US and international law. Moreover, both JSOC and the CIA have a record of evading accountability for past human rights violations as documented by journalists and human rights groups.[136] Their leading role in drone strikes undermines the US administration's claimed commitment to upholding the rule of law, compounds concerns about the program's lawfulness, and creates significant obstacles for victims seeking justice and redress.

The CIA has no record of disclosing its policies on "covert action" or officially responding to public concerns about past abuses. It refuses to even officially acknowledge its drone programs anywhere in the world, let alone describe the rules and procedures it applies for preventing, mitigating and investigating potentially unlawful deaths or ensuring compliance with international law. Although far from fully transparent, the Department of Defense has, in contrast, publicly disclosed much more about its policies and procedures for covert action than the CIA. At a minimum the USA must disclose basic factual and legal information about its drone program in Pakistan.

Since 2012, the USA has acknowledged that it conducts drone strikes outside of Afghanistan and particularly in Yemen, and President Barack Obama has made explicit reference to strikes in Pakistan.[137] Yet these limited disclosures have not resulted in genuine transparency about strikes in Pakistan. US officials still maintain that they cannot discuss CIA strikes in Pakistan because critical aspects of the program remain classified, including the CIA's lead role in it. Even after President Barack Obama's May 2013 discussion of the drone program (see further discussion above), the US authorities have refused to officially acknowledge specific strikes

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http://www.wilsoncenter.org/event/the-efficacy-and-ethics-us-counterterrorism-strategy (accessed 29 August 2013).

[135] While the US government has not officially confirmed it, observers believe that the CIA directs drone strikes in Pakistan. CIA operations are carried out with the assistance of US Air Force personnel who are seconded to the agency. The Department of Defense runs a parallel drone program, with reportedly greater White House involvement, involving JSOC. JSOC has carried out several drone strikes in Yemen and has reportedly been involved in Pakistan in the past. See Columbia Law School Human Rights Clinic & Center for Civilians in Conflict, The Civilian Impact of Drones: Unexamined Costs, Unanswered Questions, (2012), pp 11-15.

[136] Ibid, pp 55-66.

[137] In a June 2012 letter to Congress, President Obama acknowledged drone strikes in Yemen and Somalia, effectively declassifying the existence of these drone strike campaigns. See White House, Office of the Press Secretary, Presidential Letter – 2012 War Powers Resolution 6-Month Report (June 15, 2012), http://www.whitehouse.gov/the-press-office/2012/06/15/presidential-letter-2012-war-powers-resolution-6-month-report. President Obama referenced drone strikes in Pakistan in a January 2012 Google-sponsored chat. See White House, Office of the Press Secretary, "President Obama's Google+ Hangout," http//www.whitehouse.gov/photos-and-video/video/2012/01/30/president-obama-s-google-hangout (accessed 28 July 2013); The White House, Your Interview with the President - 2012, YouTube, at 28:37-29:23 (Jan. 30, 2012), http://www.youtube.com/watch?v=eeTj5qMGTAI; see id. at 26:20-30:18.

carried out by the CIA in Pakistan.[138] A handful of journalists in the USA have been privy to some of the CIA's records of casualties from US drone strikes in Pakistan.[139] But the CIA has yet to officially disclose to the public any estimates of the number of individuals killed or their identities, or explain what particular armed groups are being targeted in Pakistan and on what basis.[140] The US authorities have failed to describe what protocols the CIA follows to prevent, mitigate and investigate unintended or potentially unlawful deaths and injuries, including whether the CIA has processes and standards similar to those that the Department of Defense has disclosed with regard to its operations in Afghanistan.

Likewise, the US administration has failed to make public a full and detailed legal justification for the drone program, whether in Pakistan or elsewhere, providing only incomplete summaries of its legal reasoning. It has also failed to make public factual information regarding who it has targeted and why. Even the other two branches of federal government – Congress and the judiciary – which have oversight functions under the US constitutional system of "checks and balances" – have reportedly not been fully informed of the details of the program. Despite claims by President Barack Obama and other US officials that targets for drone strikes are carefully selected and that the use of lethal force has a solid legal footing, the continuing lack of information makes it very difficult to assess the lawfulness of individual drone strikes with complete certainty.

Secrecy is a barrier to accountability and to the oversight of the US drone program that could be exercised by the judicial and legislative branches of the US government. Yet the US administration has sought to prevent judicial review of claims brought in US courts by human rights groups seeking accountability for potentially unlawful killings.[141]

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[138] See, for example, White House Press Briefing by Press Secretary Jay Carney, 29 May 2013, http://iipdigital.usembassy.gov/st/english/texttrans/2013/05/20130530148161.html#axzz2eXugRdKH (accessed 29 July 2013). White House press secretary Jay Carney refusing to acknowledge specific strike in Pakistan by stating he is in "not in a position" to "discuss operational matters" and stating that President Obama's commitment to transparency "does not mean that we would be able to discuss the details of every counterterrorism operation, but it does mean there are standards in place that are public and available for every American to review."

[139] Jonathan S. Landay, "Obama's Drone War Kills 'Others', Not Just Al Qaida Leaders", McClatchy DC, 9 April 2013. http://www.mcclatchydc.com/2013/04/09/188062/obamas-drone-war-kills-others.html (Accessed 30 July 2013); and Richard Engel and Robert Windrem, "CIA Didn't Always Know Who It Was Killing in Drone Strikes, Classified Documents Show", NBC News, 5 June 2013 http://investigations.nbcnews.com/_news/2013/06/05/18781930-exclusive-cia-didnt-always-know-who-it-was-killing-in-drone-strikes-classified-documents-show (Accessed 30 July 2013).

[140] In May 2013, the Obama administration acknowledged the deaths of four US citizens from drone strikes and suggested that three were unintended. Yet even with regard to these deaths, it has never described the legal or factual basis for the attacks or investigations into why the deaths occurred. See Letter from Attorney General Eric H. Holder to Sen. Patrick J. Leahy, Chairman, Committee on the Judiciary, US Senate, 12 May 2013, http://s3.documentcloud.org/documents/703181/ag-letter-5-22-13.pdf (accessed 10 September 2013).

[141] In 2012, a federal district court dismissed a lawsuit brought by the American Civil Liberties Union and Center for Constitutional Rights challenging the placement of Anwar Al-Aulaqi on a government "kill list." The court upheld the government's claim that the lawsuit raised "political questions" that a court could not decide. The organizations subsequently brought a second case challenging the killings of Al-Aulaqi, his 16-year-old son Abdulrahman, and Samir Khan-- all were US citizens killed by drone strikes in Yemen. The case is pending, and the US government continues to argue that "political questions" and national security issues bar judicial review. For information on the lawsuit, see

There is some oversight of the program in the US government's legislative branch; CIA officials brief congressional intelligence committees on particular drone strikes. But there have not been any public hearings into particular strikes and it is impossible to know whether information provided by the CIA is accurate and sufficiently comprehensive to enable robust oversight.[142] Moreover, the congressional intelligence committees lack key information about US legal standards. After several requests and much prodding of the executive, in 2013 the congressional intelligence committees finally obtained legal opinions about the US administration's standards for targeting US citizens. However, they still do not possess information about the administration's legal standards generally and with regard to non-citizens.[143]

The US administration has also failed to disclose to Congress the full extent of what it claims is its legal authority to use force. It has disclosed information about some of the individuals and groups it has targeted in drone strikes to Congress. But the US administration has yet to disclose what other groups and individuals it claims authority to target in the future. As noted in more detail in section 7.3 below, this suggests that the US administration's approach to oversight by lawmakers is to provide only limited disclosures about the drone program under a broader, more permissive framework of "policy standards" instead of stricter legal limits.

7.3 US drone policy reform: promises versus realities

In his May 2013 speech, President Barack Obama spelled out his administration's policies on the use of drone aircraft in more detail than ever before. Among other things, he said his administration had put in place a standard for using lethal force that "respects the inherent dignity of every human life."[144] The same day, the White House issued a "fact sheet" outlining "counterterrorism policy standards and procedures that are either already in place or will be transitioned into place over time" with regard to US use of force in operations outside of "areas of active hostilities."[145]

These policy disclosures are an important step towards greater transparency and accountability in the use of drones, but they fall far short of satisfying the USA's international human rights obligations. Moreover, although these disclosures might defuse political and public scrutiny of the USA's policies and practices, they do not adequately ensure that the use of drones does not result in violations of human rights. As noted below, there are several key areas where the Administration's promises

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American Civil Liberties Union, "Al-Aulaqi v. Panetta: Lawsuit Challenging Targeted Killings," https://www.aclu.org/national-security/al-aulaqi-v-panetta (accessed 10 September 2013).

[142] See Office of Senator Dianne Feinstein, "Feinstein Statement on Intelligence Committee Oversight of Targeted Killings," 13 February 2013. Dianne Feinstein, Chairperson of the United States Senate Select Committee on Intelligence, describes the Senate Intelligence Committee's "regular briefings and hearings" on drone strikes.

[143] See Office of Senator Dianne Feinstein, "Feinstein Statement on Intelligence Committee Oversight of Targeted Killings," 13 February 2013. Dianne Feinstein notes that members of the congressional intelligence committees were finally permitted to review Department of Justice opinions on "the legal authority to strike US citizens" after making such requests since 2010, but have reiterated requests to receive all nine Department of Justice opinions and "any other relevant documents".

[144] Remarks of President Barack Obama, "The Future of our Fight against Terrorism," National Defense University, 23 May 2013.

[145] Office of the President, "Fact Sheet: US Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Area of Active Hostilities", 23 May 2013.

mask the reality of continued secrecy and potential illegality, in breach of international human rights standards.

- *The rule of law*
  - *Promise*: In his speech, President Barack Obama affirmed, "America's actions are legal" and said he had signed a Presidential Policy Guidance codifying "clear guidelines, oversight and accountability."
  - *Reality:* The fact sheet issued about the Presidential Policy Guidance provides new information on US standards for the use of lethal force. However, the information is framed as "*policy* standards" rather than the USA's international legal obligations. The fact sheet also states that the standards and procedures it describes may not apply in "extraordinary circumstances", yet it does not define this term or set out limits. Malleable "policy standards" leave the door open to abuse. The US government should describe how it applies international law. It should also provide to the public a declassified version of the Presidential Policy Guidance.
- *Transparency*
  - *Promise*: The White House pledged to "share as much information as possible" about drone strikes.[146]
  - *Reality*: Since May 2013, the US administration has not officially disclosed any new information about US drone policy. In summer 2013, it refused to officially acknowledge any of the 454 strikes that occurred or provide any information on the identity of the 3,448 people reportedly killed in Yemen and Pakistan.[147] Such acknowledgment is an essential first step in ensuring that victims of unlawful strikes can access remedies.
- *Accountability & oversight*
  - *Promise*: Shortly before the President's speech, government leaks suggested that the Administration was poised to shift control over the drone program in Pakistan from the CIA to the Department of Defense; observers suggested this would result in greater accountability and oversight.[148]
  - *Reality*: There is no indication that this will occur in the near future. Moreover, a Department of Defense program might involve the highly secretive military organization JSOC, which has a record of poor accountability. In Iraq and Afghanistan, for instance, JSOC personnel reportedly committed human rights abuses with impunity.[149]
- *Investigating unlawful deaths*:

[146] Ibid.
[147] Figures for total number of drone strikes and casualties from US drone strikes in Pakistan and Yemen based on publicly available data compiled by The Bureau of Investigative Journalism, The New America Foundation, and The Long War Journal as at 30 September 2013.
[148] Reuters, "Pentagon to take over some CIA drone operations: sources," May 20, 2013, http://www.reuters.com/article/2013/05/21/us-usa-drones-idUSBRE94K03720130521.
[149] For Afghanistan, see, for example, Amnesty International, "Getting away with murder? The impunity of international forces in Afghanistan", (Index: ASA 11/001/2009), 26 February 2009, http://www.amnesty.org/en/library/asset/ASA11/001/2009/en/c588c2cf-9594-4024-8799-f27cab0aa91a/asa110012009en.html. For Iraq, see, for example, Amnesty International, Iraq: Human rights violations by US forces, Annual Report 2012: the state of the world's human rights, (Index: POL 10/001/2012), 24 May 2012, http://www.amnesty.org/en/region/iraq/report-2012.

- *Promise*: President Barack Obama acknowledged, "US strikes have resulted in civilian casualties." [150] John Brennan, at his February 2013 confirmation hearing to become Director of the CIA, said that "the objective of the program" was that the administration would "publicly" acknowledge any cases where it makes a mistake and kills the 'wrong' person or persons.[151]
- *Reality*: The US government is required under international law to investigate potentially unlawful deaths, including from drone strikes, and survivors and relatives of those killed have a right to reparation. Although US Department of Defense policies in Afghanistan have at times recognized these legal obligations and mandated investigations, across the border in Pakistan the survivors of potentially unlawful strikes have seen no official investigations, nor have they received answers about why strikes occurred. Investigations are an essential step in providing a remedy and compensation. The US government should adopt a policy and appropriate mechanisms to ensure independent and impartial investigations of potentially unlawful drone strikes, and to ensure meaningful access to a remedy where appropriate.

- *"Imminent" threats.*
  - *Promise*: The White House fact sheet states that the USA "will use lethal force only against a target that poses a continuing, imminent threat to US persons."[152]
  - *Reality*: It is possible this general standard could meet international humanitarian law requirements in individual cases. But it is extremely improbable that the threshold for using force under international human rights law would ever be applicable given that the lethal force needs to be strictly unavoidable in order to meet an imminent threat of death in self-defence or defence of others. Further, the US administration has failed to disavow its radical reinterpretation of the term "imminent" as described in a Department of Justice "white paper" leaked to the media in February 2013.[153] That US government interpretation appeared to allow the killing of an individual in the absence of any intelligence about a specific planned attack, or the individual's personal involvement in planning or carrying out a specific attack. It stretched the concept of imminence well beyond its ordinary meaning and established interpretations under the existing international law on the right of states to self-defense.

8. The role of Pakistan and other states in US drone strikes

[150] Remarks of President Barack Obama, "The Future of our Fight against Terrorism," National Defense University, May 23, 2013.
[151] US Senate, "Opening Statement of John O. Brennan Senate Select Committee on Intelligence Nomination Hearing to be Director of the Central Intelligence Agency", 7 February 2013, http://www.intelligence.senate.gov/130207/brennan.pdf (accessed 15 September 2013).
[152] Office of the President, "Fact Sheet: US Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Area of Active Hostilities" (May 23, 2013).
[153] US Department of Justice, "Lawfulness of Lethal Operation Directed Against a U.S. Citizen Who Is a Senior Operational Leader of Al-Qa'ida or An Associated Force", 4 February 2013, http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf (accessed 5 September 2013).

[quote]
"Admittedly the drone attacks had their utility, but they represented a breach of national sovereignty [and were] illegal according to international law"
- Ahmed Shuja Pasha, former Director-General of the Inter-Services Intelligence, to the Abbottabad Commission into the killing of Osama bin Laden[154]
[quote end]

Pakistan's current and previous government, parliaments and sections of its society have publicly opposed the US drone program.[155] Prime Minister Nawaz Sharif devoted a significant portion of his first speech to the National Assembly as head of the current government to call for an immediate end to the drone program. As Aizaz Ahmad Chaudhry, spokesperson of the Pakistan Foreign Ministry, told Amnesty International, the Pakistan government holds that, "drone strikes are violative of Pakistan's sovereignty and territorial integrity, are violative of international law and are counterproductive because they do not serve their purpose but create a thirst for revenge."[156] Federal and provincial parliaments have passed several resolutions calling for an immediate end to drone strikes. Pakistan's UN representatives also raised the state's opposition to drone strikes, for instance, during debates at the Security Council and the Human Rights Council.[157]

However uncertainty remains about the extent of actual cooperation by agents and institutions of the Pakistan state in the US drone program. This is due in large part to the fact that the elected executive government of Pakistan has only limited oversight of the military, the institution that has had primary responsibility for assisting the US drone program in the past.

8.1 Tacit support?

In September 2013, Khurram Dastgir-Khan, a senior member of the current government, admitted to the National Assembly that "tacit support" for US drone strikes by organs of the Pakistan state might be continuing.[158] He prefaced this remark

[154] "Abbottabad Commission Report": "Civil and Military Inspector Chiefs- Director General ISI", The Abbottabad Commission, Government of Pakistan, 4 January 2013, para 477 p 200.
[155] See, for example, Pakistan Prime Minister Nawaz Sharf's speech at the UN General Assembly, Pakistan Ministry of Foreign Affairs, "Transcript of the Prime Minister's Address in the UN General Assembly", 27 September 2013, http://www.mofa.gov.pk/pr-details.php?prID=1481 (accessed 16 September 2013).
[156] Amnesty International interview with Aizaz Ahmad Chaudhry, spokesperson of the Foreign Ministry of Pakistan, 10 July 2013.
[157] "Pakistan raises drone strikes issue at UN" http://dawn.com/news/1044066/pakistan-raises-drone-strikes-issue-at-un (accessed 20 September 2013). See also 7035th Meeting of the United Nations Security Council, "Progress made in vital elements underpinning Afghanistan's final transition phase, but new era filled with promise, heavy with risk, Security Council told", United Nations, 19 September 2013, http://www.un.org/News/Press/docs//2013/sc11127.doc.htm (accessed 20 September 2013) and Opening Statement from Zamir Akram during 1st Meeting of 24th Regular Session of Human Rights Council, UN Web TV, 9 September 2013, http://webtv.un.org/meetings-events/watch/general-debate-annual-report-1st-meeting-24th-regular-session-of-human-rights-council/2658624785001 (accessed 20 September 2013).
[158] Peer Mohammad, "Drone campaign: Tacit understanding but no deal with US, lower house told", Tribune Express, 27 August 2013, http://tribune.com.pk/story/595673/drone-campaign-tacit-understanding-but-no-deal-with-us-lower-house-told/ (accessed 27 August 2013).

with a statement emphasizing that Pakistan did not consent to US drone strikes, and that the elected government of Prime Minister Nawaz Sharif had not found any evidence of a written agreement with the USA to allow drone strikes to continue.

In his testimony to the Abbottabad Commission into the US raid that killed al-Qa'ida leader Osama bin Laden in 2012, Ahmed Shuja Pasha, then Director-General of Pakistan's primary intelligence service, the Directorate of Inter-Services Intelligence (ISI), said that US drones "had their utility".[159] He also said that there was an "understanding" between the Pakistani and US security authorities on the continued operation of US drones over Pakistani territory.

During an interview in 2013, Pakistan's former President and Army Chief Pervez Musharraf acknowledged that he had given the USA qualified permission to undertake some US drone strikes in the Tribal Areas during his tenure, which ended in August 2008.[160] As recently as December 2011, members of the US military and intelligence services were stationed at airbases in Balochistan and Sindh provinces that were reportedly used to operate US drones in the past.[161]

At various times since at least 2008, the Pakistan government has also asked the USA to provide it with drones so that its military could conduct surveillance and "targeted killings" themselves.[162] A number of serving and retired Pakistani security officials familiar with intelligence cooperation between the two countries told Amnesty International that they supported the "targeted killing" program. Some also claimed that Pakistan's military and intelligence services continue to assist the USA in carrying out drone strikes.[163] Amnesty International was unable to independently verify these claims, which were officially denied by representatives of the Pakistan armed forces.

8.2 Information kept secret

[159] See footnote 154.
[160] See Nic Robertson and Greg Botelho, "Ex-Pakistani President Musharraf admits secret deal with U.S. on drone strikes", CNN, 12 April 2013, http://edition.cnn.com/2013/04/11/world/asia/pakistan-musharraf-drones (accessed 4 August 2013) However, according to the Peshawar High Court in its April 2013 'drones judgment', former President Musharraf gave verbal consent only, and there is no written record of this agreement: PHC judgment para 6, p. 6. According to US officials in diplomatic cables leaked by the whistleblower website Wikileaks, in February 2008 Pakistan's current Army Chief Ashfaq Pervez Kayani requested the US to expand the use of drone strikes in North Waziristan, but it is not clear whether he was referring to surveillance by drones or targeted killings or both: "Immunity for Musharraf Likely After Zardari's Election As President", WikiLeaks Cables, 23 August 2008 http://www.cablegatesearch.net/cable.php?id=08ISLAMABAD2802&q=kayani (accessed 13 August 2013). In August 2008, then Prime Minister Yusuf Raza Gilani was quoted by an American diplomat saying "I don't care if they do it [drone strikes] so long as they get the right people. We'll protest in the National Assembly and then ignore it." "National Assembly Begins Formal Debate on Kerry-Lugar", WikiLeaks Cables, 26 August 2011, http://www.cablegatesearch.net/cable.php?id=09ISLAMABAD2448&q=gilani (accessed 13 August 2013).
[161] "Drones: Myths and Reality in Pakistan", International Crisis Group, (2013), p 1.
[162] Kamran Yousaf, "Search for alternatives: Pakistan to seek drone technology from US", Tribune Express, 8 July 2013, http://tribune.com.pk/story/573935/search-for-alternatives-pakistan-to-seek-drone-technology-from-us/ (accessed 8 July 2013).
[163] Amnesty International interviews with recently retired members of Pakistan's armed forces and intelligence services 2012-2013. Names withheld on request.

Amnesty International believes the Pakistani authorities have not been fully forthcoming about information they collect on US drone strikes. US and Pakistan security officials are nearly always the sources for media accounts reporting that strikes killed "militants," but these authorities have refused to publicly disclose the broader information available to them (for more information about US officials see section 7.2 above). When Amnesty International requested confirmation of this information on US drone strikes during meetings with representatives of the Pakistan armed forces, Foreign Ministry and Federally Administered Tribal Areas Secretariat, it was told that the authorities rely on media reports and could not provide figures based on official investigations. However, residents of North Waziristan and local officials speaking off the record told Amnesty International that a number of Pakistani intelligence services – the ISI, Military Intelligence, Frontier Corps Intelligence Unit and the Intelligence Bureau – have field operatives and sources that carry out investigations into drone strikes and monitor the activity of armed groups.[164]

The Pakistan Ministry of Foreign Affairs compiled statistics on the number of drone strikes and casualties for a March 2013 visit by the Special Rapporteur on human rights and counter-terrorism.[165] It noted that efforts to determine the precise number of deaths were hampered by security concerns, "topographical and institutional obstacles to effective and prompt investigation on the ground" and the Islamic custom of immediate burial of the dead.[166] In its judgment on US drone strikes from the previous year, the Peshawar High Court quoted figures provided by the Political Agents for North and South Waziristan tribal agencies, the peak governance officials for these areas, for the last five years up to December 2012.[167] The Bureau of Investigative Journalism leaked in July 2013 the most detailed list of strikes compiled by Pakistani authorities yet, covering the period January 2006 to October 2009. These instances suggest that the state has more information about drone strikes and casualties than it publicly reveals.[168]

8.3 Collusion and state responsibility

Apart from Pakistan, a number of states appear to be providing intelligence and other assistance to the USA in carrying out drones strikes, including Australia, Germany and the UK.[169] Last year a Pakistani national, Noor Khan, whose father was killed in a

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[164] Ibid.
[165] Statement of the Special Rapporteur Following Meetings in Pakistan, Office of the High Commissioner for Human Rights, 14 March 2013 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13146&LangID=E (Accessed 13 September 2013).
[166] Ibid.
[167] Peshawar High Court order of 11 April 2013, WP No. 1551-P/2012, para 3, p 4.
[168] Chris Woods, "Leaked Pakistani report confirms high civilian death toll in CIA drone strikes", The Bureau of Investigative Journalism, 22 July 2013, http://www.thebureauinvestigates.com/blog/2013/07/22/exclusive-leaked-pakistani-report-confirms-high-civilian-death-toll-in-cia-drone-strikes/ (accessed 9 August 2013).
[169] "Drone victim to appeal ruling over UK support for CIA strikes in Pakistan", Reprieve, 21 December 2012, http://www.reprieve.org.uk/press/2012_12_21_drone_victim_appeal_ruling_uk_cia_strik/ (accessed 10 August 2013); "Judges hear claims UK intelligence used for drone strikes", BBC, 23 October 2012, http://www.bbc.co.uk/news/uk-20048209 (accessed 10 August 2013); and "High Court blocks US drone intelligence case", BBC, 21 December 2012, http://www.bbc.co.uk/news/uk-20807934 (accessed

drone strike in 2011, applied for a judicial review of the UK's policy of sharing intelligence with the US security services in cases where the information might lead to drone strikes. He argued that the UK shared intelligence with the US security services on the location of suspects knowing that this may be used to kill them with drone strikes. This application was dismissed on the basis that the court would not sit in judgment on the sovereign acts of another state.[170]

While a state bears direct responsibility if it violates international human rights or humanitarian law, it is also liable for acts or omissions that aid or assist another state to commit the violation.[171] Therefore, where specific state organs or officials assist in drone strikes, states may be held responsible for arising violations. State responsibility is defined widely to include any organ, whatever position or character it has, that may be attributable to the state.[172] The acts or omissions of a state organ or official may still be attributable to the state even if they exceed their authority or defy instructions.[173] Therefore, the state of Pakistan could be held responsible for human rights violations due to drone strikes, despite its public opposition to them, if specific state organs or officials had helped the USA to carry them out. According to the International Law Commission:

> The State cannot take refuge behind the notion that, according to the provisions of its internal law or to instructions which may have been given to its organs or agents, their actions or omissions ought not to have occurred or ought to have taken a different form. This is so even where the organ or entity in question has overtly committed unlawful acts under the cover of its official status or has manifestly exceeded its competence. It is so even if other organs of the State have disowned the conduct in question."[174]

The authorities of all states, including Pakistan, must carry out independent and impartial investigations into any organs or officials implicated in involvement in US drone strikes that may constitute violations of human rights or humanitarian law. Amnesty International also calls on all states to refrain from participating in any way in US drone strikes conducted in violation of the relevant rules of international law and instead to urge the USA to comply with its international obligations.

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10 August 2013). See also Steve Swann, "CIA drone strikes: Is the UK involved?", BBC, 21 December 2012, http://www.bbc.co.uk/news/uk-20804072 (accessed 10 August 2013).

[170] CO/2599/2012 The Queen on the application of Khan v Secretary Of State For Foreign And Commonwealth Affairs.

[171] International Law Commission, Responsibility of States for internationally wrongful acts, annexed to UN General Assembly Resolution 56/83, article 16.

[172] International Law Commission, Responsibility of States for internationally wrongful acts, annexed to UN General Assembly Resolution 56/83, article 4 -6,8,9, and 11). With regard to the International Covenant on Civil and Political Rights, see also Human Rights Committee, General Comment No 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para 4; and International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, Rule 149.

[173] See International Law Commission, Responsibility of States for internationally wrongful acts, annexed to UN General Assembly Resolution 56/83, article 7; International Committee of the Red Cross, Customary international humanitarian law, Volume I: Rules, commentary to Rule 149, p 533.

[174] International Law Commission, Responsibility of States for internationally wrongful acts, Commentary, p 45, para 2. See also International Law Commission, Responsibility of States for internationally wrongful acts, Commentary to article 7, p 46, paras 7 and 8.

9. Conclusion

[quote]
"At least for the sake of human rights they should stop these drone strikes" – Nabeel, resident of Zowi Sidgi who witnessed drone strike on 6 July 2012 that killed 18 and injured at least 22
[quote end]

Uncertainty remains about each of the drone attacks Amnesty International has examined in this report. Who were the intended targets? Why were they attacked? What legal framework was applied by those planning and executing the attacks? Most of this uncertainty arises from the US authorities' deliberate policy of refusing to disclose information or even acknowledge responsibility for particular attacks.

What is certain from Amnesty International's research, however, is that the cases in this report raise serious concerns that the USA has unlawfully killed people in drone strikes, and that such killings may amount in some cases to extrajudicial executions or war crimes and other violations of international humanitarian law. Like other forces operating in the Tribal Areas, the USA appears to be exploiting the lawless and remote nature of the region to evade accountability for its violations.

Amnesty International recognizes that some US drone strikes may not violate human rights or international humanitarian law. But it is impossible to reach any firm assessment without a full disclosure of the facts surrounding individual attacks and their legal basis. The USA must provide evidence to prove that drone strikes comply with international human rights law and where applicable international humanitarian law, including in the specific cases documented in this report.

The USA's assertion that it is engaged in an ongoing, global armed conflict against al-Qa'ida and associated forces has deeply troubling implications for human rights and the rule of law. It appears to be an attempt to license the use of intentional lethal force when it is not strictly unavoidable to protect life. Even where drone strikes are used in actual armed conflicts, statements by the US administration raise concerns as to whether basic concepts of international humanitarian law are being respected. Suggestions that affiliation with an armed group is a sufficient basis for being targeted, together with the lack of clarity on which groups are considered "associated forces" leave a very wide scope for targeting individuals on impermissible grounds. The practice of "signature strikes" appears prone to violating the presumption of civilian status. And secondary (or rescuer) strikes appear to violate the prohibition of targeting the injured, those who are *hors de combat*, and medical personnel.

US policy and practice on targeted killings and drones are not only of concern in their own right: they also set a dangerous precedent that other states may seek to exploit to avoid responsibility for their own unlawful killings. If unchecked there is a real risk that the continued use of drones by the USA and an increasing number of other states will further corrode the foundations of the international framework for the protection of human rights.

As documented in this report, scores of witnesses and relatives of victims told Amnesty International of killings that have left deep scars on a population already traumatized by deadly attacks by al-Qa'ida, the Taliban and Pakistan armed forces. As drone victim Mamana Bibi's son Rafiqul Rehman told Amnesty International, "We pray peace can be restored to our country and people and end this mess and bloodshed but up til now there has been no end in sight." As a ubiquitous presence in the skies of North Waziristan, drones have created significant fear among the population. The people of North Waziristan also face significant threats for speaking out about drone strikes, whether they kill members of armed groups or residents not engaged in attacks against the USA or its allies. The absence of any formal, public recognition of strikes, or avenues for victims to access justice or effective reparation further compound the suffering of the victims and their families. It also sends them the signal that the USA considers itself above the rule of law and accountability.

The Pakistani authorities have also failed to protect the rights of those affected by drones, be it their right to life, or access to justice and effective reparation. While the government of Pakistan publicly opposes the US drone program, Amnesty International is concerned that elements of the state or individual officials continue to cooperate in strikes that may constitute human rights violations.

The Pakistani authorities have a poor record of providing medical and other assistance to victims and their communities. There is little transparency about how the Pakistani authorities respond to drone strikes. Evidence suggests that the state closely monitors drone strikes, despite direct claims to Amnesty International that they are unable to do this. Moreover, victims and affected communities say that the authorities do not proactively seek to assist them following strikes, but expect the victims to initiate contact.

The authorities of all states who assist the USA in carrying out drone strikes in Pakistan, including those of Pakistan, must carry out independent and impartial investigations into any organs or officials implicated in involvement in US drone strikes that may constitute human rights violations. Amnesty International also calls on all states, including Australia, Germany and the UK, to refrain from participating in any way in US drone strikes conducted in violation of the relevant rules of international law and instead to urge compliance by the USA with its international obligations.

The long-suffering people of North Waziristan and the rest of the Tribal Areas deserve to enjoy the same human rights as everyone else, not least the right to life – the foundation for all human rights. By hiding behind arguments of secrecy and exploiting the difficulty in confirming details of specific strikes due to the lawlessness, remoteness and insecurity of Pakistan's Tribal Areas, the USA is contributing to the litany of violations and abuses endured by a population that has been both neglected and assaulted by their own state and victimized by al-Qa'ida, the Taliban and other armed groups. The ultimate tragedy is that the drone aircraft the USA deploys over Pakistan now instill the same kind of fear in the people of the Tribal Areas that was once associated only with al-Qai'da and the Taliban. The USA can and must alleviate their suffering by opening up the secretive and unaccountable drone program to public scrutiny and ensuring any individuals responsible for human rights violations are brought to justice in fair trials without recourse to the death penalty. The USA and

Pakistan must also ensure the victims of violations documented in this report have access to justice and redress.

9.1 Recommendations

To the government of the United States of America

- Publicly disclose information about the facts and legal basis for the killing of Mamana Bibi on 24 October 2012, the killing of 18 laborers on 6 July 2012, the killing of second responders on 4 June and 23 July 2012, and all other cases documented in this report (see Appendix for full list of cases).

- Publicly disclose whether there has been any investigation into the killing of Mamana Bibi, the killing of 18 laborers, the killing of second responders, or any of the other cases documented in this report. Where such investigations have taken place, publicly disclose the nature of these investigations and provide a summary of the findings.

- Ensure prompt, thorough, independent and impartial investigations into all cases where there are reasonable grounds to believe that drone strikes resulted in unlawful killings. This must include all attacks in which civilians are reported to have been killed or injured.

- Where there is sufficient admissible evidence, bring those responsible to justice in public and fair trials without recourse to the death penalty.

- Ensure that victims of unlawful drone strikes, including family members of victims of unlawful killings, have effective access to remedies, including in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

- Offer compensation to families of civilians killed or injured even when investigations suggest that, in a particular killing of civilians, casualties did not result from violations of applicable international law.

[Amnesty International further calls on the USA to:]

- Disclose the legal and factual criteria for identification of targets, including for placement on so-called "kill lists", and criteria for so-called "personality strikes," "signature strikes" or Terrorist Attack Disruption Strikes (TADS).

- Make public memoranda from the Department of Justice, Central Intelligence Agency and Department of Defense that reflect the US administration's interpretation of operative law and policy concerning the lethal targeting of any person.

- Disclose the criteria used to determine civilian and "militant" or "combatant" status.

- Disclose available information on the number of people killed or injured in

drone strikes in Pakistan, including the number categorized as "civilians," "militants" or "combatants".

- Disclose what "signatures strikes" are considered sufficient to authorize a signature strike and in what circumstances.

- Publicly explain the rules and procedures in place for preventing unintended and potentially unlawful deaths and injuries from drone strikes

- Clarify and disclose standards for post-strike procedures to investigate the legality of strikes, and ensure US assessments and investigations do not presumptively categorize individuals killed or injured as "militants" or combatants;

- Ensure that all agencies involved in the drone program cooperate fully with investigations by Congress and issue a de-classified version of any response to congressional investigations.

- Establish or assign a dedicated investigative entity – for example, an inspector general or special prosecutor – to independently, impartially and fully investigate all potentially unlawful deaths caused by drone strikes, including those raised in this report. The unit should have access to classified information, and adequate independence and authority, including the ability to compel witnesses and evidence, and to report publicly on their findings.

- Accept judicial review of drone strikes and ensure that mechanisms for victims of potentially unlawful deaths or their families to obtain redress, including compensation and legal remedies, are available and effective.

- Cease to invoke the "global war" doctrine, and fully recognize and affirm the applicability of international human rights obligations to all US counter-terrorism measures, including those outside US territory.

- Ensure that any use of lethal force outside of specific recognized zones of armed conflict complies with international human rights standards, including as set out in UN law enforcement standards.

- Ensure that any use of lethal force within specific recognized zones of armed conflict and connected to the conflict taking place in that zone complies fully with the USA's obligations under international human rights and humanitarian law, including the rule that if there is doubt as to whether a person is a civilian protected against attack, the person is to be considered a civilian protected against attack.

- Review the practice of "signature strikes" and ensure that they are only utilized in circumstances that conform to international law, including the presumption of civilian status.

- Cease so-called "rescuer attacks"

- Take measures to protect informants in Pakistan at risk of attack from armed groups and Pakistani forces.

To the government of Pakistan:

- Provide adequate access to justice and reparations for victims of US drone strikes and seek reparations and other remedies from the US authorities.

- Provide adequate access to justice and reparations for victims of attacks by Pakistan armed forces and ensure independent and impartial investigations into attacks that violate human rights. Where there is sufficient admissible evidence, bring to justice in public and fair trials without recourse to the death penalty the persons responsible for unlawful killings resulting from those strikes.

- Provide victims of US drone strikes and attacks by the Pakistan armed forces or armed groups with prompt medical treatment and other remedial assistance.

- Ensure independent and impartial investigations into US drone strikes that violate human rights, including whether Pakistani officials were involved. Where there is sufficient admissible evidence, bring to justice in public and fair trials without recourse to the death penalty the persons responsible for unlawful killings resulting from those strikes. Ensure that effective redress is provided for the harm caused by these strikes.

- Publicly disclose information on all US drone strikes that the Pakistani authorities are aware of, including casualties and all assistance provided to victims.

- Facilitate access for independent human rights investigators to North Waziristan and the rest of the Tribal Areas to document cases of killings by US drone strikes and other possible human rights violations by Pakistani forces and armed groups.

- Formally extend the jurisdiction of Pakistan's High Courts and parliament to the Federally Administered Tribal Areas by act of parliament or executive order from the President

To the international community including the UN, other states and intergovernmental organizations:

- Oppose unlawful US policies and practices on the deliberate use of lethal force against terrorism suspects, and urge the USA to take the measures outlined above. States should officially protest and pursue remedies under international law when lethal force is unlawfully used by the USA or other states, in violation of the right to life, against individuals on their territory or against their nationals.

- Refrain from participating in any way in US drone strikes, including by sharing intelligence or facilities, conducted in violation of international human

rights law and, where applicable in specific zones of armed conflict, international humanitarian law.

To the Taliban and other armed groups in Pakistan's Federally Administered Tribal Areas:

- Allow independent human rights investigations into US drone strikes.

- Cease unlawful killings, torture, and other abuses against individuals, including those accused of providing information to the USA or Pakistan for drone strikes.

- Cease threats of violence against victims of US drone strikes and other violence who speak out about their situation.

- Avoid locating military objectives within or near densely populated areas.

10. Appendix: US drone strike incidents in North Waziristan, Pakistan, documented by Amnesty International (AI)

Date	Location (all North Waziristan)	Casualties	Sections of report where mentioned
24 May 2012	Esso Khel, also known as Hassu Khel, Mir Ali subdivision	8 killed including 4 Taliban and 4 foreign fighters. Of the Taliban two were locals - Abdul Samad Dawar and Hakimullah Dawar. Strike totally destroyed mosque used by Taliban and allied fighters and damaged neighboring buildings used by local residents not fighters.	5.1
26 May 2012	Miran Shah Bazaar, Miran Shah subdivision	3-4 killed, all Taliban. Destroyed bakery and damaged neighboring buildings.	5.4
4 June 2012	Esso Khel, also known as Hassu Khel, Mir Ali subdivision	14-16 killed, unknown number injured. 4-6 in first strike, 10-12 in second strike on rescuers. Rescuer attack. al-Qa'ida leader Abu Yahya al Libi among the dead. 4-6 civilians killed.	2.1,3.4, 5.1, 9.1
6 July 2012	Zowi Sidgi, Miran Shah subdivision	18 killed, at least 22 injured. All local residents. 10 killed in first strike, 8 in second strike. Rescuer attack. All civilians.	1, 3, 3.2, 3.3, 3.4, 4, 5, 5.4, 5.5, 9.1
23 July 2012	Darai Nishtar, Razmak subdivision	11 killed, at least 3 injured but possibly more. 5 killed in first strike all Taliban (Maulvi Ihsanullah group, Haqqani network, Afghan Taliban), 6 killed in second strike on rescuers, all local residents.	3.4, 4, 5.1
24 October 2012	Ghundi Kala, Miran Shah subdivision	1 killed (elderly woman), 9 injured (all children), all local residents. Compensation application received by Pakistani authorities but limited assistance provided.	3.1, 5.4
8 January 2013	Haider Khel, Mir Ali subdivision	4-9 killed, 1-4 injured (AI unable to verify with more than 2 separate sources) all Taliban and/or al-Qa'ida killed.	5.1
3 July 2013	Dandai Darpa Khel, Miran Shah subdivision	16 killed, at least 5 injured. All members of armed groups: Afghan Taliban, Punjabi Taliban, and foreign fighters.	5.1
28 July 2013	Shinkai Narai, Shawal Valley, Razmak subdivision	~6 killed, ~4 injured (AI unable to verify with more than 2 separate sources) All appear to be members of the Taliban or other armed groups.	3.4, 5.1