

Forum: Legal Committee

Issue: The question of criminal liability regarding the use of drones in military operations

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Introduction

Unmanned combat aerial vehicles or combat drones have become the weapon of choice on many battle fronts especially in the fight against terrorism. While the exact origin of the first drone is uncertain, it is clear that after two destructive World Wars filled with seismic shifts in battle tactics and technology the invention of UAVs was inevitable.

In 1915 the first aircrafts were utilized in combat; however, these jets were strictly used for surveillance tactics. While the technology was limited, British forces were able to capture sky view maps of the German trenches which allowed them to coordinate ground operations with better knowledge of the enemy's position. Moving onto World War 2, manned planes were used to drop bombs, missiles, and most notably two atomic bombs. In 1939 the US army developed the first remote control aircraft otherwise known as the Radioplane OQ-2 which was used again for a plethora of surveillance operations.

More enhancements were seen after the Yom Kippur War in 1973 when Israel produced the Tadiran Mastiff and the IAI Scout. Again these unpiloted surveillance machines were used to record real time video but this time had a flight time of about seven hours. After further collaboration between Israeli and American Scientists, the predator drone was born in 2000. It was only armed with surveillance cameras until December 21 when the pentagon gave approval to the US air force to equip the Predator with Hellfire missiles to assist in the hunt for Osama bin Laden in Afghanistan. After 9/11 devastated the United States, the CIA approved the Targeted Killing Campaign which allowed the Pentagon to kill whomever they saw as a suspected terrorist threats.

The United States along with other countries have continued to combat the terrorist threat through the use of drones. However, on a larger scale, UAVs are used whenever a manned flight operation would put a pilot in an unpredictable or risky situation. Instead, the flight crew stays at the military base and controls the drone remotely.



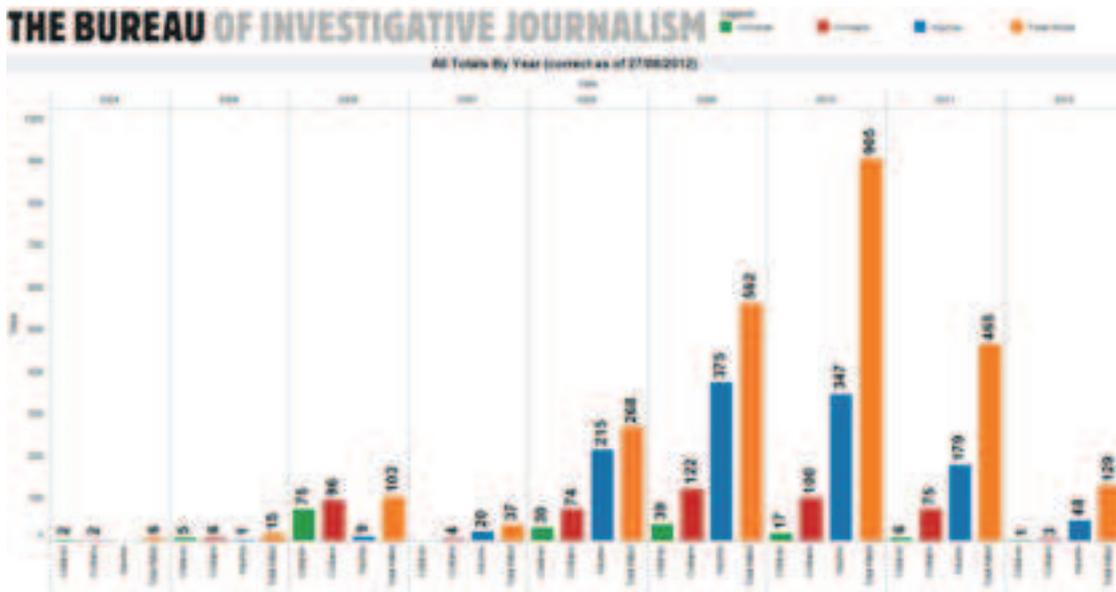
th August 2017 – 13 August 2017

The use of drones to carry out military airstrikes is not limited to the fight against violent extremist. For instance, they have played a big role in the Israeli Palestinian conflict and other wars around the world as well. Many ethical implications with these unarmed killing machines have arisen in the past years as civilians in war torn areas report the constant fear of being mistakenly targeted. This fear is not founded out of thin air as it has been reported that almost 385 innocent civilians (including 160 children) have been killed the United State's air strikes in Pakistan alone. Keep in mind that casualty numbers vary depending on if the report if from the government or independent investigators. Government numbers tend to be lower. In Syria, drones have been known to mistakenly target residential areas creating even more refugees. As smart drones or completely autonomous UAVs develop, an increase in these numbers is guaranteed.



Regular drones still allow their pilots to become disassociated with the casualties which in turn causes them to kill more people. Nevertheless, advocates of UAVs insist that, through the use of unmanned combat aerial vehicles, less of their soldiers are killed while less money is spent on building and training an army. They also point out the fact that manned combat planes could cause the same damage with the only differentiating factor being the accuracy and precision of the strike. Acknowledging all of the benefits of drones, it is

undeniable that an increase in oversight and stricter targeting rules need to be implemented when handling these weapons.



While UAVs have pros, the prominent issue surrounds the question of holding countries accountable for the destruction they cause during each operation. Drones by themselves are not banned military instruments under Article 8 of the Rome Statute as they do not inflict unnecessary harm. A drone strike may constitute a war crime if it can be demonstrated that perpetrators were aware that the attack has a high risk of violating the principles of distinction and proportionality. In other words, a state can be tried by the ICC if the international attack is directed at civilians or if they had the knowledge that excessive incidental civilian injuries would take place in an operation to gain a relatively small military advantage. However, these rules only apply in an official armed conflict. If there is no armed conflict than a violation to the Universal Declaration of Rights would determine if a nation holds any criminal liability. Civil liabilities can also result drone strikes - as seen in the parameters from the European Court of Human Rights and El-Masri case - if the nation does not take steps to avoid known ill treatment to civilians. However, as of now, no international judicial precedents have been set regarding criminal liability of military and political leaders. Most cases end up at the ICJ.

Definition of Key Terms

UAVs: Also referred to as UASs (Unmanned Aircraft Systems) and RPAs (Remotely Piloted Aircrafts). Unmanned Aerial Vehicle it is the technical term used to refer to drones in a military capacity that are used for surveillance and/or armed attacks.

ICC: The International Criminal Court is an international tribunal that prosecutes military and political leaders for genocide, crimes against humanity, and war crimes. Its framework can be traced back to the Nuremberg Trials.

Criminal liability: Potential punishment that serves as a result of committing a crime according to preset laws.

Civil/state liability: “potential responsibility for payment of damages or other court-enforcement in a lawsuit” (Dictionary.com).

ICJ: The International Court of Justice is the primary judicial organ of the UN. It serves as a diplomatic forum to settle international conflicts between two states in accordance to international law.

International Humanitarian Law (IHL): Laws that were created to limit the negative consequences of armed conflicts. They are composed of the Geneva Conventions, the Hague Conventions, subsequent treaties, case law, and customary international law.

Main countries and organisation involved

United States of America

The previous administration under Barack Obama carried out almost 563 drone strikes against mostly Pakistan, Somalia, and Yemen and more specifically fundamentalist organizations such as ISIS or Boko Haram. In 2017 Donald Trump has reportedly approved far more airstrikes than any previous administration. Most notably, he approved an airstrike against Syria’s air bases in April after Bashar Al Assad carried out chemical weapons attack on his own citizens. Nevertheless, several other airstrikes have collectively killed more than 200 civilians this year.

Pakistan

Northwest Pakistan has been targeted by the United States due to the fundamentalist groups that inhabit the region. The country’s leaders have repeatedly accused the United States for violating international sovereignty through the drone strikes and generally echo the sentiment that these drone strikes are counterproductive.

North Korea

As an isolationist country, the whereabouts of North Korea and their use of drones is not very well known. In June of 2017 however, a North Korean Drone was caught spying on an american missile defense system located in South Korea. The country reportedly has a fleet of 1,000 drones which puts South Korea in grave danger.

Israel

Israel is arguably one of the most active armed drone users in the world as it operates more than 100 UAVs. Most of its drones are operated on the Gaza Strip and West Bank. UAVs have also played a huge role in the Israeli Palestine conflict. Acknowledging all of this, Israel has repeatedly refused accurately report regulations and statistics regarding their armed drone usage to human rights organizations.

China

The third country when it comes to number of in use drones.

United Kingdom

Like the United States, The UK also plots and carries out several drone strikes against several terrorist organizations both with and without the United States's assistance. They are also secretive in many reports about statistics. Last year, a drone strike on suspicious target killings. The JCHR even threatened to put government officials on trial.

UNHCR

The UNHCR has come out as staunchly against the use of drones in a military capacity as the chief believes that needed regulations and safeguards to protect citizens have and will always be ignored.

Countries that have have operational armed drones:

Azerbaijan, Botswana, Brazil, Colombia, Chile, China, Croatia, Cyprus, Egypt, France, Germany, Georgia, India, Iran, Iraq, Ireland, Israel, Italy, Mexico, Netherlands, Nigeria, North Korea, Pakistan, Palestine, Singapore, Somalia, Spain, Taiwan, Tunisia, Turkey, United Kingdom, United States of America. (Hamas and Hezbollah, two non state Islamic fundamentalist organizations have also gotten ahold of several UAVs)

Timeline of events

- **1939:** the US army develops the first remote control aircraft otherwise known as the Radioplane OQ-2 which was used for a plethora of surveillance operations
- **1973:** Israel produces the Tadiran Mastiff and the IAI Scout. Again these unpiloted surveillance machines were used to record real time video but this time had a flight time of about seven hours.
- **2000:** the Pentagon gives approval to the US air force to equip the Predator with Hellfire missiles to assist in the hunt for Osama bin Laden in Afghanistan.
- **2001:** After 9/11 devastates the United States, the CIA approves the Targeted Killing Campaign which allows the Pentagon to kill whomever they see as a suspected terrorist threats.
- **2014:** Resolution A/HRC/25/L.32 is passed with the title of “Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law.”
- **2017:** The United States, Russia, Israel, and other countries increase drone strike frequency in terrorist inhibited regions.

Relevant UN treaties and Events

1907 Hague Conventions:

International treaties that came to being at peace conferences held in the Netherlands. They were one of the first documents that officially laid out the laws of war.

[List of articles](#)

Look over Articles 22-26 as they are most important to the issue

2015 General Assembly Side Event: On October 23, 2015 the UN held a side event on the use of drones which many issues were discussed including the importance of keeping a human perspective in order to protect civilians. The unofficial debate saw polarizing opinions which ended with the discussion on if the UK and France should be allowed to carry out drone strikes on Syria under international law.

Resolution A/HRC/25/L.32: was passed in 2014 with the title of “Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law.” It encouraged the transparency of state records and organized an interactive panel discussion of experts to further discuss the issues of armed drones. However, it only had four clauses that did very little (Reference link to read the full resolution)

In favor (27): Algeria, Argentina, Botswana, Brazil, Chile, China, Congo, Costa Rica, Cuba, Gabon, Indonesia, Ireland, Kazakhstan, Kenya, Kuwait, Maldives, Mexico, Morocco, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Venezuela and Vietnam.

Against (6): France, Japan, Republic of Korea, The former Yugoslav Republic of Macedonia, United Kingdom, and United States of America.

Abstentions (14): Austria, Benin, Burkina Faso, Côte d’Ivoire, Czech Republic, Estonia, Ethiopia, Germany, India, Italy, Montenegro, Namibia, Romania, and United Arab Emirates.

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Forum: Legal Committee

Issue: Measures and cooperation to deter the spread of extremist ideologies through the Internet

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Introduction

The invention of Internet has been beneficial to humankind in multiple ways. However, when regarding extremist ideologies, Internet has also been one of the main contributors to its expansion. Nowadays, Internet is part of the recruitment, financing and execution of attacks of terrorist organizations as the Islamic State.

Ever since the World Wide Web began as a concept, terrorists use it to attract new followers, indoctrinate people, incite violence, and even plan attacks inside other country's borders. Although extremism has always been present in our societies, Internet and the globalization it allows has not only led to further extremist groups to arise, but also for the strengthening of such groupings.

Uncensored material and the availability of access has been determining in the development of a globalised extremist threat, that has no borders and, thus, is dangerous for the whole international community.

Nonetheless, it is important to bear in mind that the Internet is also one of the most powerful tools in the combat against extremist ideologies, and most importantly, against terrorism. Were the international community to reach a feasible solution, terrorism would lose one of its main pillars, facilitating the battle against such organizations. Governments have to work alongside social media companies and other organizations to curb the spread of said ideologies, while taking into account not to detriment any civil liberty as the freedom of speech.

Definition of Key Terms

Propaganda

According to Cambridge Dictionary, propaganda is defined as the “information, ideas, opinions, or images, often only giving one part of an argument, that are broadcast, published, or in some other way spread with the intention of influencing people's opinions”. Propaganda is one of the key tools used by extremists to convey their ideals and rise the amount of devotees.

Extremism

In accordance with English Oxford Living Dictionaries, an extremist is “a person who holds extreme political or religious views, especially one who advocates illegal, violent, or other extreme action.” Although there is a debate on what should be considered extremist, it is important to note that extremists campaign for violence, social segregation, rights to be retrieved from certain peoples, against basic human rights, among others. Extremists, however, are not always related to physical violent actions. They do promote violence at times, but not necessarily engage in that kind of situation.

Terrorism

Terrorism is the use of violence in order to achieve political goals. The spread of fear is believed by extremists to be a tool to manipulate governments. Terrorists are violent extremists who, blinded by their beliefs, attack either civilians or governmental entities seeking to seed horror. There are different profiles for terrorists. Anti-government terrorists seek to destroy the government, usually aiming to have no government at all afterwards. Environmental terrorists believe that violence should be used against businesses, or people believed to be abusive of animals. Religious terrorists are people who either believe that killing sinners is a holy way of acting, and thus engage on mass killings, or people who use religion as an excuse to a deeper ideology and interpret the religion preached as conveniently as possible. Ethnic supremacy terrorist groups have a racial ideology as a basis, believing that other ethnicities are inferior and must be exterminated. Most of the recorded groups with these characteristics are white supremacies, as the Ku Klux Klan.

Freedom of Speech

According to the Human Rights Watch, “*freedom of speech is a bellwether: how any society tolerates those with minority, disfavored, or even obnoxious views will often speak to its performance on human rights more generally. In international law, access to information and free expression are two sides of the same coin, and both have found*

tremendous accelerators in the Internet and other forms of digital communication. At the same time, efforts to control speech and information are also accelerating, by both governments and private actors in the form of censorship, restrictions on access, and violent acts directed against those whose views or queries are seen as somehow dangerous or wrong.

Background Information

Online recruitment

Although extremist propaganda was used before the appearance of social media, this development enhanced the outreach these groups have. Nowadays, propaganda is flooding the Internet, as rebel groups are making use of it more than ever. The Islamic State is characterized for its recruitment, as it poses almost no requirements for aspiring members who are contacted through instant messaging, for example. Al Qaeda has always been more restrictive when recruiting, and thus, it can be inferred that the insurgence of the Islamic State has been one of the keys to the massive use of media to spread terrorist ideology, influencing sometimes even westerners who convert to Islam to join IS forces.

Moreover, white supremacy groups and other religious extremist organizations as the Westboro Baptist Church use the Internet to spread their ideals as well. Official websites with documents and articles explaining and apparently justifying their beliefs are a fraction of the work done to attract more devotees. However, as the Westboro Baptist Church mainly pickets in the US due to its entry ban to Canada and the UK, most of its hate speech is allowed due to the liberal policies regarding freedom of expression. It is important to consider that the Westboro Baptist Church is a non-violent movement which practices hate speech constantly, but does not specifically incite for violence. It does foster societal segregation, but as it is not linked to physical violence, it cannot be sentenced in the United States.

Propaganda as a way to establish links inside other countries' borders

Before the Internet's existence, propaganda was done through traditional media (television, radio, among others) or was passed around in the form of cassettes. These

means, however, were not always beneficial, as information can be suppressed, leading to a lesser impact on the population.

The Internet has been a colossal change regarding unedited information, as terrorist groups have been granted the chance to reach a wider audience and transmit explicitly their ideals with no censorship whatsoever.

The indoctrination through the World Wide Web has been carried out in all sorts of ways. From videos of beheadings to testimonies expressing the ideals and reasons for joining, propaganda has been shown to be influential in attacks as the Orlando mass shooting of 2016. In this case, the attacker consumed terrorist propaganda before, showing how influential propaganda can be, and how terrorists, due to the Internet, can attack inside countries without needing to send affiliates.

Who are the most vulnerable to propaganda?

When it comes to IS propaganda, the most defenseless groups are the youth. The terrorist organization directs explicitly to them, generating a much more effective response. It has been noted that most of the affected are teens lacking of a proper education, with complicated family backgrounds, and sometimes addicted to violent online-games, through which they are contacted. The religion of the youngster in question does not necessarily have to be islamic, as many convert to islamism when recruited. One of the examples that shows the extent some teens are willing to take attacks to is the plot to bomb an Elton John concert in memoir of the 9/11 attacks at Hyde Park. The failed event was planned by a 19 year old British teenager, Haroon Syed, who intended to be a suicidal bomber.

Financing terrorist organizations

Propaganda is key for the recruitment, but had it not been for propaganda directed to financing, it could be argued that terrorist organizations would not be as powerful as today. Some of the tools found to be used by terrorist organizations to finance their actions include: direct solicitation, charity organizations, abuse of online payment tools and money laundering.

Direct solicitation is the method of creating fundraising websites in which to donate. This is the most explicit way for terrorist organizations to make a profit. Charity organizations are sometimes used in order to mislead funds towards the terrorist organization, covering for the transaction as it is believed to be charitable. Some charities are created with the

express purpose of financing terrorism, while others might be co-opted from within by a terrorist-linked individual.

When technology experts linked to the terrorist organizations abuse of online payment tools, their profit grows exponentially. It has been noted that they manage to steal credit card numbers, stealing from those accounts. These credit cards are also used in online gambling websites, transacting then the winnings to bank accounts created for this purpose. Money laundering is successful not only because of the technological expertise involved, but because of the anonymity managed in each transaction.

Main Countries and Organizations Involved

Islamic State (ISIS or ISIL)

Although there are loads of extremist organizations that seek to expand their ideals through the use of Internet, the Islamic State is considered to be one of the most successful. Videos of beheadings, testimonies, uprisings and massive shootings are just some of the forms of propaganda spread to incite violence, recruit, spread their ideology, and finance the organization. YouTube and Twitter are the platforms used the most by the IS. The attack on Nice, the Orlando massive shooter and the Manchester Arena suicidal bombing are just few of the examples of terrorist actions that were due to previous incitement through propaganda linked to this organization. The IS has also been proved to attract people to join its lines. Some westerners have flown to Syria after being recruited by the grouping.

Counter Extremism Project (CEP)

This non-profit organization was created specifically to address terrorism and the spread of extremist ideologies. According to its mission statement, exposing and stopping the financing of extremist organizations, creating a database of extremist groups and their supporters, putting expertise into work against these groups, and creating counter narratives against extremist propaganda while stemming the recruitment of at-risk communities such as the youth, are the main objectives of this project.

UN Counter-Terrorism Committee

Created by the Security Council resolution 1373 (2001) in the wake of the 11 September attacks, it aims to criminalize terrorist financing and cooperate with governments in detecting, arresting, extraditing and prosecuting terrorists or individuals related to such groupings.

United States of America

The United States of America has been one of the key determining countries in the work against extremist ideology expansion. In 2015, a three-day White House summit was called upon, agreeing to find ways to tackle online extremism in a community oriented manner. Prevention policies that include building awareness, creating counter narratives and emphasizing the community led intervention. The US government started talks and established technology camps for social media leaders to have the opportunity to discuss methods to not only counter extremism online, but to prevent it.

Russian Federation

Russia is one of the frontrunners against online extremist indoctrination. In 1998, it presented a resolution to the First Committee of the UN impugning the UN to take action. In 2014, the Russian President signed a new law imposing criminal liability on the usage of the Internet for online extremism. Inciting hatred or animosity came criminally liable under that law. Funding extremist organizations is liable to three years of imprisonment. This law punishes strictly any action perceived to be linked to any terrorist entity. Furthermore, Russia has blocked over 4500 websites alleged to be linked with different kinds of extremism. However, this is seen by some as an overreach of legislation limiting freedom of speech in some cases, and that this legislation empowers the Russian government to stifle opposition. Recently, the Russian government started an altercation with the Jehovah's Witnesses, claiming that the religious organization was extremist, and banning any action undertaken in the name of said religion.

United Kingdom

Although almost no action has yet been undertaken by the UK, the Prime Minister Theresa May said in public television that measures to control the cyberspace will start to be carried out. After the string of attacks and even more plots, the British government is

probably on the verge of taking strong action against online extremism, having been one of the most affected by this phenomenon.

Timeline of Events

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| July 2014 | Dabiq magazine (IS propaganda magazine) started to be released monthly |
| 17 June 2014 | Charleston Church Shooting, related to white supremacy groups |
| 19 August 2014 | James Foley's beheading video |
| February 2015 | London girls are discovered to have left in order to join the IS |
| 13 November 2015 | Attacks in Paris |
| 12 June 2016 | Orlando Pulse Shooting |
| 1 July 2016 | Dhaka Café Attacks |
| 14 July 2016 | Nice Attacks |
| 22 March 2017 | Westminster Attack |
| 22 May 2017 | Manchester Attack |
| 3 June 2017 | Borough Market Attack |
| 4 June 2017 | Theresa May's statement on how to prevent further plots |

Relevant UN Treaties and Events

- Security Council Resolution 1373, 28 September 2001
- Security Council Resolution 1566, 8 October 2004
- Threats to international peace and security (Security Council Summit 2005), 14 December 2005 (S/RES/1624)
- The United Nations Counter-Terrorism Strategy, adopted by the General Assembly, 8 September 2006 (A/RES/60/288)

- United Nations Congress on Crime Prevention and Criminal Justice, 21 December 2010 (A.Res.65/230)
- Security Council Resolution 2170 Condemning the Abuse of Human Rights by Extremist groups, August 2014
- Prevention and suppression of Daesh terrorist attacks 20 November 2015 (S/RES/2249)
- Geneva Conference on Preventing Violent Extremism, 1-8 April 2016
- 14th April 2016 Security Council Meeting (SC/12320)
- 32nd Session of the Human Rights Council which targeted the freedom of online speech, 13 June - 8 July 2016
- Security Council Resolution 2354, 24 May 2017

Previous Attempts to Solve the Issue

The Counter-Extremism Project has multiple solutions that are being carried out at the moment to counter terrorism online. The Digital Disruption campaign seeks to cooperate with the social media leaders to curb the expansion of extremist ideologies through these platforms. It works with Twitter and Youtube regularly to ensure that no terrorist propaganda is spread. However, these online powerhouses are sometimes hesitant to block certain comments, posts or videos, as they do not want to censor the freedom of speech. One of the main concerns of the organization is Anwar Al-Awlaki, a radical American cleric that posts propaganda on social media, specifically Youtube. Other projects to combat online extremism carried out by the CEP include Community Awareness Program for Preventing Violent Extremism in Tanzania (CAPPTAN), Muslim World Today (MWT) and One95. These programs are in cooperation with the US government and other nongovernmental organizations. It also researches, creating a database that is constantly updated listing the extremist and terrorist leaders and operatives around the globe.

Its work with Twitter, although not yet fully completed, has led to Twitter blocking 125,000 accounts related to extremism. Most of the accounts were linked to the Islamic State. Facebook has been trying to keep up with the counter-extremism actions, but has had problems along the way. Due to the fact that once moderators have taken down a comment, the user can demand for the content to be re-established, being usually

successful. Both platforms allow for users to report on comments believed to be extremist, so that comments can be reported if moderators did not notice them.

The UNOCD has worked alongside Jordan's government to re-educate muslim people in religion, knowing that instead of being the problem, religion should be the solution. This change of paradigm is similar to creating counter-narratives, as people are educated on what religion really preaches and, therefore, turned away from the extremes.

The council of Europe has created the only legally binding covenant on the misuse of the internet and cybercrimes. It criminalizes actions as tampering with computer systems, hacking against governments in the lookout of information and the incitement of terrorist acts, among others.

Possible Solutions

International efforts should be done to define to which extent governments are willing to breach freedom of speech, so that companies are clear of which actions can be undertaken against the spread of the ideologies in question.

Moreover, an organization can be set up internationally, putting expertise in the work against hacking and encryption for the sake of terrorism. This would lead, if any advancement was to be made, to a major influence over the propaganda and instant messaging, preventing not only indoctrination, but also any possible attack. This organization could have another department to curb online financing. Research must be started on charities, online gambling websites and online payment tools. A closer look on transactions must be started, knowing specifically each party of the transaction, suspending and blocking organizations and entities linked to terrorist organizations.

The lack of education is one of the key aspects in the profiles of the most vulnerable to recruitment. Both formal and informal education should be given to all people. Counter-narratives must be started, in order to educate people in what terrorism preaches, in how to prevent its spread, and against xenophobia. Every media company and government must commit to spreading this counter-narratives, so as to make the impact of this colossal in comparison to the extremist impact.

Knowing that the Internet is both the problem and the solution, the same tools used by terrorists can be used in order to halt their actions. Governments, NGO's and social media must set its efforts to curb terrorist action in the internet, leading to a major imbalance in these terrorist organizations.

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Forum: Legal Committee

Issue: Measures to regulate international tax havens

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Position: Chair of the Legal Committee

Introduction

Tax havens have always been closely related to tax avoidance. Although this phenomenon is as old as taxation itself, the concept of tax havens started to develop in the late 19th century. Nowadays, there are about one hundred fiscal paradises throughout the world, according to the financial secrecy index released by the Tax Justice Network.

The usage of tax havens has become colossal in the last few years. Companies seek to lower their taxes by avoiding them through tax havens. Thus, transactions are done offshore in countries whose taxations are lower. Although this strategy is not illegal in essence, it is more often than not linked to illegal activities.

One of the major problems when attempting to solve the issue is that being a tax haven is beneficial to the country that adopts the policies it implies. It leads to a major economic input, as the capital stored in banks is invested, for example, in the stock market or the financing of projects inside the country. It also generates jobs, as banks develop rapidly due to the amount of work incoming assets require. Moreover, although some do not have any taxes at all for offshore corporations, the ones who have little taxation benefit from this income as well. This low taxing attracts companies to transact and sometimes to incorporate in the country, benefiting its economy. Places as the Cayman Islands have showed that their status as a tax haven caused rapid urbanisation in the area.

In addition, money laundering is strongly related to tax havens. Due to the secrecy policies tax havens possess, sources of income are mostly untraceable. This situation makes tax havens cause not only economic losses for the rest of the international community, but also enables crimes to a certain extent.

Definition of Key Terms

Tax haven

A tax haven is an economically and politically stable country that has low taxation liability for foreign individuals and businesses, with little or no financial information required nor shared with foreign tax authorities. Most tax havens do not have as a requirement to

reside in their borders or businesses to operate transnationally in order to be benefited from local tax policies. However, some tax havens do require residence in exchange of the benefit of its low taxation. This issue is solved through the use of virtual residencies, which are not strictly controlled due to the secrecy tax havens guarantee. On the other hand, the tax havens that do require businesses to have activities in other countries, and offer low taxes to only those corporations, mostly have high taxes for their citizens.

Virtual residencies

A method used by tax havens in which companies register in the tax haven, but have no activities there and, thus, are subject to the little or no taxation the country settles for offshore companies. The transactions are legally presented to be taken on said country, so as to take advantage of its little or no taxation, but neither of the parties involved reside, and sometimes do not even have activities there. This method is also used when storing capital in banks. Addresses are chosen intending to be as realistic as possible, so that, if secrecy were to be broken, these are not suspicious.

Euromarket

The market for all the members of the European Union. The European Central Bank is part of the Euromarket and is in charge of the euro currency, monetary policies and foreign exchange, among other things. It is also known as the 'Common Market'.

Holding company

A corporation whose sole purpose is to own enough voting stock in another company, to control its policies and management. It does not produce any goods at all. Holding companies are beneficial to its owners as it protects from losses. If a company controlled by a holding company goes bankrupt, the creditor cannot pursue the holding company for compensation. One of the strategies that are mostly carried out when using holding companies, is dividing the assets of a company into multiple holding companies and thus, limiting the financial liability. Furthermore, these holding companies can be based in different jurisdictions, as tax havens, so as to pay lower taxes, and make every different holding company harder to trace. The economic problem this strategy brings is not only tax avoidance but also a difficulty for creditors to be remunerated.

Taxable Income

It is the number used to calculate tax on income. It is described as the company's gross income minus taxes, salaries, wages, among others. Almost any kind of income is taxable, with the exception of life insurance received after the death of a relative, or in the case of religious people who turn their turnings over to religious organizations.

The difference between “Tax Avoidance” and “Tax Evasion”

It is important to note the difference between these two terms. Tax avoidance refers to the legitimate way to minimize taxes. Some methods to avoid taxes may include taking legitimate tax deductions or setting up a tax deferral plan to delay taxes. In contrast, tax evasion is the illegal practice of underpaying owed taxes. It may be carried out by under-reporting income, providing false information about the expenses or understating taxes, among others.

Background Information

Easy incorporation policies

Some consider that the U.S. states of New Jersey and Delaware are where the concept of “easy incorporation” started to develop, a method used by every modern tax haven. This method refers to the process of buying a company and starting to trade as soon as possible. Both states were in need of funds, leading to a change in the laws regarding taxes. It was projected that the liberalisation of the incorporation laws, and the low rate of corporate taxation would result in attracting companies to the area. This strategy was considered a success, leading to a major development of the states involved.

Virtual Residencies

In the 20th century, British courts managed the technique of “virtual residencies”, leading to a major incorporation of newfound companies. This started the development of Britain as a tax haven, as companies started registering there without having to pay taxes. Not only was the United Kingdom affected by this ruling, but also the rest of the British Empire, including Bermuda, Bahamas (before its independence) and the Cayman Islands.

Interwar Period and the start of secrecy

During the interwar period, a few countries started to adopt policies that started their development as tax havens. Switzerland, Austria and Liechtenstein took advantage of being some of the few countries that were not having to pay for the aftermath of the War,

and developed the first tax haven hub. On 1934, the Swiss Banking Law was created demanding the absolute silence in regards to a professional secret. This requires the absolute silence in respect to any accounts held in Swiss Banks, granting secrecy to most transactions done in the country. This law inspires modern tax havens, who ensure secrecy to the corporations that make transactions inside its borders.

Euromarket

The emergence of the Euromarket in the 1960s, specifically in the City of London, contributed to having an integrated offshore economy. However, the Euromarket spread its activities through the rest of the British Empire, having a special impact in Jersey, Guernsey, the Isle of Man and the Cayman Islands.

Not only was the United Kingdom taking advantage of the development being a tax haven implies, but also this phenomenon started to go global. Places as Singapore, Norfolk, Nauru, Ireland, Bahrain and Dubai adopted laws that turned them instantly into fiscal paradises.

Challenges

By the 1990s, there were between seventy and ninety tax havens worldwide which routed approximately half of the international lending and at least a third of Foreign Direct Investment, according to the Bank for International Settlements statistics. Moreover, they had become a method to avoid taxes globally and were the principal reason for economic drain on developing countries.

These problems continue to be the main reasons as to why international tax havens pose a threat to international economy. Nowadays, the secrecy this countries allow has also provoked the illegal transactions to be easier to carry out, as it guarantees the untraceability of the ones involved in each activity.

However, small jurisdictions often choose this economic policies, as it boosts their development and helps them flourish, regardless of the economic expenses it generates in the countries whose taxes are avoided.

Panama Papers

In 2016, 11.5 million documents from the Panama-headquartered law firm Mossack Fonseca were leaked and released publicly. These contained information about financial

activities worldwide, related to the use of tax havens. Albeit most of the registered activities were legal, it made the general public cringe as tax evasion from multinationals increases their cost of living. Nonetheless, this release of information demonstrated how shell companies sometimes avoid tax legally, but commit crimes along the way. In addition, tax evasion was spotted. Arrests throughout the world followed these information release, as money laundering, among other crimes, was uncovered. The following map shows the places that were known to have offshore activities due to the Panama Papers:



Main Countries and organisations involved

European Union

The European Union is fiercely against tax havens. Being directly affected by tax avoidance, it seeks to implement the Common Consolidated Corporate Tax Base (CCCTB), a set of rules to calculate the taxable income across the EU. Moreover, the European Union is in its way to creating a list of every tax haven in the world nowadays. This list would be beneficial to augment the information in tax havens and, thus, be more efficient when cooperating with them to control the situation.

United Kingdom

The United Kingdom is one of the biggest tax havens nowadays. According to the Tax Justice Network's financial secrecy index released in 2015, the Cayman Islands is the fifth tax haven in the world with the most secrecy and financial activities offshore, and the United Kingdom is the fifteenth. However when considering Crown Dependencies and British overseas territories as the same entity, the United Kingdom is the most powerful tax haven of them all. Due to its soft financial regulations and its secrecy policies, it is one of the most developed and safeguarded fiscal paradises. As the European Union continues in its fight against tax havens, Brexit will provide the UK of further liberty in its advancement on policies that ensure each transactor lower taxes, more secrecy and overall security.

Switzerland

Being a pioneer in the issue, Switzerland is one of the preferred tax havens due to its low taxation, even when comparing to others. Nonetheless, in the last few years, its secrecy has been diminished. Having released the first secrecy policy ever in 1934, with the Swiss Banking Law, Switzerland has backtracked, releasing in 2008 financial secrets of wealthy account holders, as a result of the global economic crisis and the pressure the USA and the EU enforced. In addition, Switzerland has signed the Foreign Account Tax Compliance Act (FATCA), which requires financial institutions and non-financial entities to report on foreign assets held by USA account holders or be subject to penalization. Still, it is considered the tax haven with the better secrecy policies according to the financial secrecy index released by the Tax Justice Network.

Hong Kong

Hong Kong's status as a tax haven is backed up by the People's Democratic Republic of China, as it is considered a Special Administrative Region (SAR) of said country. This ensures Hong Kong major autonomy and secrecy. In 2015, it was estimated that foreigners had approximately \$2.1 trillion dollars in assets managed and \$350 billion banked inside Hong Kong's borders. Moreover, it is one of the tax havens with the lowest taxation rates, taxing corporations for their income only when generated in the region. According to the financial secrecy index released by the Tax Justice Network, it is the second biggest fiscal paradise. When the USA and the EU demanded for Switzerland and Hong Kong to share information about foreign bank accounts and asset owners who sheltered in its jurisdictions evading taxes, the chinese SAR refused to cooperate. This

led to Hong Kong being named to the EU's blacklist of nonco-operative tax havens around the world.

Bahrain and Dubai

Both Bahrain and Dubai are the frontrunners on financial secrecy and offshore activities of the Middle East. They rank ninth and tenth respectively in the financial secrecy index, by the Tax Justice Network. Being a middle eastern country with almost no oil resources, Bahrain's economy is mostly based on its tax havens activities. Although Dubai is considered as part of the United Arab Emirates, when speaking of tax havens it is considered as a single entity. Dubai has been proved to attract high-profile criminals, and most of its inbound money comes in form of gold or cash, proving that even digital transactions are sometimes avoided in a country of extreme secrecy. Considering that both tax havens constitute a safe hub for an unstable region, they attract more capital from their neighbouring countries.

United States of America

The USA has started its process against tax havens, pushing these countries to release information on finances that were originally from the USA. This political pressure proved to be successful in the case of Switzerland for example. However, the United States of America is now considered by some to be the next biggest tax haven. Ranked third in the financial secrecy index by the Tax Justice Network, the US has never signed global disclosure treaties, but the ones that ask for other countries to release information in exchange. The Panama Papers shed light into the states of South Dakota, Delaware, Nevada and Alaska which are main financial centres for offshore activities.

Timeline of Events

| | |
|-----------|--|
| 1880 | New Jersey started its process of adopting "easy incorporation" laws |
| 1898 | General Incorporation Law adopted in Delaware |
| 1914-1918 | First World War |
| 1920 | 1) Britain adopts policies allowing non-residents to register in Britain, leading to the concept of "virtual residencies" 2) Offshore holding companies start to appear ferociously in Switzerland. |
| 1929 | Great Depression |

| | |
|------|---|
| 1934 | Swiss Banking Law |
| 1957 | Emergence of the Euromarket |
| 1966 | 1) The Cayman Islands enacted a set of laws characterizing it as a tax haven |
| | 2) Norfolk Island is established as a tax haven, paving the way for several other Oceanian countries |
| 1975 | Bahrain and Dubai started policies licensing offshore banking units |
| 1990 | Half of international lending and a third of International Foreign Direct Investment is routed through tax havens |
| 2009 | International standards for transparency and exchange of tax information were universally endorsed |
| 2016 | 1) Panama Papers |
| | 2) Launching of the Common Consolidated Corporate Tax Base (CCCTB) |

Relevant UN Treaties and Events

- Report of the Independent Expert on the promotion of a democratic and equitable international order, 4th August 2016 (A/71/286)
- Resolution adopted by the Economic and Social Council, 5th October 2016 (2017/2)
- Resolution adopted by the Economic and Social Council on 13 June 2014 (2014/12)

- Report on the twelfth and thirteenth sessions by the Committee of Experts on International Cooperation in Tax Matters, 11-14 October 2016 and 5-8 December 2016 (E/2016/45-E/C.18/2016/7)

Previous attempts to solve the issue

The European Union is pursuing the end of tax havens once and for all. One of the solutions it began to apply is the Common Consolidated Corporate Tax Base (CCCTB), which is a single set of rules to calculate taxable income on profit. With the incorporation of this policies, multinationals would only have to compute their taxable income once, for a single EU system. This would lead to companies inside the EU filing just one tax return for their activities inside EU borders. The consolidated tax profits will afterwards be shared among the EU Members, dividing the profits according to an agreed formula. This set of policies was proposed in 2011, but was objected by many States, mainly the UK. However, it was re-launched successfully in 2016.

The EU is in its process of developing a blacklist of tax havens, which will be beneficial to know which countries have that status, for certain. Thus, the work against fiscal paradises will be more efficient, knowing more specifically where to focus when dealing with the problem.

Focusing on the United States, a method to get tax havens to share information was the applying of the Foreign Account Tax Compliance Act (FATCA). This means that every foreign financial institution holding information on US taxpayers finances and corporations should release it. Although this act is not compulsory, the USA strongly encouraged other nations to join.

The Organization for Economic Co-operation and Development (OECD) has been key to start the process to put an end on tax havens. Had it not been for this organization, many jurisdictions would not have implemented transparency and exchange of information standards. In 2009, the international standards for transparency and exchange of tax information were endorsed universally. These are primarily contained in the Article 26 of the OECD Model Tax Convention and require the exchange of information on request when it is relevant to the administration of the treaty partner, which cannot be restricted by bank secrecy or domestic tax requirements. In addition, the respect of taxpayers' rights and the confidentiality of the information exchanged are also required.

This organization is also in charge of carrying the Global Forum on Transparency and Exchange of Information, held yearly. Its main purposes are to carry out monitoring and review of the implementation of the international standards for transparency and exchange of information for tax purposes and to develop multilateral instruments to speed up negotiations. Withal, It is important to appreciate how, although these standards were endorsed and the Global Forum on Transparency and Exchange of Information was implemented, little progress has been made from a high number of countries, and in some cases no progress at all.

Possible solutions to the issue

The existence of tax havens and its damage to the international community is not an issue that can be resolved with ease. Most of the countries involved are legally designed to perpetuate this problem and thus, an unilateral solution would not be a proper way to tackle it.

One of the ways to endeavor against the issue at hand may be to create a UN regulated body that specifically addresses tax havens, working against tax haven secrecy. This organization should be in charge of analyzing countries believed to be tax havens,

cooperating with those countries to reach to an agreement on secrecy policies, and afterwards, keep track of their offshore activities. This organization can work alongside the Tax Justice Network and the Organisation for Economic Co-operation and Development, ranking tax havens in order to know for certain which are not cooperating to end their status as such.

Moreover, the imposition of tax withholding may be a necessary approach to the matter, in particular by the EU or developing countries. This implies that every time a person makes a payment to a non-resident company or individual a percentage of the payment must be withheld and paid as a tax. This solution might carry the reduction on tax haven usage, as the international transaction would imply a high tax and, therefore, tax avoidance would be minimized.

Furthermore, minimum taxation floors can be set, in order to prevent the seek for lower taxation rates. International efforts to avoid the use of virtual residencies must be carried out. As its usage is managed to make accounts untraceable, action needs to be taken to halt them. Measures to regulate and check the reality behind residencies ought to be implemented.

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