



Mr. Chris Cole
Drone Wars UK
Peace House
19 Paradise Street
Oxford, OX1 1LD
U.K.

12 October 2021

Dear Mr. Cole,

As House of Lords co-Chair of the All-Party Parliamentary Group on Drones and Modern Conflict, please find attached my concerns about the lack of transparency around the use and deployment of drones; and my support for greater transparency and more accurate information on their use in order for Parliament to fulfil its constitutional scrutiny and oversight role on today's military deployments.

I am happy for you to share this with whomever it may concern.

Yours sincerely,

The Baroness Stern
House of Lords co-Chair,
APPG on Drones and Modern Conflict

THE IMPORTANCE OF TRANSPARENCY FOR PARLIAMENT'S DEMOCRATIC OVERSIGHT OF MILITARY OPERATIONS

I, Baroness Stern CBE, am providing this submission as a Crossbench Peer in the House of Lords, and Lords Co-Chair and founding Member of the All-Party Parliamentary Group on Drones since 2012, with the name changed to All-Party Parliamentary Group on Drones and Modern Conflict in 2021.

The All-Party Parliamentary Group on Drones and Modern Conflict is a cross-party and cross-House Group formed in October 2012 with the objective of examining how governments use unmanned aerial vehicles (UAVs) - commonly known as drones - for domestic and international, military, and civilian purposes. The scope of the Group's work has now broadened to look at the lessons learnt on the legality, transparency, and accountability of the use of drones, applied to all methods of the use of force. Central to the Group's work is the use of Parliamentary mechanisms to increase transparency and accountability on the use of force, including the development and use of unmanned aerial vehicles, complemented by use of the Freedom of Information Act 2000. The Group holds regular meetings in Parliament to inform Parliamentarians on key aspects of civilian protection in conflict, military accountability, and the use and development of UAVs within this framing; the notes and briefings from these meetings are publicly available on the APPG's website. The APPG seeks to facilitate and encourage Parliamentary debate and scrutiny of unmanned aerial vehicles and to actively participate in the broader public debate on this issue.

PARLIAMENTARY OVERSIGHT FIT FOR AN ERA OF REMOTE WARFARE AND MILITARY PARTNERSHIPS

Parliament has an essential role in a strong and vibrant democracy. Its core functions include to scrutinise - "check and challenge" - "the work of the Government"; "make and change laws"; "debate the important issues of the day" and "check and approve Government spending".¹

Transparency is instrumental for Parliament to carry out these functions. Moreover, it is a foundational pillar of democracy. Not only does transparency enable Parliament to scrutinise government action, but it allows the general population to observe action government takes in their name, and to scrutinise and hold to account said action. As such, transparency contributes to good governance, and public legitimacy and confidence in the government.

In 2018, the All-Party Parliamentary Group on Drones concluded its [inquiry into the UK's use of armed drones and drone partnerships](#), building on the existing calls from Parliamentary Committees and Parliamentarians for greater transparency and information on their use. The Inquiry was conducted over two years, and was chaired by Prof. Michael Clarke, former Director of the Royal United Services Institute, and Prof. Dapo Akande, Co-Director of the Centre for Ethics and Law of Armed Conflict at Oxford University.

The Inquiry put forward nineteen recommendations in response to concerns that the UK's use of drones - directly or with partners - raised serious risks. Those recommendations particularly relevant to this case included:

- Publish the number of UK drones in deployment, in line with transparency and reporting for conventional, manned aircraft.

¹ [What is the role of Parliament?](#)

- Commit to (a) ex post facto reporting to Parliament of any use of armed drones deployed via emergency measures and without parliamentary approval; and (b) formalise automatic post-strike scrutiny of the intelligence and legal basis for such strikes.
- Make all memorandums and arrangements with other states concerning the use of drones, guidance systems and related operational intelligence available to Parliament via one of the suggested mechanisms above [in recommendation 9].
- Report regularly to Parliament with precise details (including the number, location, and precise function) of all UK personnel embedded in allies' forces, with specific reference to when such personnel are involved in air operations, including the use of drones.

The government's failure to provide Parliament with any information about drone deployments, despite several committee inquiries emphasising Parliament's role in scrutinising and deploying force, is deeply concerning. As the APPG wrote in 2018: existing processes and mechanisms for scrutiny and transparency have failed to keep up with the rapid evolution of military capabilities, commitments, and partnerships. Only Parliament has the mandate to hold military policy and practice to account. Consecutive governments' decision to withhold even basic information about UK drone deployments from Parliament, despite repeated requests, has significantly undermined transparency and obstructed parliamentary scrutiny.

In 2020, I tabled Parliamentary Questions to establish whether UK drones have been deployed outside of Operation Shader.² One question neither asked for operational details, nor geographical areas of deployment, or numbers of deployed vehicles. Yet, the government declined to respond, quoting operational security³ and its decision not to comment on "intelligence matters". Another response to a question which asked merely for numbers of personnel qualified as Reaper drone pilots, and Reaper drone sensor operators, in each year of a five-year period, declined to give the annual figure, and instead provided an aggregate number for the duration.⁴ This obfuscation of detail and nuance of how drones are used seriously undermines any effort by Parliamentarians to monitor UK commitments and capabilities.

The government has disclosed information about drone deployments in the past. In fact, the Ministry of Defence's Joint Doctrine Publication 30.2 on Unmanned Aircraft Systems, emphasised the need for improved transparency and understanding of the UK's use of drones, "in order to help 'debunk' the mythology associated with the subject." Between 2014 and 2016 the government answered questions about drone deployments, including repeatedly confirming deployments to Afghanistan, Iraq, and Syria, as well as disclosing that drones were not deployed to Libya.⁵ The government has repeatedly stated that drones and conventional aircraft adhere to the same policy and guidance, yet it solely withholds information about drones.

² <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7182> ; <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7184/> ; <https://questions-statements.parliament.uk/written-questions/detail/2020-06-09/HL5491> ; <https://questions-statements.parliament.uk/written-questions/detail/2020-06-09/HL5489>

³ stating that disclosing the information "would or would be likely to prejudice the capability, effectiveness or security of the Armed Forces." <https://questions-statements.parliament.uk/written-questions/detail/2020-06-09/HL5491>

⁴ <http://www.parliament.uk/written-questions-answers-statements/written-question/lords/2020-06-09/HL5487>

⁵ 30 October 2012: Lord Astor confirms new RAF Reaper UAVs will be deployed to Afghanistan as part of Operation Herrick; 16 October 2014: Secretary of State Michael Fallon's written statement in House of Commons reports that RAF Reapers will be deployed from Afghanistan to the Middle East for use against ISIL in Iraq; 14 January 2015 Minister Mark Francois reports that some RAF Reapers have been relocated from Afghanistan to the UK and will be put in storage; 14 Dec 2015: Secretary of State Michael Fallon details that RAF Reapers are now flying combat missions against Daesh in Syria as well as Iraq; 18 Jan 2016: Minister Penny Mordaunt confirms that RAF Reapers are not being used in Libya but remain operational in Iraq and Syria; 10 Jan 2017: Minister Mike Penning confirms that RAF Reapers continue to support Operation Shader in Iraq and Syria.

The withholding of information in recent years indicates a potential new departure in the government's policy. In response to this change, I tabled a question in 2020, asking "whether it is their [the Government's] policy not to answer questions about the deployment of RAF Reaper drones; and if so, when this policy was agreed." In response, the government stated that there was no "policy not to answer questions about the deployment of RAF REAPER drones."⁶ However, the Minister added that "there is a long standing policy not to comment on operational matters where the disclosure of information would increase the risk to intelligence and operational security."⁷ This adds to a growing concern that, upon questions about military policy and deployments by Parliamentarians, the government is increasingly referencing its policy not to comment on "intelligence matters", to withhold information across an expanding number of military capabilities, commitments and partnerships. This includes questions that do not ask for operational, intelligence or deployment details, such as my question about "whether RAF drones used on operations outside of Operation Shader are being used in support of NATO operations or missions."⁸

This follows repeated refusals to disclose publicly, to Parliament or its committees, guidance, policy, or legal frameworks guiding the use of drones, or information on specific deployments. This was outlined in the APPG on Drones 2018-inquiry report. By contrast, the US and Israel have published detailed guidance that set out their policies and legal views, without evidence of this impacting their operational capabilities. In the inquiry, we urged the government to take these same steps, stating that it "would be instrumental in informing a meaningful debate about drone use and policy, and ensure compliance with the rule of law. It would also facilitate effective scrutiny and accountability." The MOD's Joint Doctrine equally emphasised the importance of improved transparency. This is essential to ensuring public confidence in the government, and specifically its military deployments. Large-scale protests against British participation in the Iraq war, the outrage at UK drone strikes outside of an armed conflict, and repeated parliamentary inquiries into UK targeted killing, clearly demonstrate a public interest in British military policy and practice, and Parliament's attempts at scrutinising this.

THE NEED FOR A STRENGTHENED AND INFORMED PARLIAMENT: INCREASING BARRIERS TO PARLIAMENT FULFILLING ITS DEMOCRATIC ROLE

Despite frequent attempts by myself and other parliamentarians to acquire information from the government, currently, Parliament is unable to fulfil its constitutional scrutiny role. The lack of information available to Parliament has made it impossible to even monitor military commitments, let alone hold the full breadth of the government's use of military power to **account**. Information surrounding the use of unmanned aerial vehicles ("drones") specifically has been increasingly withheld, including even the most basic information about the UK's deployment of drones overseas.⁹ In addition, consecutive governments have withheld their interpretation of the key legal terms¹⁰ and policies¹¹ that underpin the use of drones, and inform any military deployment. This renders parliamentary scrutiny incomplete and therefore also inadequate.

⁶ <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7182>

⁷ *ibid.*

⁸ <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7182>

⁹ <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7182> ; <https://questions-statements.parliament.uk/written-questions/detail/2020-07-22/HL7184/>

¹⁰ such as "self-defence", "combatant" and "imminence". E.g. Lord Hodgson asked for clarity on the Government's definition of imminence, see [here](#).

¹¹ including on targeting

Over the past decade, it has become clear that the existing mechanisms for available to Parliament to ensure appropriate scrutiny, are not fit for purpose. The Public Administration and Constitutional Affairs Committee (PACAC) recently conducted an inquiry into [Parliament's role in authorising military force](#). In its subsequent inquiry-report, PACAC determined that:

“Currently, Britain’s growing military capabilities and commitments are far outpacing the existing procedures for parliamentary scrutiny and oversight, highlighting the need for a strengthened Parliament to meaningfully uphold its obligations under the conventions.”

The need for greater transparency on the use of drones is epitomised by the failed attempts of three Parliamentary committees (Joint Committee on Human Rights; Defence Committee; and the Intelligence and Security Committee) to adequately scrutinise the government’s use of armed drones, with particular attention to the 2015 drone strike that killed British citizens Reyaad Khan and Ruhul Amin. These inquiries were inconclusive, and there remains a gap between their mandates that prevents complete and effective parliamentary scrutiny. Despite the Intelligence and Security Committee having the necessary security clearance to scrutinise intelligence matters, members criticised the Government for withholding the information necessary to make an independent judgement on the strike’s legality. Moreover, any scrutiny of intelligence used for targeted killing is at the discretion of the Prime Minister. This is highly unsatisfactory, particularly in light of the Prime Minister’s decision to block an ISC investigation into a US strike that killed UK citizens - and despite the UK working ‘hand in glove’ with its ally.¹²

We are in an era of changing warfare. In place of large-scale deployments, the UK is increasingly relying on small foot-print deployments, characterised by the increasing use of drones, and working through, with and by local partners. Addressing the change in UK military capabilities and commitments, and recognising that prior approval is not always possible, PACAC urged the Government and Parliamentarians to develop new mechanisms for communicating and sharing necessary information in order to strengthen post-hoc scrutiny as a minimum standard. Whilst MPs should educate themselves on relevant issues and information, the Committee recommended that MPs have access to all but the most sensitive information regarding the possible use of military force, to ensure effective scrutiny of Government decision-making and policy, and be allowed to debate general policies on how force is used - with specific attention placed on the use of drones:

“The House of Commons should consider how it best manages these competing demands. We are persuaded, for example, that the principle of how special forces and drones are utilised should be considered by the House, even if specific instances of deployment cannot be debated openly. This would both hold the Government to account for its general policy and give the Government guidance in relation to the types of policy which the House of Commons would, in principle, tolerate and support...”¹³

CONCLUSION: SCRUTINY DOES NOT UNDERMINE SECURITY

The UK is increasingly relying on the deployment of unconventional force, characterised by the increasing use of drones, and via military partnerships. Yet, mechanisms for scrutiny and oversight

¹² Claire Phipps et al, ‘High degree of certainty’ that US strike killed Mohammed Emwazi, Guardian, 13 November 2015, [https:// bit.ly/2MPIJr8](https://bit.ly/2MPIJr8)

¹³ <https://www.parliament.uk/external/committees/commons-select/public-administration-and-constitutional-affairs-committee/news/2019/parliament-military-force-report-published-17-19/>

are currently being outpaced by the UK's military commitments and capabilities. In order for Parliament to be able to uphold its scrutiny responsibilities, PACAC found that the government must disclose all but the most sensitive information about its military deployments to Parliament as a matter of urgency. Despite repeated attempts by myself and colleagues to attain even the most basic information about the UK's drone deployments, policy, and commitments, Parliament has not been provided with the accurate and timely information needed to meaningfully carry out its constitutional scrutiny role. Whilst certain details must be kept secret in order to ensure operational and national security, the current trend of withholding information about the use of drones purely because it is seen as an "intelligence" asset, as well as withholding vital information on the UK's growing military capabilities and commitments is deeply concerning and unjustified. The use of drones is central to today's military deployments. Without bringing Parliament's ability to scrutinise today's military operations up to date with the pace of technology and commitments, Parliament will not be able to adequately assess the effectiveness of current operations and hold the government to account.