

**TO: The OSF Global Board**  
**FR: The Lethal Drones Shared Framework Working Group:** *David Cole (Fellow) Lisa Magarrell (USP), Wendy Patten (OSF-DC), Rachel Reid (RPI-MENA), Chris Rogers (RPI-MENA), Amrit Singh (OSJI), Rob Varenik (OSJI)*  
**DT: November 14, 2014**  
**RE: A Shared Framework Proposal on *Lethal Drones and Targeted Killing***

### **The Problem and Moment of Opportunity**

Drones are the leading edge of an expanding practice of unaccountable targeted killing. This evolving technology dramatically lowers the bar for the use of lethal force by removing the risk to personnel, lowering the political cost and increasing plausible deniability. The lowered risks and increased precision drones offer have led states with drones to extend these military means beyond recognized battlefields. Even more ominous is the way in which states using armed drones (currently a handful, aided by a wider set of enabling governments) have shrouded their operations in secrecy. Policies and practices by the current leading user of armed drones – the U.S. – threaten to create a dangerous precedent and have undermined legal and political accountability through denial, secrecy, and expansive interpretations of legal standards.

A significant insight sharpened at the charette was that the technological innovation enabling cross-border, unaccountable killing will continue and will persist in posing new challenges to oversight and accountability. While the problem today principally takes the form of lethal drones, this shared framework also recognizes that lethal drones are only the current manifestation of this problem. The use of armed drones provides us with a sharp focus for our efforts to keep lethal cross-border technology within the confines of the rule of law. Mindful of technological change, we will support mechanisms and research on the use of armed drones that can be adapted to the unknown changes that lethal technology will bring in the future.

The charrette also confirmed the necessity of a global approach to this shared framework. Discussions at the charette with external partners and foundation colleagues from OSIEA, OSIWA, Pakistan, and the MENA region made it clear that the voices of those seeking to constrain the misuse of drones are not as numerous, broadly representative, or coordinated as needed to address the fast-spreading engagement of states in the use of armed drones and the potential for proliferation. Charette discussions underscored that human rights advocates working on the issue in their own countries have become stymied and are relatively isolated in their efforts. In countries like Mali, where the use of drones for targeted killing could begin imminently, there is still time to get out ahead of the problem, but the issue is not squarely on the agenda of advocates or journalists. Potential allies with military or intelligence expertise who could speak with authority on the dangers and the solutions have not been sufficiently cultivated or utilized. Moreover, the victims whose faces and experiences might humanize the policy narratives have remained invisible outside their local communities.

Our approach in this shared framework therefore extends beyond a U.S.-centered approach to focus heavily on building and strengthening international coalitions that connect targeted regions and engage European and other states that are likely to acquire armed drones and have a chance to develop policies that contrast with those of United States.

In our view, a four-year window for this shared framework would enable OSF to address these problems and make a significant contribution to containing the technology of killing within the rule of law. This is

a time frame that corresponds to an important period in the U.S. fight against terrorist groups and in the expansion of the use of drone technology by others.

### **Goals of the Shared Framework**

The overarching goal of the shared framework is to constrain the use of armed drones for targeted killings outside of traditional battlefields in a manner that promotes the rule of law, protects human rights, and fosters transparency and accountability with respect to the use of force.

Our approach is inherently global, even as it recognizes the United States as the primary actor using armed drones at the moment. We seek to shape international precedent by influencing the policy and practice of the United States and other nations that are developing drone capacity, as well as countries that are complicit in drone strikes (by, for example, consenting to their use, sharing intelligence, or providing bases). This effort requires the mobilization of new voices, development of an international coordination capacity outside of OSF, and strategic alliances to set the right policy precedents and, ultimately, protect citizens of every nation from unaccountable, secret, and unchecked power in the form of armed drones.

The proposed shared framework will create, within four years, a new network that links together disparate groups, identifies new constituencies, and injects human rights perspectives into the debate over armed drones for targeted killing. Particularly as the use of lethal drones spreads and technological capabilities evolve, we will need to strategically link disparate communities across the world, including human rights organizations, victim groups, military and security experts, international lawyers, and technologists in order to achieve our shared goals. This network should outlive the shared framework and in future years potentially could respond to new technological developments that raise similar concerns about accountability and targeted killing.

More specifically, we will work to:

- *Mobilize to influence policy and practice:* Establish a forum to link and coordinate global action and introduce new voices in order to constrain the use of armed drones for targeted killing, set the right precedents to protect human rights, and counter the broader threat to democratic governance and rule of law principles that lethal drones represent.
- *Make accountability possible:* Promote the adoption of transparency policies and practices so that legislators, courts, and citizens can evaluate whether actions are consistent with international law and human rights and can better assess the circumstances and consequences of specific attacks – the only way to ensure that the rules are being interpreted and applied faithfully.
- *Advance victims' rights:* Hold responsible states accountable for the civilian harm caused by the use of armed drones through investigation, reporting, and promotion of policies that provide redress.

### **Sampling of Initial Shared Framework Activities**

Drawing from our rich discussions at the charrette, below is an illustrative list of activities that would advance the goals of the shared framework. These activities are designed to be accomplished in four

years (from 2015 to 2018) and include diverse ways of working with states and civil society at the local, regional, and global levels.

- **Form a Global Coalition:** OSF can attract new actors through an international coalition that provides evidence, boosts advocacy, and demonstrates global concern. This coalition will link technologists, religious communities, and military and security experts with human rights groups, journalists, and others already working on the issue, including in influential and active user states. It could also connect NGOs and experts from affected states (e.g., Pakistan, Yemen), with counterparts in states likely to be affected in the future (e.g., Uganda, Nigeria), and to the wider network. The objective is to enable civil society to share information, strategize, and coordinate advocacy on national, regional, and international levels. We discussed various models for structuring this “coalition”, including creating a hub at a neutral academic center, a new NGO, or a formal, branded coalition or network. More than one structure may be needed. We would design and build these throughout the four-year period, aiming to have something strong enough to take over any vestiges of OSF coordination by the end of 2018.
- **Create a Global Task Force of Experts and Former Military and Government Officials:** The task force would be modeled on the Stimson Task Force on U. S. Drone Policy, which brought together leading military, international law, and diplomatic experts and former officials all within the United States. A global version of this initiative that engages credible military and security voices and technologists from many countries could provide a powerful mechanism to advocate reasonable policies for states newly acquiring armed drones as well as for those states that already have them. This work can begin quite quickly, building on existing interest in Europe in connecting with the Stimson Task Force, though launching a global version of that task force is likely to take one to two years, and will need another year or two before it can report.
- **Expand Research and Public Scrutiny:** Very few people are well informed about drone use, the broad array of states that provide logistical support for drone strikes, and the proliferation of the technology itself. Research and a series of workshops and talks at diverse venues and institutions, particularly outside of the U.S., will help fill gaps in knowledge, develop advocacy strategies, and inspire new streams of work. This would require intensive activity in the first year, continuing throughout the four-year period.
- **Take Advantage of U.S. President’s Last Two Years and the Post-Obama Transition:** Work with civil society partners to identify lessons learned from Obama Administration drone policies, and develop formal and informal networks of departing civilian and military officials to engage in advocacy. The goal will be two-fold: first, to persuade President Obama to secure a legacy of transparent, accountable, and rights-respecting drone use by the time he leaves office in January 2017; and, second, to shape the next administration’s policies through influential U.S. government and national security officials during and after the transition to a new administration.
- **Support Advocacy and Litigation Targeting Complicit States:** Many states are currently or may soon be actively supporting drone strikes by others. Such support includes conducting joint operations, sharing intelligence, providing bases, and consenting to use of air space. Where this support violates domestic or international law, litigation can be initiated to highlight the previously secret details of complicity and equip local advocates to demand accountability from their own governments. Such litigation and advocacy may steel governments against future requests for unlawful collaborations.

- **Support Development of an Alternative Drone Policy in One or Two European States:** European countries, such as Germany, the U.K., and the Netherlands, are states that might develop their own drone policies that could provide a more restrained alternative to the existing U.S. precedent on targeted killing. We could assist directly and indirectly, building on research already initiated by OSEPI.
- **Fund Documentation and Advocacy for Victim Assistance Mechanisms in Affected States:** Drone strikes are typically covert operations cloaked in secrecy. States engaging in these strikes do not disclose who they have killed, why, and whether innocent civilians may have been killed or wounded. Additional documentation and advocacy on behalf of civilian victims is vital not only for uncovering information relating to the impact of these strikes, but for securing justice and redress for victims. Work can be strengthened and seeded in specific countries and connected through a global meeting in the second year.

### **Leadership and Governance**

The leadership and governance structure of the lethal drones shared framework draws from the African food security, post-2015 and drug policy shared framework model in which a senior director with relevant issue-area expertise is appointed to exercise strategic and budgetary oversight across the life of the shared framework.

Jim Goldston, Director of the Open Society Justice Initiative, will lead the lethal drones shared framework if it is approved. Jim's appointment also accompanies two recent innovations in the overall shared framework governance system. Starting in January 2015, all shared framework directors -- including Jim on lethal drones (if approved), Lenny Noisette on drug policy, Pedro Abramovay on post-2015, and Akwe Amosu on African food security -- will meet together on a monthly basis with Chris Stone. This monthly meeting will provide all shared framework directors with a regular opportunity to review arising strategy, budget, and governance issues in a team setting that draws from the knowledge and experience of each member.

Jim will be supported in the implementation of this shared framework by a team of advisors including representatives from the primary stakeholder entities at OSF, a Fellow, and the Strategy Unit. This governance group will consult and liaise regularly with the wider set of programs and foundations engaged in the shared framework. A dedicated shared framework coordinator will be hired on a full-time term-basis to support this effort and manage daily project operations. The lethal drones shared framework coordinator will receive ongoing support with other shared framework coordinators by the Strategy Unit to foster joint learning related to implementation. Regular progress reports will continue to be provided on a quarterly basis to the global board by each shared framework director with assistance from the coordinator, input from participating OSF entities, and support from the Strategy Unit's results assessment team.

We are just finishing our first full year of shared frameworks, and we are still learning how they can most efficiently enhance and coordinate work across OSF, engaging external allies and grantees. We would expect that the advisory team would serve as a forum within which to address these issues and propose reforms as needed. Jim is particularly sensitive to these concerns and we hope that this shared framework, if approved, will contribute to the growing body of learning on how best to manage this new approach.