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The Future of the American Drone Program in Pakistan

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The Obama administration's effort to conclude the U.S. military commitment in Afghanistan motivated it to act aggressively to eliminate al-Qaeda and Afghan Taliban personnel from their Pakistani sanctuaries. The Americans' weapon of choice has been strikes carried out by armed drones (otherwise known as unmanned aerial vehicles, or UAVs) under the operational control of the Central Intelligence Agency (CIA). As is now well known, according to a deal struck in 2004 by then U.S. president George W. Bush and Pakistani president General Pervez Musharraf, Pakistan allowed the United States to prosecute its drone campaign in Pakistan's Federally Administered Tribal Areas (FATA), provided that Washington also use the drones to eliminate those militants who are hardened and incorrigible enemies of the Pakistani state (Miller and Woodward 2013). When the last American soldier leaves Afghanistan, rendering the United States less dependent upon Pakistan, Washington will have to make some serious choices about its relations with Pakistan and how (or whether) the vexed, ostensible allies will cooperate in the future. The outcome of that process will likely have significant impacts on Pakistan's internal security situation.

Presumably, as the U.S. need for Pakistani counterterrorism and counterinsurgency cooperation diminishes, so may the need for the continued use of American armed drones in the FATA. Indeed, the Pakistani general public is looking forward to a drone-free future: despite important pockets of support for the program, it is widely despised. We argue in this chapter

that drones are not likely to disappear entirely from the Pakistani skies for one fundamental reason: the stability of Pakistan will remain a key American security interest for the indefinite future. However, these drone operations are likely to increasingly focus upon Pakistani security targets rather than on individuals who threaten American security.

Irrespective of its impacts upon security of Pakistan or the United States, the program has taken a heavy toll on the legitimacy of Pakistan's civilian government. As we discuss below, the program has the sanction of the country's military and intelligence agencies, despite the loud protests of various civilian political actors. As it is currently run (by both the United States and Pakistan's military), the drone program has three negative consequences for Pakistan's polity. First, the army and intelligence agencies derive much of the direct benefit of the program—after all, American drones can eliminate foes that Pakistan's armed forces could not confront without significant collateral damage (and subsequent public uproar). Yet these agencies shoulder no responsibility for the program. Second, this dynamic fundamentally undermines civilian officials' effort to insert themselves into the country's national security and foreign policy making (see Fair in this volume). With every strike, the protestations of Pakistan's elected governments become ever more risible in the eyes of their constituents. Equally problematic, American reliance upon the military and intelligence agencies as key partners further diminishes any prospects for effective civilian control over Pakistan's military. Finally, this modus operandi is not sustainable over the long term, because neither Pakistan nor the United States understands the costs and benefits of the program. Continued drone strikes on these terms further enable Pakistan to defer taking responsibility for its own security—a reasonable expectation of a sovereign state. For all of these reasons and more, sustaining this program after the United States withdraws from Afghanistan will be a challenge for both American and Pakistani governments.

This chapter examines America's covert armed drone program in Pakistan and discusses its potential futures. The chapter is organized as follows. First, we present and evaluate the most recent and reliable information about the covert drone program and attempt to dispel a number of common misconceptions. This provides an important empirical baseline for discussing the program and aims to provide an important corrective to popular accounts (both American and Pakistani) that are not supported by the available evidence. We contend that the program has been widely

misunderstood in the Western press: instead of marking a criminal infringement of Pakistan's sovereignty, one which has caused the death of thousands of innocent Pakistani civilians, we maintain that drone strikes are performed with Pakistan's consent and often at its government's behest. Despite the unpopularity of the program, Pakistani demand for counterterrorism outcomes will be an important driver of its future.

Next, we discuss the program's legality under the various legal regimes —American, Pakistani, and international—which govern it. Some consensus about the legality of the program is a necessary, if insufficient, condition for the program's continued existence. In the third and fourth sections, we discuss the unique form of governance in the tribal areas in light of Pakistan's current internal security crisis. Fifth, we exposit some of the Pakistani government's current options for confronting militancy in the tribal areas. When the unique legal, cultural, and security environment in FATA is understood, it becomes clear that there are few better (or at least less bad) alternatives to the use of armed drones. We conclude with a discussion of possible futures for the Pakistani drone program following the U.S. drawdown in Afghanistan in 2014 and a consideration of Pakistan's domestic security futures.

Background to the Armed Drone Program in Pakistan

The Pakistani drone program began in 2004 with the targeted killing of Pashtun militant Nek Muhammad in South Waziristan. In a sign that the program is more complex than either its supporters or detractors allow, Muhammad, although he had once fought with the Taliban in Afghanistan, posed little threat to coalition forces there; his primary target was the Pakistani state. We now know that his death was part of a secret deal between the United States and General Pervez Musharraf's military regime, under which the United States used drones to kill targets identified by the Pakistani government in return for Pakistan's consent to the program as a whole (Mazzetti 2013a).

Despite Pakistani cooperation, drone strikes remained rare occurrences at first, never rising above four per year. It was not until 2008 that the strikes reached double digits (36). The following years show a rapid increase in the number of strikes, which reached a peak of 122 in 2010 (see Figure 3.1). According to the New America Foundation, which offers the most
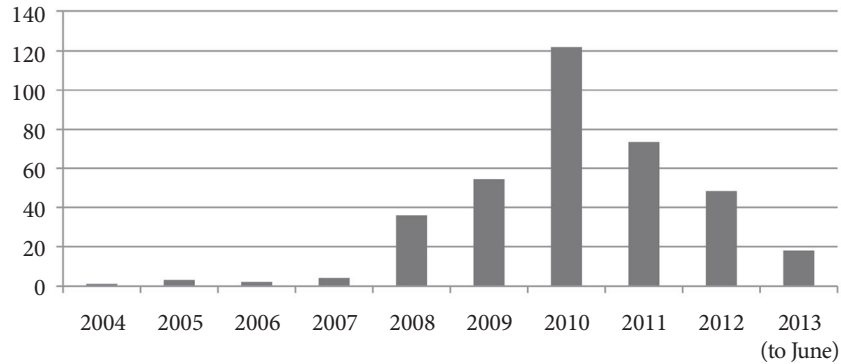
Figure 3.1. Drone strikes in Pakistan, 2004–June 2013. Source: New America Foundation.

widely cited database of drone strikes and related casualties, the 370 strikes conducted under the program have resulted in between 2,080 and 3,428 deaths, of which between 258 and 307 are believed to have been civilians (New America Foundation 2013).

It is important to note that estimates of civilian casualty rates vary dramatically. The Bureau of Investigative Journalism (BIJ, 2014) puts the number of strikes slightly higher (383) and assesses that between 2,296 and 3,719 persons have been killed in these strikes, of whom between 416 and 957 were civilians.. In 2009 Amir Mir, a Pakistani security analyst, put civilian casualty rates at 98 percent (Plaw 2013: 128).[1] At the other end of the spectrum, U.S. intelligence reports for the period between September 2010 and September 2011 identify a single civilian casualty out of 482 killed (Landay 2013).[2] This absurdly low number is reflective of the fact that the United States conveniently defines any military-age male killed in a strike as a militant unless there is explicit evidence to the contrary (Becker and Shane 2012).

Given the lack of reliable reporting from the area, however, all public databases must rely on the same set of media accounts, many of them produced by actors who are biased in either direction. The higher figures from the BIJ, for instance, are likely the result of favoring reports that identify victims as civilians over equally plausible (or implausible) accounts that identify all the victims as militants (Braun 2012). Some inhabitants of FATA even argue that no media account of casualties can be relied upon:

"after every attack the Taliban terrorists cordon off the area and no one, including the local villagers, is allowed to come near the targeted place. The militants themselves collect the bodies, bury the dead and then issue the statement that all of them were innocent civilians" (Taj 2010: 530).

Even critics of the drone program, however, admit that the accuracy of the strikes has improved over time. The New America Foundation found that of the 222–361 victims of drone strikes in 2012, only 5 could definitely be identified as civilians, while 23–39 were "unknown," giving a civilian casualty rate that ranges between 12 and 20 percent (assuming that all the unknowns were civilians and depending upon when you use 222 or 361 as the denominator). In 2008, in contrast, between 24 and 29 percent of those killed were listed as either civilians or "unknowns" (New America Foundation 2008). Even as dedicated a critic of the program as Woods of the BIJ admits that civilian casualty rates are falling even faster than the absolute number of strikes, indicating that drone operators are exercising greater care to avoid civilian casualties (M. Cohen 2013). It is equally undeniable that the number of strikes is falling; 2013 had the lowest number of strikes of any year after 2007 (New America Foundation 2014).

But while the drone program is likely killing fewer civilians than its critics claim, recent reporting has shown that the militants targeted by the strikes come from a far greater variety of groups than U.S. officials have admitted. In April 2012, for instance, White House counterterrorism adviser John Brennan stated that the United States "conducts targeted strikes against specific al-Qaeda terrorists" (Miller 2012). Barack Obama, in a May 2013 speech, referred to strikes against "al Qaeda and its associated forces" (Obama 2013). But al-Qaeda targets make up only a small minority (by one estimate, roughly 8 percent) of militants targeted under Obama (down from 25 percent under Bush). Members of the Taliban (whose relationship to al-Qaeda, always complex, has become increasingly murky) make up 50 percent of targets (Bergen 2012).

Classified intelligence documents obtained by journalist Jonathan Landay show that, in a one-year period ending in September 2011, less than half of the ninety-five strikes targeted al-Qaeda members and that only six al-Qaeda leaders were killed during the same period. The strikes killed not just lower-level al-Qaeda militants but also members of groups—such as the Pakistani Taliban and Lashkar-e-Jhangvi, a Pakistani sectarian terrorist group—that have never targeted the U.S. homeland and that devote the vast majority of their energy to staging attacks within Pakistan (Landay

2013). Landay also revealed that the United States conducts so-called ''signature strikes'' in the Pakistani tribal areas—strikes on targets whose exact identity is not known but whose patterns of behavior make it highly probable that they are militants.

There have long been rumors that, contrary to the protestations of Pakistani politicians, Pakistan in fact condoned, or even supported, the drone strikes. Recent revelations confirmed this rumor almost beyond all doubt. Former president Musharraf has admitted that he authorized the strikes in the early years of the program, although he maintained that he did so ''only on a few occasions, when a target was absolutely isolated and [there was] no chance of collateral damage'' (Robertson and Botelho 2013). In late 2008, shortly after his election to the presidency, Asif Ali Zardari, chairman of the Pakistan Peoples Party, allegedly told CIA director Michael Hayden to ''kill the seniors. Collateral damage worries you Americans. It does not worry me'' (Stein 2010). That said, given the reality of the Pakistani military's firm control over the country's foreign and security policy, from a practical standpoint Pakistan's civilian politicians' support for the program matters far less than that of the Pakistan army and intelligence services (Haqqani 2005). Evidence of direct military-to-military cooperation surfaced in late 2013, when the CIA released a dossier showing that Pakistani officials ''received classified briefings on strikes and casualty counts'' as a matter of routine (Miller and Woodward 2013). In early 2014 the United States acceded to Pakistan's request for a near freeze on strikes as the government of Prime Minister Nawaz Sharif began serious negotiations with the Pakistani Taliban (DeYoung and Miller 2014). All of these revelations point to an uneasy but high-functioning partnership, in which the United States does not explicitly ask permission for the strikes and Pakistan does not explicitly refuse to grant it.

This cooperation benefits both sides: the drone program (particularly as conducted during Obama's first administration) is clearly in line with the Pakistan army's priorities. Since the inaugural strike against Nek Muhammad, the United States appears to have pursued a policy of (roughly) ''one for them, one for us''—killing militants who threaten the Pakistani state in order to be allowed to operate in Pakistani airspace and strike Pakistani citizens who pose a threat to American troops in Afghanistan. Landay's reporting on the high number of Pakistani Taliban killed in the attacks buttresses this view, as do reports in the Pakistani media that Pakistan is seeking not an end to the drone strikes but greater control over

targeting. During talks between Pakistan and the United States in mid-2012, for instance, Pakistan demanded control over the human intelligence that guides the drone program in return for reopening NATO supply routes into Afghanistan (Khan 2012). Controlling human intelligence would help the Pakistan military to target its perceived enemies rather than its clients, such as the Haqqani Network. Even the popular outcry over the program may serve the Pakistan army's goal of shoring up public support: by raising the costs to Pakistani politicians of continuing to acquiesce to the strikes, it thus strengthens the military's position vis-à-vis its civilian rivals. And the United States is a useful whipping boy: in March 2013, nine militants were killed in two air strikes that the United States specifically (if informally) disavowed, leading to speculation in American media that the Pakistan army had carried out the strikes and then blamed them on the United States in order to avoid a backlash among Pakistani citizens (Walsh 2013a).

One recent example of this dynamic is the death of Tehreek-e-Taliban-e-Pakistan (TTP) deputy chief Wali ur Rehman in a drone strike on May 29, 2013. Rehman, a member of the powerful Mehsud tribe, had left the Haqqani Network, which focuses on attacking the United States, to join the TTP in 2008. Rehman regularly feuded with TTP leaders Baitullah and Hakimullah Mehsud, and toward the end of his life he is believed to have led a faction of the TTP that was pushing for peace talks with the Pakistani government, a move that Hakimullah Mehsud strongly opposed (*Express Tribune* 2013). Rehman's death had significant repercussions for both the TTP and the nascent peace negotiations. He was perhaps the most dynamic and respected leader of the TTP, and one of the few with the prestige necessary to bring a large faction of the group to the table for peace talks (Agence France-Presse 2013). Following his death, the group, facing a leadership vacuum, announced that it was withdrawing from the much-hyped talks, dealing a sharp blow to the newly elected prime minister Nawaz Sharif's agenda (Fazl-e-Haider 2013).

Although Rehman was linked to the 2009 suicide bombing of a CIA base in Khost, Afghanistan (Hussain and Landay 2013), his association with the Pakistani Taliban makes him an unlikely target for the U.S. drone program, which, in President Barack Obama's words, targets "high-value al Qaeda targets" and "forces that are massing to support attacks on coalition" troops (Obama 2013). The TTP, by contrast, primarily targets Pakistan army forces (at the time of Rehman's death, the army was in fact engaged in military operations in FATA against another branch of the TTP).