



Joint Committee on Human Rights

Committee Office · House of Commons · London · SW1A 0AA

Tel 020 7219 2797 Email JCHR@parliament.uk Website www.parliament.uk



From Rt Hon Harriet Harman MP, Chair

Rt Hon Jeremy Wright MP
Attorney-General
20 Victoria Street
London
SW1H 0NF

privateoffice@attorneygeneral.gsi.gov.uk

4 November 2015

Dear Jeremy,

The Government's Policy on the Use of Drones for Targeted Killing

The Joint Committee on Human Rights has decided to inquire into the Government's policy on the use of drones for targeted killing. A copy of the Committee's call for evidence is attached for your information. The Committee intends to take evidence in November and December with a view to reporting early in the new year. I am writing to you, and in identical terms to the Secretary of State for Defence and the Foreign Secretary, to make clear the intended scope of the inquiry and to indicate some ways in which I hope the Government will be able to assist the Committee with its inquiry.

Scope of the inquiry

The inquiry will focus on three main themes:

- Clarification of the Government's policy and its legal basis
- The decision-making process
- Accountability

The focus of the inquiry is the Government's policy, and not the use of drones for targeted killing in any particular case. The Committee will not therefore seek to inquire into the intelligence on which the decision was made to launch a lethal drone strike in Raqqa on 21st August 2015. The events leading up to that use of force may, however, be relevant to the Committee's inquiry in so far as they suggest what the Government's policy is and reveal the decision-making process prior to such a decision being made.

Government memorandum

To assist it with its inquiry, the Committee would be grateful if you could provide it with a detailed memorandum setting out the following:

1. A clear statement of the Government's policy on the use of drones for targeted killing.
2. A comprehensive description of the legal framework which the Government considers to be relevant to its policy, including international law, and an explanation of the circumstances in which it is lawful to use drones for targeted killing.
3. A description of all existing guidance which the Government considers to be relevant to any use of drones for targeted killing.
4. A description of the decision-making process that precedes any ministerial authorisation in a particular case.
5. A summary of all the existing accountability mechanisms which apply to any use of drones for targeted killing, both before and after such use.

The Committee would also be grateful if the memorandum could address the specific questions contained in the Annex to this letter, which arise from the Committee's first consideration of the issues it would like to scrutinise in the course of its inquiry. These questions are intended to be confined to establishing some basic factual and legal matters at the outset rather than asking the Government to provide justifications or respond to questions about what its policy should be. The Committee may write again with further specific questions as its inquiry progresses.

Oral evidence

The Committee would like to take oral evidence from you and from the Secretaries of State for Defence and Foreign Affairs towards the end of its inquiry, to give you an opportunity to respond to evidence we have taken and issues that have been raised in the course of the inquiry.

In view of the centrality of the legal framework to the subject-matter of the Committee's inquiry, and the importance of legal advice in the decision-making process leading to the authorisation of a drone strike, we are also calling for oral evidence from the principal lawyers involved in this matter. In doing so the Committee will fully respect the Government's right to legal professional privilege. It will not seek to ask the lawyers about the substance of their advice to ministers in any particular case. The Committee considers, however, that there are many highly relevant matters, such as the identification and description of the relevant legal framework, and the points in the authorisation process at which lawyers are involved, which do not trespass on the Government's privilege. The Committee needs to hear from them on these questions in order to achieve the purposes of its inquiry.

Committee visit

The Committee would also like to visit RAF Waddington in the course of its inquiry. In my letter to the Secretary of State for Defence I have asked for his assistance to facilitate such a visit. We would expect the visit to include being shown the relevant parts of the base including the control room from which drone strikes are launched. It appreciates the sensitivity of visits to such facilities where security is paramount, but Members feel that seeing for themselves the physical setting from which strikes are launched and the conditions in which the personnel work is essential to give them a practical understanding of the process leading up to the launch of a drone strike.

It would be helpful if we could receive your reply to these questions by **Thursday 19 November 2015**. I would also be grateful if your officials could provide the Committee secretariat with a copy of your response in Word format, to aid publication. I look forward to hearing from you.



Rt Hon Harriet Harman MP
Chair

cc. Rt Hon Michael Fallon MP
Rt Hon Philip Hammond MP

ANNEX

1. What is the relevant international law framework that governs the Government's use of drones for targeted killing abroad?
 - What tests must be satisfied for a targeted killing by drone strike to be a lawful exercise of the UK's right of self-defence in international law?
 - How does the decision-making process ensure that any such use of lethal force in self-defence is both necessary and proportionate?
 - What is the Government's understanding of the meaning of the requirement that an attack on the UK must be "imminent"?
2. Why was the right of collective self-defence (of Iraq) relied on by the UK's Permanent Representative to the UN in his letter to the UN Security Council dated 8 September 2015 but not mentioned by the Prime Minister in his statement to the House of Commons on 7 September?
3. Does the Government consider the UK to be involved in a "non-international armed conflict" with ISIL?
4. Has the UK adopted the US's definition of "non-international armed conflict"?
 - If not, how does the UK's approach to the use of drones for targeted killing abroad now differ from that of the US?
5. Does international humanitarian law apply to UK drone strikes in Syria?
 - If not, why not?
 - If so, what tests must be satisfied for the use of drones for targeted killing in Syria to be lawful under international humanitarian law?
 - How does the decision-making process ensure respect for the international humanitarian law principles of distinction, proportionality and precaution?
 - How is potential harm to non-combatants balanced in that process?
6. Does international human rights law apply to UK drone strikes in Syria?
 - If not, why not?

- If so, what tests must be satisfied for the use of drones for targeted killing in Syria to be lawful under international human rights law?
 - What satisfies the requirement of human rights law that use of lethal force must be “in accordance with the law”?
 - What domestic law applies to the use of drones for targeted killing?
 - What existing guidance applies to such use of lethal force?
 - How does the decision-making process ensure respect for the international human rights law principles of necessity and proportionality?
7. Is legal advice sought during the process leading to the ministerial authorisation of particular strikes?
 - If so, at what point in the decision-making process is legal advice sought, and from which Government lawyers?
 8. Whatever legal frameworks apply, how does the decision-making process ensure that there is sufficient evidence to meet the relevant legal tests?
 9. What supervisory checks and cross-checks are built into the process for ascertaining the sufficiency of evidence?
 10. What investigation does the government itself conduct following a targeted killing by a drone strike?
 11. What are the obligations on the Government to publish the outcomes of their investigation?
 12. What independent ex-post review currently takes place following a targeted killing by drone strike?
 13. What is the role of the judiciary in holding the Government to account in relation to targeted killings by drones?
 14. What legal remedies currently exist for victims of unlawful strikes?
 15. Is the Government currently considering following the US Government’s approach by drawing up specific guidelines for front-line decision-makers about the use of drones for targeted killing?

16. What specific guidance exists for front-line decision-makers in relation to other uses of lethal force by the state, such as police officers?
17. Is there a list of named individuals in respect of whom ministerial authority has already been given for targeted killing by drone strike?
18. Does the UK share intelligence with other Governments in the knowledge that it will be used for the purposes of identifying targets for killing by drone strike?
 - If so, what steps does the Government take to satisfy itself that the policy of the recipient state is lawful?

