

ON THE QUESTIONS OF DRONES, FIRST RESPONDERS AND COLLECTIVE PUNISHMENT IN PAKISTAN

Yesterday evening, I took the ill-advised step of jumping into an already ongoing Twitter discussion with Professor Christine Fair on the topic of drones in Pakistan. My jumping in was ill-advised on two fronts: I had not seen the comments to which Fair was responding, but, more importantly, I can't come close to the experience, language skills and overall knowledge Fair brings to the issues of South Asia.

My first entry into the discussion was to respond to a statement from Fair in which she said that she supports drones and does not believe their use to be collective punishment. I asked whether the use of drones to attack first responders and mourners in Pakistan qualified as collective punishment and in a follow-up provided a link to the work by Chris Woods and Christina Lamb at The Bureau of Investigative Journalism where they document such attacks. Fair's response was to point out that Woods and Lamb have not been to FATA and that the Pakistani press is heavily manipulated. She referred me to a piece she wrote for Monkey Cage for elaboration on the points she was making.

It appears that this is the post Fair was asking that I read. Before diving into it, I should point out that it is about a year old and was written primarily in response to earlier work by Woods and Lamb. For fairness, I should also point out that from the context of other tweets later in the evening, Fair was a passenger in a car during our conversation and so would have

been working with fewer resources at hand than if at home and using a computer.

With that as prologue, here is Fair's dissection of the reliance on press reports for analysis of drone attacks in Pakistan's tribal areas (BIJ is The Bureau of Investigative Journalism and NAF is the New America Foundation, where Peter Bergen and others have produced another drone strike database):

Their methodologies and data are fundamental weaknesses, although neither seem aware of this.

Both NAF and BIJ claim that they have assembled a database which covers each individual strike in Pakistan in detail. Unfortunately, both efforts fundamentally rely upon Pakistani press reports of drone attacks. Both claim that they use non-Pakistani media reports as well. For example the BIJ explains in their **methodology discussion** that the "...the most comprehensive information on casualties lies in the thousands of press reports of drone strikes filed by reputable national and international media since 2004. Most reports are filed within a day or two of an attack. Sometimes relevant reports can be filed weeks – even years – after the initial strike. We identify our sources at all times, and provide a direct link to the material where possible."

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While these methodologies at first blush appear robust, they don't account for a simple fact that non-Pakistani reports are all drawing from the *same sources: Pakistani media accunts* [sic]. How can they not when journalists, especially *foreign journalists*, cannot enter Pakistan's tribal areas? Unfortunately, Pakistani media reports are not likely to be accurate in any

measure and subject to manipulation and outright planting of accounts by the ISI (Pakistan's intelligence agency) and the Pakistani Taliban and affiliated militant outfits.

The more recent report from Woods and Lamb (in which the first responder accusations are made), however, appears to have taken steps to address at least a portion of the shortcomings Fair has pointed out. Since it is not safe for foreign journalists to enter the tribal areas, Woods and Lamb engaged a group of local researchers to carry out interviews on their behalf:

But research by the Bureau has found that since Obama took office three years ago, between 282 and 535 civilians have been credibly reported as killed including more than 60 children. A three month investigation including **eye witness reports** has found evidence that at least 50 civilians were killed in follow-up strikes when they had gone to help victims. More than 20 civilians have also been attacked in deliberate strikes on funerals and mourners. The tactics have been condemned by leading legal experts.

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For the Americans the attack was a success. A surprise tactic had resulted in the deaths of many Taliban. But locals say that six ordinary villagers also died that day, **identified by Bureau field researchers** as Sabir, Ikram, Mohib, Zahid, Mashal and Syed Noor (most people in the area use only one name).

[emphasis added]

Fair's own analysis, however, seems to presage the targeting of first responders:

I believe that greater transparency

about the drones will likely be exculpatory and actually extend the longevity of the drone program. From my own research, drone attacks are more complex than ordinary air strikes. Drone strikes involve lawyers, intelligence officials, actual pilots and others to assess the nature of the target, establish a pattern of life to avoid civilian casualties, and ultimately to authorize or even call off a strike. Like conventional strikes, they are conducted by actual air force pilots. Unlike conventional air strikes, analysts become familiar with their would-be victims and have to watch the video footage of the strike and assess its outcome. Analysis of such footage also leads to information about other potential targets as affiliated militants often rush to the scene. (Indeed, the United States likely learned this from terrorists who pioneered the tactic of attacking at one site and waiting for first responders to appear only to strike again to maximize casualties.) It is a little known fact that people involved in this program are also vulnerable to post-traumatic stress disorder.

I will assume for the sake of this argument that there is no disputing that follow-on drone strikes occur at the site of initial strikes. Fair clearly understands that the terrorist practice of secondary strikes to attack first responders is particularly heinous. She claims that drone operators are watching the aftermath of strikes to identify additional targets among the “affiliated militants” who “rush to the scene”. At this point, however, she must rely on the same sort of “dependent variable bias” of which she accuses The Bureau of Investigative Journalism and the New America Foundation. Fair must rely on government assurances—which can’t be independently verified and for which the

government has strong incentive to hide any evidence of wrongdoing—that follow-on strikes take place only when “affiliated militants” and not when innocent neighbors or official rescue personnel come to the scene of an initial strike. Otherwise, one can’t escape the conclusion that the US has decided that at least some collateral damage to rescuers is an acceptable price to pay when new targets arrive at the scene of an initial drone strike. How far down the slippery slope toward outright terrorism—and collective punishment—is such a conclusion?