

The deadly droning overhead

Given the current global human rights situation it can be difficult to form a rational, informed approach to human rights policy. Who should we step in to protect, and how? Is it possible to act without underestimating the complexity of the problem? How can we avoid being instrumentalized or applauded by people we don't want to be allied with? Law, and particularly international law, can offer some orientation: it defines red lines which states may not overstep, even when they claim to be abiding by the rule of law or to be acting in pursuit of humanitarian aims. And yet these rules have been broken over and over again by the USA and other Western states in many different places in the name of the 'fight against terrorism' and nobody was able to apply legal sanctions. During the Bush years detainees were systematically abused and tortured on a massive scale, and there has still not been a satisfactory investigation or compensation for victims. President Obama is also on the receiving end of criticism, mainly for his ongoing expansion of drone strikes and targeted – or more or less targeted – killings.

Most affected by the drone strikes are Afghanistan and Pakistan, countries where armed conflict is ongoing and where there is considerable legal scope for the killing of combatants under international humanitarian law. This was precisely the problem in the drone strike cases that came before the German courts. In investigatory proceedings into the killing of German citizens in Pakistan, prosecution authorities in Karlsruhe had to examine whether the US attacks in Pakistan violated German criminal law. In one case to date the authorities concluded that there was no violation, a decision that was strongly criticized by lawyers for the victims' families and my own organization, ECCHR. But drone strikes are also being launched in states like Yemen, places that are far from the conflict ground and thus where such killings cannot be seen as legitimate under international law.

This issue is at the heart of legal action launched by a Yemeni family against the German state (represented by the Ministry of Defence) at an administrative law court in Cologne. The family lives in the Hadramaut region of Yemen where drone strikes are a common occurrence. A drone attack killed two members of their family and left others with persistent and severe trauma. Simple acts like going to the next town to visit the doctor or even attending family gatherings are fraught with worry about possible further attacks. As in Pakistan, everyone here, including the children, have come to recognize

the buzz of drones circling overhead. As there is very limited scope for the family to seek redress in the USA, they are now appealing to the courts in Germany with the help of the British group Reprieve and ECCHR. The US has been using German territory to prepare and launch drone strikes from the US military base in Ramstein. The German government has so far failed to make any real comment, claiming to have little knowledge of what's going on. But now Germany will be forced to engage with the facts during the proceedings in Cologne. With any luck, the court will find that Germany must put a stop to the orchestration of unlawful killings from German soil.

And yes: we do intend to continue our work on drone strikes even in light of the dramatic events unfolding in Iraq and Syria. We know that there are many other states and actors in the Middle East who violate human rights. But we must insist that Germany and the USA respect the legal standards that they themselves have set down. Otherwise, these standards are in danger of being eroded entirely.