



Advisory opinion: Legal consequences of the use of armed drones

ARGUED: 21 November 2016

DECIDED: 21 November 2016

1 Advisory Opinion: Legal Consequences of the Use of Armed Drones

2 The opinion was signed by and agreed to by Justice Larsen, Justice Harris, Justice Ali, Justice Quinn,
3 Justice Farley, Justice Weeks, Justice Henning, Justice Selvaggi, Justice Buxton, Justice Madrigal, Justice Strum
4 and Justice Nelson.

5 At the request of the Human Rights Council, the Court has been charged with the following question: What
6 are the legal consequences arising from the use of armed drones? The Court finds that Article 93(2) of the UN
7 Charter expresses the Court's jurisdiction in issuing an advisory opinion for the HRC.

8 The use of armed-drones can be justified by the Court, however there are certain protocols that should be
9 followed regarding the aftermath of drone usage. The Court recognizes the right to life for all citizens per Article 3
10 of the Universal Declaration of Human Rights, which states that everyone has the right to life, liberty and security
11 of person. There are; however, certain considerations that may supersede this right. In order to properly evaluate
12 precaution, distinction, and proportionality of a certain strike, greater transparency will need to be enforced and
13 expected of all parties using armed drones.

14 According to A/HRC/25/29, a special report from the special rapporteur on counter-terrorism and human
15 rights, a strike of this nature is defined by : (a) that there is an allegation emanating from an apparently reliable
16 source, or from multiple independent sources, that civilians have been killed, seriously injured or had their lives put
17 at immediate risk in an operation in which remotely piloted aircraft are alleged to have been involved; (b) that, in the
18 absence of any official public explanation from the State(s) responsible, the number and/or proportion of civilians
19 harmed arguably raises a reasonable suspicion that the action taken may have been unlawful; and (c) that there is
20 sufficient information to identify the location, the date and approximate time of the incident. In those cases where
21 it has not been possible to identify the victim(s) and inquire into their backgrounds, the Special Rapporteur has
22 required other credible indications that the victims were, or included, civilians.

23 According to the UN Charter Article 51, nothing in the present Charter shall impair the inherent right of
24 individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the
25 Security Council has taken measures necessary to maintain international peace and security. Measures taken by
26 Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall
27 not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any
28 time such action as it deems necessary in order to maintain or restore international peace and security. Therefore,
29 Member States are allowed to use the necessary means to defend themselves within reason.

30 Ultimately, the Court will suggest that greater transparency is granted after each strike to determine if
31 proper precaution, distinction, and proportionality were considered, with the goal of reducing the amount of strikes
32 to only those necessary. According to A/HRC/25/29, the Special Rapporteur concluded that, in any case in which
33 there have been, or appear to have been, civilian casualties that were not anticipated when the attack was planned,
34 the State responsible is under an obligation to conduct a prompt, independent and impartial fact-finding inquiry and
35 to provide a detailed public explanation of the results.

36 The Court notes that should these explanations not provide adequate evidentiary support for the use of
37 these strikes, repercussions will be made. These repercussions will be determined based on the extremity of the
38 indiscretion of that particular case. The use of armed-drones will only be condoned by the international community

39 if these measures are taken, and the results of these strikes reflect the necessity of this action. The Court believes
40 that this issue should also be revisited as more information becomes available following the implementation of the
41 detailed reports. Additionally, as related developments in technology are made, the international community must
42 reevaluate the allowed use of armed-drones.

Signed By

Justice Buxton

Justice Madrigal

Justice Weeks

Justice Selvaggi

Justice Strum

Justice Ali

Justice Quinn

Justice Johnson

Justice Nelson

Justice Farley

Justice Larsen

Justice Gross

Justice Harris

Justice Conizales

Justice Henning

Justice Roehm