

**Before the All Party Parliamentary Group (APPG) on Drones  
Inquiry: ‘The use of armed drones: working with partners’**

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**Written Evidence - Khalil Dewan**

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**Introduction and Executive Summary**

1. At the request from the APPG Drones Inquiry, Khalil Dewan welcomes the opportunity to provide evidence on the Use of Armed Drones: Working with Partners. In addition, grateful for the opportunity to submit evidence beyond the stipulated terms of reference, to highlight evidence from a factual and investigatory research lens. The evidence submission will focus on just that, strategy and investigatory insight on the inner-working of British drones strikes.
2. I am specialist in the law of armed conflict, human rights law and modern warfare technology. Since 2011, I have been researching the ethical and legal concerns that have arisen from the use of armed drones by Western nation-states in theatres that include: Pakistan, Somalia, Yemen, Afghanistan, and Syria. I have undertaken research as a consultant on behalf of non-governmental organisations and academic works. I have also conducted investigatory field research on British drone strikes and other targeted killing methods; uncovering the negative impact on human rights, and examined the effectiveness of security service tactics in the “war on terror”. I have been consulted by Rights Watch (UK), Action on Armed Violence, US Military Legal Counsel –GTMO team, and NATO as a specialist research consultant.
3. Unfortunately, our government has shrouded the drone programme with secrecy as opposed to our allies across the Atlantic, including the specific policy details on when it deems it can target a suspect beyond the theatre of an armed conflict. The public has only gained an insight into the legal basis from the Attorney General’s remarks on 11 January 2017.<sup>1</sup> The public has a right to know how and when the government can decide to execute one of its citizens, and more importantly, transparency and accountability.
4. The UK Parliament’s Joint Committee on Human Rights (JCHR) published its report on the use of drone targeted killings in May 2016 and claimed that the policy was “confused and confusing”.<sup>2</sup> I reiterate this position, as the British drone policy lacks a

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<sup>1</sup> Attorney General, Legal basis for striking terror targets, International Institute for Strategic Studies  
<https://www.gov.uk/government/news/legal-basis-for-striking-terror-targets-set-out>

<sup>2</sup> JCHR, The Governments policy on the use of drones and targeted killing, May 2016  
<https://www.publications.parliament.uk/pa/jt201516/jtselect/jtrights/574/574.pdf>

proper understanding of the application of international law, drone strikes vis-a-vis asymmetric warfare.<sup>3</sup> In this fast paced world of counter-terrorism-led means and methods, the application of law should not be confusing or misunderstood. Historical principles of distinction, necessity and proportionality, laws and international conventions should not be blurred with combating external threats.

5. This endeavour will not repeat – and/or duplicate submissions made to the JCHR or the APPG Drones Inquiry - normative legal frameworks that govern the use of force as understood by international law scholars and human rights lawyers who should correctly class strikes beyond a war zone to be governed by international human rights law. In addition, although there are a plethora of matters under explored in the drone discussion within a war setting, focusing on violations of international humanitarian law - whether directly or via acquiescence of our allies drone strikes - this brief will focus on a factual research insight.

6. The evidence submission will cover the following two main points to the inquiry:

- The number of British nationals killed via drone strikes based on independent investigative research.
- A brief outline of a ‘live’ case, providing a factual insight on the inner-working of creating a kill list vis-à-vis intelligence service activity on the ground within the United Kingdom (UK). The case illustrates how the security service has attempted to recruit an informant for the purposes of training and deployment in Syria and / or Iraq among proscribed armed groups with a view to signal back locational intelligence of a British suspect.

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<sup>3</sup> Khalil Dewan, British drone strikes: “confused and confusing”, Middle East Eye, 11 May 2016  
<http://www.middleeasteye.net/columns/british-drone-strike-policy-confused-and-confusing-770224237>

## British nationals killed with drone strikes

7. The Prime Minister David Cameron publicly admitted that two British nationals Reyaad Khan and Ruhul Amin were killed by a RAF drone strike on 21 August in Raqqa, Syria – whilst travelling in a vehicle. It must be made clear that although this was the first time a British Prime Minister had made a public declaration for the targeted killing, it is certainly not the first time a British national was killed, directly or via acquiescence of US drone strike or other targeted killing method.
8. On 19 October 2016, the British Government published and replied to an inquiry by the Parliamentary Joint Committee on Human Rights (JCHR) on the British policy on the use of drones for targeted killings. The government responded to the JCHR's 114-page drone report with only 10 pages. The response claims that “high level answers have been given to the Committee’s questions, many of the questions are **hypothetical** ... and the answers should not be taken as representing the government’s detailed and developed thinking on these complex issues.” The response was not satisfactory from a human rights law lens, and the public has a right to know when a British Citizen can and is executed.
9. The JCHR stated: “... Outside of armed conflict, however, the conventional view, up to now, has been that the Law of War, by definition, does not apply. We recommend that the Government, in its response to our Report, clarifies its position as to the law which applies when it uses lethal force outside of armed conflict.”
10. The government four months later said, “this is a hypothetical question and if this scenario arose as a **live issue** it would require detailed analysis of the law and all the facts. However, the government considers that in relation to military operations, the law of war would be likely to be regarded as an important source in considering the applicable principles.” The Parliamentary Committee was “disappointed that the government has refused to clarify its position in relation to the use of lethal force outside war zones on the basis that this is “hypothetical”.
11. There is no justification for our government to side-step questions on the applicable law or procedural matters on where British drone strikes, directly or via acquiescence, is taking place and how it is governed.
12. From independent and on-going investigation on British drone strikes, I can confirm to the inquiry that **16 British nationals** have been killed beyond a theatre of armed conflict, which poses a troubling factual existence in light of the drone and defence policy discussion.

Table1. British nationals killed via Drone Strikes

Country	No. of British nationals killed
Pakistan	6 British nationals
Somalia	2 British nationals
Syria	8 British nationals

13. The data is based on independent investigation, documented along with testimonies from family members and / or those who were in contact with the British nationals concerned. Table 1 does not include other targeted killing methods used in the countries stated, such as special ops missions – kill/capture - using apache helicopters.

### **MI5 strategy: Inner-working of a drone strike / kill list**

14. The following documented case illustrates how the British intelligence agency MI5 recruited an informant to locate a British suspect who is allegedly a member of a non-state armed group in Syria. For the purposes of this APPG Drones evidence submission, the identity of the recruited civilian in question will be called ‘Joseph’. A longer account of this case will be published elsewhere.

### **Recruiting informants: locational intelligence on suspects**

15. An intelligence MI5 officer contacted Joseph via telephone to question his visit to the Turkish-Syrian border where he delivered humanitarian aid with a registered charity. Joseph was not stopped or subject to Schedule 7 questioning at the ports or via immigration border control en route back to the UK. Joseph found it “odd” that the security service called him specifically. The intelligence officer demanded a meeting, passing over details of a meeting point over the phone. Joseph said he “had to attend, as the spies were forceful”.

16. In June 2016, Joseph made his way to Westfield, Stratford City where he met an MI5 officer called Becky, along a second MI5 officer Eddie. The intelligence officers were waiting in a designated conference room.

17. The intelligence officers from MI5 started questioning Joseph with a stern manner about his trip to Turkey, seeking detailed answers. The officers wanted to know specifically who travelled to the border with him, what he saw and his views on the Syria and Iraq conflict. Joseph felt that the MI5 officers were acting in a “good cop, bad cop” strategy. Joseph avoided most of the questions but provided sufficient information as he claimed he “didn’t have anything to hide”. “The MI5 agents were stressful, and I didn’t like their tone with me”, Joseph said.

### **Civilian Informants: recruited, trained, deployed for targeted killings**

18. Joseph was told by MI5 Intelligence officer Becky, to travel to Turkey and then to Syria to find a “location” on a British suspect ‘X’ who is allegedly fighting with the proscribed Hay’at Tahrir al-Sham (formerly Jabhat al-Nusrah) non-state armed group<sup>4</sup>, operating to topple President Bashar Al-Assad – and then report back to MI5 with locational intelligence.
19. “They [MI5] kept on repeating that they worked with other people on these types of missions”, said Joseph.
20. The intelligence officers said they would train Joseph on “intelligence gathering, locational intelligence and persuasive tactics and strategy”.
21. The other MI5 intelligence officer named Eddie said they want to “take out” ‘X’ as he has become influential and may influence the newer generation of foreign fighters travelling to Syria. According to MI5’s own reports, the agents hinted that ‘X’ is in Syria.
22. “MI5 were clear that they wanted to target and kill ‘X’ with a drone strike.” Joseph said.
23. “Subsequent meetings were held with MI5. They even trained me to do basic reporting. One such event was held at a rentable office behind Regent Street. Here they went through basic observation skills. In the afternoon I would practice. In one exercise, I had to pretend to view a flat and convince the estate agent to meet me again. Come back and tell them the floor plan of the flat. What the estate agent was wearing, where the flat was, rooms, doors and WiFi boxes etc.” Joseph said.
24. Joseph was trained by MI5 through a number of means and methods. Joseph confirmed that security-military personnel trained Joseph on a one-to-one basis. The training focused on tactics and methods to find, locate and signal information back to MI5. Additionally, Joseph was taught persuasive skills to bolster information gathering, and in case he was captured or found out to be a spy. The training was a tool to lure surrounding targets to provide information on ‘X’. All the skills were tested vigorously.
25. Joseph believes that MI5 approached him due to his “knowledge” and that he could be a “trusted” person to go to Syria at some stage and see if ‘X’ was there. When Joseph refused to be deployed to Syria, he was quickly seen as of no use.

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<sup>4</sup> Home Office, Proscribed Terrorist Organisations  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/612076/20170503\\_Proscription.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612076/20170503_Proscription.pdf)

## Remarks

26. The case is revealing of British drone kill list making and the extent to which MI5 are recruiting informants to travel to non-state armed group territory. Facilitating travel to these territories may contravene a plethora of criminal and terrorism legislation in the UK, particularly when engaging proscribed armed groups vis-à-vis terrorism legislation.
27. It is reasonable to claim that suspect 'X' is not an imminent threat so as to satisfy international human rights law conditions on executing the use of force vis-à-vis the right to life. There is no indication that 'X' posed an imminent threat in a country that the UK is not at war with. Although, it is clear that MI5 intended to pursue the target to eliminate an "influential" character that could influence other foreign fighters. This is by no means a threat to satisfy legal requirements.
28. British drone policy may have shifted from targeting imminent threat of attack to UK mainland, to targeting soldiers part of non-state armed groups in Syria, Pakistan or elsewhere. Targeting and including suspects on a kill list due to "influence" on other fighters does not, match a threat to UK national security – unless the UK deems it a threat to its allies on the ground.
29. In this particular case, there was no sense of urgency to execute a targeted drone strike on 'X', which suggests that there was no imminence involved. Rather, it is reasonable to assume that MI5 placed 'X' on a kill list in pre-emption of a perceived threat.
30. The Attorney General Jeremy Wright QC argued for a new definition of imminence that no longer requires evidence of where an attack will be executed or knowledge of the nature of the attack. The new understanding of imminence is clearly being applied in the case above, where drone strikes are being planned and kill lists created in dubious means – without an actionable imminent threat.
31. The British drone policy as it stands may expose those involved in the command chain of counter-terrorism strikes – MI5, MI6, armed forces and civilian informants. There is no denying that the uncertainty about government policy may leave front-line intelligence and civilian informants, deployed in proscribed territory - in considerable doubt about whether what they are being asked to do is lawful, therefore exposing them and others to the prosecution for murder or complicity in murder.

[END]