

# Keeping the spotlight on targeted killings

By Crystal Triggs

When it was reported in November 2010 that the US was using unmanned aerial vehicles (drones) to kill suspected terrorists in Yemen, it caused barely a ripple in the international press. When the US first used a drone to conduct an assassination in the arid Gulf nation in 2002, the Guardian newspaper reflected popular opinion when it stated that 'Stateless, gangster terrorism is a fearsome scourge. But state-sponsored terrorism is a greater evil, for it is waged by those who should know better, who are duty-bound to address causes not mere symptoms.'

Welcome to the often-desensitised world of state-sponsored assassination, which the renowned international law scholar Professor Philip Alston spends much of his time monitoring. Professor Alston, an Australian national was, until recently, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions. He is also the John Norton Pomeroy Professor of Law at New York University School of Law, co-chair of the law school's Centre for Human Rights and Global Justice and a Special Advisor to the UN High Commissioner for Human Rights on the Millennium Development Goals. He has previously held a number of other senior appointments with the UN and is also a long-time member of the Castan Centre Advisory Board.

Professor Alston's role as Special Rapporteur involved investigating many different types of state-sponsored killings. He was required to regularly report to the UN Human Rights Council and the General Assembly. There are two types of reports that Professor Alston submitted: the first was to investigate specific countries where authorities, such as the police or soldiers, unlawfully kill their own citizens; and the second was to report on significant issues. Professor Alston recently wrote an issues report focussing on the use of drones by the United States in conflicts in Afghanistan, Iraq and the border regions of Pakistan.

Professor Alston focused much of his discussion at the Castan Centre public lecture, co-sponsored with the Human Rights Law Resource Centre, in May 2010 on the use of these drones, however he opened his address by describing his investigations of unlawful killings in Kenya and Columbia. In Kenya, police have killed thousands of insurgents, petty criminals and political activists with impunity. In Columbia, the military creates 'false positives' whereby young men are abducted and executed by military personnel who then dress the victims in camouflage gear and claim that they were Guerrillas. The military officers involved are then rewarded either monetarily or through promotion. In both instances, Professor Alston's subsequent reports were effective. The press and the diplomatic community in Kenya supported the report and eventually the Kenyan police official in charge of the 'death squads' was moved on to the Kenya Post Office where Professor Alston noted 'I think he's probably executing a few stamps now.' In Columbia, Professor Alston presented the President with a dossier of the information he had gathered. The magnitude and detail laid out in the killings came as a shock to the President. Professor Alston noted that while the killings have not been stopped, there has been significant action taken by the higher echelons to eradicate this phenomenon.

On the use of drones by the United States in Afghanistan, Iraq and Pakistan, Professor Alston stated that the CIA is often in charge of the drone missions. Professor Alston claimed that the CIA 'by



*Philip Alston discusses the use of drones in modern warfare*

definition is not accountable', whereas the military is trained to respect the laws of war and is the more obvious agency to control the use of the planes.

Professor Alston was also dismayed by comments such as those by the US legal advisor, Harold Koh, who said that the administration's policy is to use drones as a self defence mechanism, which is an exception to the prohibition on the use of force under the United Nations Charter. Professor Alston noted that this comment is characteristic of US policy post September 11, claiming that 'this is a distortion of the exception.' Professor Alston stated that, under international law, nations can only target armed forces or individuals in combat situations. For these reasons, Professor Alston called for rules, in compliance with human rights law, governing the use of drones, and setting out criterion that will establish accountability.

Professor Alston was ultimately optimistic that his report to the United Nations on drones would have a positive impact. He contended that this issue will play out in the court of public opinion, saying 'the United States is under pressure to justify its policy in this area and to open itself up to a greater degree of accountability.'