

Remote Warfare: Remote Justice?

An assemblage approach to civil society in an age of remote warfare



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Submitted on August 3rd, 2018

A Thesis submitted to the Board of Examiners in partial fulfilment of the requirements of the degree of Master of Arts in Conflict Studies & Human Rights

Supervisor | Lauren Gould

Date of submission | August 3rd, 2018

Programme trajectory | Research and thesis writing (30 ECTS)

Word Count | 27077

Abstract

Unmanned Aerial Vehicles - more commonly referred to as drones - have been deployed in the context of war as early as the Vietnam War. Since the turn of the century, armed drones have increasingly been used by the United States and its allies in counterterrorism operations, in- and outside conventional warzones. This thesis argues that the growing deployment of drones constitutes part of a broader shift among Western states to counter threats at a distance, while minimizing the human and economic costs of war. It also argues that this approach to war - referred to as *remote warfare* - helps obscure the loss of innocent life and prevents states from being held accountable. In the light of this development, the European Forum on Armed Drones (EFAD) has been taken as a case study. EFAD is an international network of civil society organizations that seeks to regulate the use of armed drones by European states. An assemblage approach is taken to understand *how* and *why* the members of EFAD act in dynamic alliances of states, institutions, organizations, groups, expert individuals, discourses, treaties, laws and regulations to govern to the use of armed drones. Placing the work of EFAD in the light of transitional justice, mechanisms of justice are explored in the context of remote warfare. This thesis concludes that in the context of remote warfare, such mechanisms must first and foremost bridge the distance between victims, states and the societies that those states represent. In other words, these mechanisms must counter the asymmetry of contemporary warfare by reintroducing the reality of loss and suffering that threatens to slip entirely from our experience of war.

Word of Acknowledgment

Much like the members of the European Forum on Armed Drones act within a broader assemblage, I too have found myself situated in a miniature arrangement of people, organizations, books, reports, university libraries, train stations, airports and the 2017-2018 *Red Book*. Though this assemblage has come to an end on the 3rd of August, I wish to express gratitude to a number of people, without whom this endeavor would not have been possible or significantly less bearable. To begin with, I would like to thank my respondents for their time and willingness to help and share their insights. You not only played a crucial role in my research, you also inspired me through our conversations and the work you do. A special thank also goes out to all who assisted me over the past six months, including Lauren Gould, Ruth van Duijn- Snetselaar, Geeske van Voorthuijsen-Snetselaar, Nora Kindermann, Douwe den Held and last but not least Alies Jansen. Without your help, my thesis would unquestionably not be what is now. Lastly, my gratitude also goes out to my family, friends and fellow MA students who have been an encouragement.

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Introduction

In late January 2014, a U.S. drone hit a convoy of vehicles traveling north of Barawe, Somalia.¹ The intended target of the drone strike was Ahmed Godane, then leader of Al-Shabaab.² While Godane remained unharmed, two nearby herdsmen became victims of the attack.³ The two men lost their two young daughters, their livestock and one of them lost a leg. Assisted by human rights lawyers Göran Sluiter and Liesbeth Zegveld, the two herdsmen have taken the Dutch government to court on account of sharing intelligence with the U.S. government, which led to the drone strike.⁴ Because the case would likely be dismissed in the interest of national security if the victims applied to an American court, Sluiter argued that they have a better chance taking to court the Dutch government, which profiles itself as ‘the international center of peace and justice’.⁵

The drone strike that intended to kill Godane is one of the thousands launched by the U.S. to kill individuals it considers to be a threat. This prolific use of drones reflects a broader shift among Western states to counter threats at a distance, at ‘minimal cost of blood and treasure’.⁶ This tendency – referred to as remote warfare – involves military strategies that do not deploy a large military force but rely on a ‘combination of drone strikes and airstrikes from above, knitted together by the deployment of special forces, intelligence operatives, private contractors, and military training teams on the ground’.⁷ As will be explained in the third chapter, this development should be seen in the light of a growing risk-aversion in Western societies. Especially after the Iraq and Afghan wars, the Western public has become increasingly critical of foreign military engagements by their governments, which has led states to adopt covert and cost-free military strategies. The long-range and precision of drones make them the ideal weapons for remote warfare strategies.

Besides an example of a new military strategy being used to fight terrorism, the above-mentioned drone strike also illustrates that the victims of these precision strikes are not only terrorist suspects, but also innocent bystanders. The covert and remote nature of drone strikes conceals the identity of those who are

¹ “Sources: US Drone Strike Nearly Hits al-Shabab Leader,” Africa, Voice of America last modified January 29, 2014, <https://www.voanews.com/a/sources-us-drone-strike-nearly-hit-alshabab-leader/1840174.html>.

² Barbara Starr, “Military strike in Somalia targeted Al-Shabaab leader, U.S. officials say,” *Cable News Network*, January 28, 2014, <https://edition.cnn.com/2014/01/28/world/africa/somalia-us-airstrike/>.

³ “Somalia: Reported US covert actions 2001-2016,” The Bureau of Investigative Journalism, accessed July 26, 2018, <https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2001-2017>.

⁴ Huib Modderkolk and Maud Effting, “Somali victims of US drone strike take legal action against The Netherlands,” *de Volkskrant*, november 28, 2015, <https://www.volkskrant.nl/buitenland/somali-victims-of-us-drone-strike-take-legal-action-against-the-netherlands~a4196845/>.

⁵ *Idem*.

⁶ Rubrick Biegon and Tom Watts, *Defining Remote Warfare: Security Cooperation*, (London: Oxford Research Group, 2017) 4.

⁷ Oxford Research Group, *Annual Impact Report 2015- 2016*, p 11.

<https://www.oxfordresearchgroup.org.uk/Handlers/Download.ashx?IDMF=82c8e730-403a-489d-a298-f82f62972334>.

killed, thereby hiding the loss of innocent life from the public. A reason for this is that armed drones often fall between the cracks of existing legislation and oversight mechanisms. The lack of state transparency in combination with the fact that drone strikes are often conducted in remote areas, makes it difficult to ascertain who was killed, when and for what reason. As a result, armed drones are presented as a clean and precise means to wage war, while innocent victims are forgotten and left with no means to access justice or seek acknowledgement for their loss. Mechanisms that provided war victims with access to justice and official recognition are often associated with a period of transition that follow a conflict and are referred to as *transitional justice*. The low-intensity and open-endedness of remote warfare, however, blurs the distinction between war and peace, leaving victims in an ambiguous position. With few other options, the victims of these drone strike have turned to civil society organizations like Prakken d'Oliveira, Reprieve and the European Center for Constitutional and Human Rights (ECCHR) for help.

These organizations – Reprieve and the ECCHR – are part of a broader network of civil society organizations that together form the European Forum on Armed Drones (EFAD). Through research, advocacy, campaigning and legal action, the members of EFAD seek to counter what they consider to be the unlawful use of armed drones by seeking more state transparency and accountability. In order to deal with the many hurdles in their way, the members of EFAD act within changing alliances of international organizations, local NGOs, institutions, states, academics, journalists and the public. To understand how the members of EFAD are able to align such a variety of actors, an assemblage approach is taken. Specifically, five *practices of assemblage* are used to analyze how the members of EFAD align both human actors as well as discourses and laws in order to regulate the use of armed drones. This has resulted in the following research question:

How and why do the members of the European Forum on Armed Drones, through practices of assemblage, engage in mechanisms of transitional justice since April 2016, to deal with the use of armed drones by European States, in the context of increasingly common modes of remote warfare that take place outside conventional warzones?

Answering this question makes this thesis socially and academically relevant for several reasons. The social relevance lies in the fact that it addresses a topical development in contemporary warfare. As pointed out above, Western states increasingly resort to covert and cost-free military strategies to address persistent threats of terrorism relying on advanced weapon technologies such as armed drones. Appealing as armed drones may be, it is essential to scrutinize and understand the implication of state military policies and practices. A key issues that is raised is the disconnection of Western society from the wars waged in their name. As such, the role of civil society in bringing to light the true cost of contemporary warfare is highlighted. Regarding the academic relevance, this thesis seeks to understand the recent developments in

contemporary conflict as a shift toward remote warfare. Specifically, it explores notions of justice in the context of remote warfare, emphasizing the need to revisit existing notions of transitional justice. Furthermore, it builds on the work of Jolle Demmers and Lauren Gould and Tania Li applying the *practices of assemblage* as a tool to understand power in complexity. Specifically it studies how civil society organizations act within complex alliances to address global harm and injustice, and by doing so harness various forms of power. The thesis thereby gives insight into the power within the complexity of contemporary conflict but also our own society.⁸

The research has been divided into five chapters. The first chapter engages in three interrelated debates on armed drones, transitional justice and assemblage theory, providing a theoretical context. Chapter two discusses the research design and research method of this thesis, explaining how data was collected and analyzed, and how it relates to the three interrelated debates as elaborated on in chapter one. The third chapter provides an empirical context and a historical background by explaining how the use of armed drones constitutes part of broader shift toward strategies of remote warfare. In chapter four the results of the research are presented in a case study analysis that draws on the practices of assemblage. The final chapter analyzes how the members of EFAD engage in mechanisms of transitional justice, thereby exploring notions of justice in the context of remote warfare. The thesis concludes by reflecting on the preceding chapters and answering the research question.

⁸ Jolle Demmers and Lauren Gould, "An Assemblage Approach to Liquid Warfare: AFRICOM and the 'hunt' for Joseph Kony," *The Security Dialogue*, (2018) 4-5.

Chapter 1: Theory

*We live our lives in language and thus in representation. We always see through a glass darkly, never face to face. Yet even if the real is hidden, it exists and by interference and patient study, we can make out its shape.*⁹

This thesis does not address language as a medium to construct and communicate our perceptions of reality per se, but in the quote above, Michael Ignatieff strikingly describes the struggle that confronts any academic effort to understand our complex social reality, especially in the context of war and conflict. Ignatieff also emphasizes the need for patient study to make out the shape of reality. Thankfully, one does not stand alone and many others have patiently studied the reality of contemporary warfare, the use of armed drones, post-conflict justice mechanisms and civil society. It is therefore essential to position this thesis in the context of broader academic debates and analyze how it interacts with these debates. Drawing on the key concepts and topics in the research question, this chapter discusses three interrelated academic debates in the following order: the implication of the use of armed drones (including their legality), transitional justice and assemblage.

1.1 Drones and modern warfare

Within academia there has been a lively debate on the use of armed drones, the many implications of their use, and how they both shape and reflect the practice of contemporary warfare. Relevant for this thesis is the debate on how drones relate to modern warfare and what the political and legal implications are regarding provide access to justice for the victims and holding state accountable. In the debate on how drones have shaped the practice and logic of contemporary warfare, Grégoire Chamayou's book *Drone Theory* voices the critiques of academics who are skeptical of the use of armed drones.¹⁰ He argues that drones have stimulated a shift towards a *hunt-warfare* doctrine that focuses on eliminating high value individuals identified as potential threats, rather than territorial control.¹¹ This new *hunt-warfare* doctrine stands at ends with conventional notions of warfare that are limited to demarcated battlefields. While hunting 'takes place wherever the prey goes', combat only 'bursts out wherever opposing forces clash'.¹² According to Derek Gregory, this logic extends the battlespace far beyond the zone of combat that is commonly thought to be spatially limited to a country.¹³ The American war effort against the Taliban, for

⁹ Michael Ignatieff, *Virtual war: Kosovo and beyond* (London: Chatto & Windus, UK, 2000), 214.

¹⁰ Grégoire Chamayou, *Drone Theory* (London: Penguin UK, 2015), 11-18.

¹¹ Chamayou, *Drone Theory*, 30-35.

¹² Idem, 52.

¹³ Derek Gregory, "The everywhere war," *The Geographical Journal* 177, no. 3 (2011) 242.

example, is no longer limited to Afghanistan but follows wherever the individual members or affiliates of the Taliban go.

Chamayou also argues that the use of armed drones reflects a risk aversion that has resulted in a military ethos that prioritizes *combatant immunity* over *non-combatant immunity*.¹⁴ Previously, such an ethos proved problematic because prioritizing the safety of combatants inevitably resulted in an higher risk of civilian casualties. It is now claimed that drones offer the solution for this dilemma due to their precision, and they are therefore referred to as humanitarian weapons.¹⁵ However, Chamayou points out that ‘the fact that your weapon enables you to destroy precisely whomever you wish does not mean that you are more capable of making out who is and who is not a legitimate target.’¹⁶ Strikes that target specific individuals often rely on what Chamayou calls ‘pattern-of-life analysis’ to distinguish between combatants and non-combatants.¹⁷ This practice, later referred to as *signature strikes*, has proven to be very problematic and has become subject of much debate in both academia and civil society.¹⁸

The risk aversion and the *hunt-warfare* doctrine that the use of armed drones contributes to, must be seen in the context of a broader academic debate on how warfare is changing and how contemporary warfare can be conceptualized. In their work on AFRICOM, Demmers and Gould help bring method to the madness by placing the use of armed drones in the broader context of three commonly cited characteristics of modern warfare, namely: an increase in risk aversion and war fatigue, the importance of (robotic) technology in warfare, and the growing networked nature of war.¹⁹ They argue, that to better understand modern warfare, it must be understood how wars are produced.²⁰ Drawing on the work Zygmunt Bauman and Derek Gregory, they characterize the developments in warfare as a shift to what they call *liquid warfare*, defined as ‘flexible, open-ended, ‘pop-up’ military interventions, supported by remote technology and reliant on local partnerships and private contractors, through which (coalitions of) parties aim to promote and protect interests’.²¹ Similar to the concept of *liquid warfare* is the concept of *remote warfare*: ‘a trend within many Western states toward countering threats at a distance with minimal cost of “blood and treasure”’.²² This approach to countering threats has resulted in a military strategy that does not deploy a large military force but ‘generally involves a "combination of drone strikes and airstrikes from above, knitted together by the deployment of special forces, intelligence operatives, private contractors, and

¹⁴ Chamayou, *Drone Theory*, 130; John Kaag and Sarah Kreps, *Drone warfare* (New Jersey: John Wiley & Sons, 2014), 105-136.

¹⁵ Chamayou, *Drone Theory*, 138-39.

¹⁶ *Idem*, 143.

¹⁷ *Idem*, 46-51.

¹⁸ Chamayou, *Drone Theory*, 46-51, 140-49; Thomas Gregory, "Targeted killings: Drones, noncombatant immunity, and the politics of killing," *Contemporary Security Policy* 38, no. 2 (2017): 212-236.

¹⁹ Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 2.

²⁰ *Idem*, 3.

²¹ *Idem*, 3.

²² Biegon and Watts, "Defining Remote Warfare: Security Cooperation," 4.

military training teams on the ground".²³ *Remote warfare* emphasizes the fact that contemporary military strategies entail alliances of diverging actors, low-intensity hostilities and a distinct 'remote element.' It is important to note that the 'remote' in 'remote warfare' must be understood more as a strategic than an actual physical distance.²⁴

The political implications of *remote warfare* strategies will be discussed more in-depth in the next chapter. However, it is important to point out that in the academic debate on armed drones, a common concern is that a military ethos that prioritizes *combatant immunity* and a military strategy that does not limit the use of force to geographic boundaries, lowers the threshold of violence. Chamayou, Kaag and Kreps all point out that by reducing the risk soldiers are exposed to, armed drones make the use of violence more attractive for states because the loss of life does not need to be legitimized for their constituents.²⁵ Ignatieff raised the same concern nearly a decade earlier after witnessing the use of precision weapons in Kosovo. He poses a critical question that remains relevant, even two decades later: 'If war becomes unreal to the citizens of modern democracies, will they care enough to restrain and control the violence exercised in their name?'²⁶

1.2 The legality of armed drones

Also prominent in the debate on the implications of contemporary warfare, and specifically the use of armed drones, is the question of legality. It is generally agreed that drones as such are not considered illegal as a weapon system.²⁷ The use of armed drones, on the other hand, is more controversial. But before this legal controversy is discussed, a basic knowledge of the international legal framework that governs the use of armed drones is needed.

In order to determine their legality, the use of drones must be considered under the laws that governs the use of force, international humanitarian law (IHL), and international human rights law (IHRL). The laws that govern the use of force (such as the UN Charter) are referred to as *jus ad bellum* and govern *whether* or *when* force may be used, while the latter is referred to as the *jus in bello* and governs *how* force may be used.²⁸ ²⁹ Without official state consent, the *jus ad bellum* prohibits the use of force by a state on the territory of another state with two exceptions: in an act of self-defense or with approval of the UN

²³ Biegon and Watts, "Defining Remote Warfare", 1.

²⁴ Emily Knowles and Abigail Watson, *Lawful but awful: legal and political challenges of remote warfare and working with partners* (London:Oxford Research Group, 2018), 2.

²⁵ Chamayou, *Drone Theory*, 182-84; Kaag and Kreps, *Drone warfare*, 105-136.

²⁶ Ignatieff, *Virtual War*, 4.

²⁷ Christof Heyns et al., "The international law framework regulating the use of armed drones," *International & Comparative Law Quarterly* 65, no. 4 (2016) 793.

²⁸ Heyns, et al, "The international law framework regulating the use of armed drones," 794, 809.

²⁹ A further distinction between the laws that govern the use of force and IHL and IHRL is that while 'IHL and IHRL speak more directly to protection of the individuals affected by a drone strike, the law on the use of inter-State force focuses on State sovereignty; it serves primarily to protect the legal rights of States.' See Heyns, et al, "The international law framework regulating the use of armed drones," 796-797.

Security Council. State consent must be given willingly and explicitly by a state's highest authorities prior to the use of armed force. A state may resort to the use of force in self-defense when an attack occurs or is imminent and must do so in compliance with the requirements of necessity and proportionality.³⁰ Only when these requirements are met, can a state legally conduct an extraterritorial drone strike. However, this does not preclude that the way in which the drone strike is conducted is legal under IHL or IHRL.³¹

In order to determine whether a drones strike must be considered under IHL or exclusively under IHRL, it must be established whether or not a drone strike constitutes part of an international or a non-international armed conflict.³² An international armed conflict (IAC) is defined as a conflict between two state parties, while violence between a state and at least one non-state actor is defined as a non-international armed conflict (NIAC). Violence between a state and a non-state actor must meet two criteria to qualify as a NIAC, namely, a threshold of intensity must be met and the non-state actor must demonstrate a minimal degree of organization.³³ Though the use of force is less restricted under IHL, it must still be guided by the principles of distinction and proportionality.³⁴ Outside a NIAC or an IAC, the use of armed force is governed exclusively by IHRL, in which case lethal force may only be used 'as a last resort in order to *protect* life.'³⁵ In other words, lethal force may only be used when there is an *imminent threat* of the loss of life. This must, however, not be confused with the *imminent threat* of an attack that justifies the use of force in self-defense under the *jus ad bellum*.

In the context of this international legal framework, the use of armed drones raises a number of questions. First, Heyns et al. point to the fact that there is a lack of international consensus on how international law applies to the use of armed drones.³⁶ This consensus has resulted in diverging interpretations of certain key principles such as the right to self-defense in the light of an imminent threat. A crucial question is what an imminent threat entails and what use of force is proportionate.³⁷ For example, can a state use force preemptively to counter a threat? Another example is the question whether the right to self-defense justifies the use of force against a non-state actor on the territory of foreign state. While this was considered controversial at most prior to 9/11, it has since become a common practice, raising concerns regarding state sovereignty and notions of a global battlefield.³⁸

Another concern is the conflation of *jus ad bellum* with IHL and IHRL. In the context of a war on terror, the right to self-defense is used to justify both why and how a drone strike is used to 'protect life'

³⁰ Heyns, et al, "The international law framework regulating the use of armed drones", 797-805.

³¹ Idem, 795.

³² Idem, 805.

³³ Idem, 805-6.

³⁴ Idem, 810, 814.

³⁵ Idem, 819.

³⁶ Idem, 793.

³⁷ Idem, 800-2.

³⁸ Idem, 802-3.

against the threat of terror.³⁹ Specifically, the practice of signature strikes raises questions regarding the proportionality of drone strikes. Though signature strikes are not illegal as such, their use in remote areas raises concerns, as will be further explained in chapter three.⁴⁰ Finally, the use of drones might also lower the threshold of violence under IHL and IHRL. For example, using armed drones under IHRL as a means of policing in areas where there is no effective territorial control may lower the threshold to resort to lethal force, as there are no effective alternatives.⁴¹

These legal concerns may seem trivial legal discrepancies, but they reflect broader changes in how war is understood from an international legal perspective and how international law itself is perceived. As mentioned above, drones are considered to lower the threshold for a state to use of lethal force extraterritorially, resulting in ‘low-intensity, but drawn-out, applications of force, that know few geographical or temporal bounds.’⁴² As Heyns et al point out: ‘This would run counter to the notion that war—and the transnational use of force in general—is an exceptional situation of limited duration and scope, and that there should be a time for healing and recovery following conflict.’⁴³

1.3 Transitional Justice

This brings us to the second debate, namely, the matter of transitional justice. Despite claims made about the efficacy of drones and the ‘humanitarian’ nature of drone warfare, casualties do fall and high value targets are not always eliminated. This raises a question, because in the context of low-intensity, drawn-out, transnational conflicts that appear to have become the norm rather than the exception, there does not seem to be any time or space for recovery or healing. How and when must those responsible for the deployment of armed drones be held accountable, and how and when can victims receive compensations for their losses? Traditionally, these questions are dealt with using mechanisms associated with transitional justices: criminal accountability, reparations, truth telling and amnesties.⁴⁴

Prominent scholar in the field, Ruti Teitel, defines transitional justice as ‘the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoing of repressive predecessor regimes.’⁴⁵ She places the concept in a historical context by identifying three phases in the evolution of transitional justice over the past seventy years.⁴⁶ The first phase is associated with the

³⁹ Heyns, et al, "The international law framework regulating the use of armed drones," 802, 813, 820; Max Byrne, "Consent and the use of force: an examination of 'intervention by invitation' as a basis for US drone strikes in Pakistan, Somalia and Yemen," *Journal on the Use of Force and International Law* 3, no. 1 (2016):125.

⁴⁰ Heyns, et al, "The international law framework regulating the use of armed drones," 813,

⁴¹ Idem, 824-25.

⁴² Idem, 793-794.

⁴³ Heyns, et al, "The international law framework regulating the use of armed drones," 794.

⁴⁴ Joanna R. Quinn, "The Development of Transitional Justice," in *Research Handbook on Transitional Justice*, ed. by Lawther, Moffett and Jacobs (Cheltenham UK: Edward Elgar, 2017), 15-22.

⁴⁵ Ruti Teitel, "Transitional justice genealogy," *Harvard Human Rights Journal* 16 (2003) 69.

⁴⁶ Teitel, "Transitional justice genealogy," 69-72.

end of the Second World War and the triumph of international law. The second phase began as the Cold War ended; it is associated with democratization. In this context, the mechanisms of transitional justice were understood as vital elements in the democratization of a nation following a conflict or a repressive regime. The third and present phase is 'characterized by the *fin de siecle* acceleration of transitional justice phenomena associated with globalization and typified by conditions of heightened political instability and violence.'⁴⁷

According to Teitel the third phase poses a number of challenges for the concept of transitional justice and the related mechanisms; challenges that resonate with implications of modern warfare discussed above.⁴⁸ Teitel argues that political fragmentation, the fact that modern wars are waged against terrorism and the perception of a perpetual state of conflict, have all resulted in the normalization of transitional justice. Contrary to her definition given above, this implies that transitional justice has become the norm rather than being limited to 'periods of political change'. This normalization is evident in the expansion of the humanitarian regime and international institutions such as the International Criminal Court.⁴⁹ Teitel is skeptical of the humanitarian regime and argues that it is not only constraining but also enabling of conflict.⁵⁰ She even goes so far as to say that the reliance 'on this expanded discourse goes a long way to eviscerating the distinction between war and peace, combatants and civilians, law and its exception' which contributes to the justification of the use force, for example, the war on terror.⁵¹ Teitel is not the only one who is skeptical; other scholars have argued that the ICC is highly politicized as is evident in its near exclusive focus on African countries.⁵²

Though less cynical, scholars such as Hansen also point out the need to rethink transitional justice. Hansen, for example, points to the limitations of defining transitional justice in terms of a political change.⁵³ He points out that the mechanisms of transitional justice are also applied in a number of situations – including established democracy – which do not entail significant political change. Hansen also points out that human rights violations in contemporary conflicts sometimes have a 'significant cross-border dimension'.⁵⁴ Drone strikes are an excellent example of this. However, transitional justice mechanisms are not designed to deal with such abuses, for which multiple actors are responsible.

⁴⁷ Teitel, "Transitional justice genealogy," 71.

⁴⁸ Ruti Teitel, "Transitional justice in a new era," *Fordham International Law Journal* 26 (2002).

⁴⁹ Teitel, "Transitional justice in a new era," 905.

⁵⁰ Teitel does not give an exact definition of what she means with the 'humanitarian regime' but what is implied is the rule of international humanitarian law. She speaks of an expanding regime enabling the enforcement of humanitarian rights violations. It is this discourse, that she claims is 'eviscerating the distinction between war and peace, combatants and civilians, law and its exception.' See Teitel, "Transitional justice in a new era," 904-905.

⁵¹ Teitel, "Transitional justice in a new era," 905.

⁵² Max Du Plessis, "Universalising international criminal law-the ICC, Africa and the problem of political perceptions," *Institute for Security Studies Papers*, 249 (2013) 1.

⁵³ Thomas Obel Hansen, "The Time and Space of Transitional Justice," in *Research Handbook on Transitional Justice*, ed. by Lawther, Moffett and Jacobs (Cheltenham UK: Edward Elgar, 2017), 34-52.

⁵⁴ Hansen, "The Time and Space of Transitional Justice," 50.

Besides normalization and the development of armed conflict, Teitel argues that transitional justice has also grown increasingly privatized, including a diversity of actors. After the Cold War, transitional justice grew more independent of the leading role of the State and placed an increasing emphasis on the local understandings of the rule of law.⁵⁵ Teitel goes on to argue that in the context of globalizing politics, the current transitional justice discourse implies ‘a complex interaction of the international, national and local.’⁵⁶ This has led to ‘alternative forms of transitional justice’ that include the privatization of transitional justice mechanisms involving ‘new political actors, juridical and alternative - such as civil society’.⁵⁷ Dezalay⁵⁸, Van der Merwe and Schkolne⁵⁹ point out the growing importance of these new actors such as international NGOs and civil society organizations. Van der Merwe and Schkolne specifically explore the role that civil society organizations play in transitional justice. Though they identify a number of roles filled by civil society organizations – targeted advocacy, monitoring and transparency, public engagement, service provision and victim support and truth telling –, they emphasize the need for further research on the role civil society organizations, their strategies and their influence on the field of transitional justice.⁶⁰ Thus, similarly to modes of modern warfare, transitional justice is complicated by a wide array of actors.

1.4 Assemblage

In the light of the developments in both warfare, transitional justice and the international humanitarian regime described above, civil society organizations that address – what they claim are – violations of international law in the use of drones, provide an interesting research topic to better understand mechanisms of justice in the context of remote warfare. Previous studies on this topic include the work Betsy Jose,⁶¹ Kreps and Wallace,⁶² which study the work of Human Rights Watch in opposing the use of drone strikes and the practice of targeted killings. Given the international use of armed drones and the diversity of civil society organizations that address their use, however, this thesis studies an international collective of civil society organizations known as the Europe the European Forum on Armed Drones (EFAD).

As pointed out earlier, the members of EFAD act within changing alliances of international organizations, foreign NGOs, institutions, states, academics, journalists and the public, in order to deal with

⁵⁵ Teitel, "Transitional justice in a new era," 895-899.

⁵⁶ Idem, 899.

⁵⁷ Idem, 899.

⁵⁸ Sara Dezalay, "The role of international NGOs in the emergence of transitional justice: a case study of the International Center for Transitional Justice," in *Research Handbook on Transitional Justice*, ed. by Lawther, Moffett and Jacobs (Cheltenham UK: Edward Elgar, 2017), 202-220.

⁵⁹ Hugo van der Merwe and Maya Schkolne, "The role of local civil society in transitional justice," in *Research Handbook on Transitional Justice*, ed. by Lawther, Moffett and Jacobs (Cheltenham UK: Edward Elgar, 2017), 221-243.

⁶⁰ van der Merwe and Schkolne, "The role of local civil society in transitional justice," 229-239, 241-242.

⁶¹ Betsy Jose, "Not completely the new normal: How Human Rights Watch tried to suppress the targeted killing norm," *Contemporary Security Policy* 38, no. 2 (2017) 237-259.

⁶² Sarah Kreps and Geoffrey Wallace, "International law, military effectiveness, and public support for drone strikes," *Journal of Peace Research* 53, no. 6 (2016) 830-844.

the many hurdles in their way. To understand how the members of EFAD align such a variety of actors with their objective to regulate the use of drones and ‘promote human rights, respect for the rule of law, disarmament and conflict prevention’, an assemblage approach has been taken.⁶³ As will be explained below, *assemblage* is a concept that is used to analyze how complex heterogeneous formations of, for example, states, institutions, organizations, expert individuals, laws and discourses ‘hold together and exercise power’.⁶⁴ The purpose of these formations, as Li argues, is ‘the will to govern or, more specifically, the will to improve’.⁶⁵ The final academic debate addressed in this chapter, therefore, focuses on the concept of *assemblage*, which is used as an analytic frame to analyze and understand the work of EFAD.

Originally developed by the French philosophers Gilles Deleuze and Félix Guattari in the 1980’s, the concept is a resource to understand social phenomena on the one hand as heterogeneous, emergent and dynamic, while on the other hand as material and invoking notions of structure.⁶⁶ This ambiguity of the term is also reflected in its references to either a subjective experience of society or to ‘objective relations, a material, structure-like formation, a describable product of emergent social conditions, a configuration of relationships among diverse sites and things.’⁶⁷ Perhaps because of this ambiguity, assemblage is frequently used as a descriptor, making an analytical conceptualization hard to find.⁶⁸ Colin MacFarlane, for example, writes that assemblage reflects a ‘redefinition of ‘the social’ as (...) materially heterogeneous, practice-based, emergent and processual’ and is often used descriptively.⁶⁹ John Allen warns that using assemblage as a descriptor brings with it the risk of taking the social phenomenon being studied for granted resulting in a *thin description*.⁷⁰ Martin Müller, on the other hand, argues that assemblage can be used as an analytical tool and defines it as a ‘mode of ordering heterogeneous entities so that they work together for a certain time’.⁷¹ He does point out that assemblage should not be thought of as ‘a system of ideas geared toward an explanation, that would make it a theory’.⁷² Even when using assemblage as an analytical term, John Allen argues that one must not only pay close attention to how assemblages are constructed but must also continue to carefully consider the use of the concept.⁷³ With this in mind and drawing on the work of Simon and de Goede,⁷⁴ John Allan and Tiana Li, assemblage will hereafter be defined as emergent and dynamic ‘social

⁶³ “About,” EFAD, accessed January 5, 2017, <https://www.efadrones.org/about/>

⁶⁴ Demmers and Gould, ‘An Assemblage Approach to Liquid Warfare,’ 4.

⁶⁵ Tania Murray Li, “Practices of assemblage and community forest management,” *Economy and society* 36, no. 2 (2007) 264.

⁶⁶ George Marcus and Erkan Saka, “Assemblage,” *Theory, culture & society* 23, no. 2-3 (2006) 102.

⁶⁷ George Marcus and Erkan Saka, “Assemblage,” 102.

⁶⁸ Ben Anderson and Colin McFarlane, “Assemblage and geography,” *Area* 43, no. 2 (2011): 125; John Allen, “Powerful assemblages?,” *Area* 43, no. 2 (2011) 156-57.

⁶⁹ Colin McFarlane, “Translocal assemblages: space, power and social movements,” *Geoforum* 40, no. 4 (2009) 561.

⁷⁰ Allen, “Powerful assemblages?,” 156.

⁷¹ Martin Müller, “Assemblages and actor-networks: Rethinking socio-material power, politics and space,” *Geography Compass* 9, no. 1 (2015) 28.

⁷² Martin Müller, “Assemblages and actor-networks,” 28.

⁷³ Allen, “Powerful assemblages?,” 156

⁷⁴ Marieke de Goede and Stephanie Simon, “Governing future radicals in Europe,” *Antipode* 45, no. 2 (2013): 317.

and material formations'⁷⁵ of heterogeneous elements, that engage in the continued activity of re- and dis-assembly and attempt 'to direct conduct and intervene in social processes to produce desired outcomes and avert undesired ones'.⁷⁶

As a concept, assemblage is used in a variety of ways in academic literature. For example, Li takes an assemblage approach to conceptualize the governance of forest communities in Indonesia using what she calls *practices of assemblage*, a very different case than the activities of EFAD as a network of civil society organizations. However, scholars such as McFarlane⁷⁷ and John Allen⁷⁸ point out that the concept can also be applied to social movements and civil society. Writing about regional assemblages, for example, John Allen points out that assemblages can be thought of as 'any powerful arrangement that hangs together as an assorted heterogeneous mix of power and authority: from, say, the changing organization of finance and corporate business in a more demanding economic world to the shifting tactics of civil society movements in response to global harm and injustice'.⁷⁹

Scholars also argue that assemblage is useful to study the concepts of agency and power. In his article *Translocal assemblage: space, power and social movements*, McFarlane explores the concept of assemblages by applying it to an international social movement of shack dwellers based in Mumbai.⁸⁰ He argues that because assemblage signifies action, it underlies 'the agency not just of each member of the assemblage, but of the groupings themselves: the milieu or specific arrangements of things, through which forces and trajectories inhere and transform'.⁸¹ Demmers and Gould apply the concept of assemblage to a very different case: the U.S. Africa command AFRICOM and the hunt for Joseph Kony. They argue that assemblage offers a tool to 'study power in complexity' because it defines power as the ability to re- and disassemble, to engage in practices of in- and exclusion through boundary drawing.⁸² Adopting this approach, assemblage can be used to not only to describe observable assemblages but also to understand how power is exercised to produce desired outcomes and avert undesired ones.

Finally, Ben Anderson, Colin McFarlane and John Allan argue that the concept of assemblage tends to do away with extremes by blurring distinctions between the local and the global, structure and agency, the social and the material, the near and the far. Anderson and McFarlane explain that by giving a wider definition of the socio-spatial as a composition of formations characterized by heterogeneous elements, assemblage allows us to avoid reducing socio-spatial relations to fixed forms.⁸³ Similarly, John Allan points

⁷⁵ Allen, "Powerful assemblages?," 154.

⁷⁶ Li, "Practices of assemblage and community forest management," 264.

⁷⁷ McFarlane, "Translocal assemblages," 561-567.

⁷⁸ John Allen, "Powerful assemblages?," 155.

⁷⁹ Idem, 155.

⁸⁰ McFarlane, "Translocal assemblages," 562, 566

⁸¹ Idem, 562.

⁸² Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 8.

⁸³ Anderson and McFarlane, "Assemblage and geography," 127.

out that assemblage allows for the possibility of heterogeneous elements of social-material relations to hold together without necessarily 'forming a coherent whole'.⁸⁴ This understanding enables us to be open to new formations in our social reality, their durability, and 'the types of relations and the human and non-human elements involved'.⁸⁵

As pointed out above, it is important to carefully consider the concept of assemblage as an analytical tool. In his study of transnational social movements, McFarlane writes that assemblage implies three sets of processes: 1) 'gathering, coherence and dispersion', 2) it 'connotes groups, collectives and (...) distributed agency,' and 3) it 'connotes emergence rather than resultant formation.'⁸⁶ While McFarlane limits himself to a set of processes, Demmers, Gould and Li go a step further by identifying five practices of assemblage⁸⁷, namely: 1) *forging alignments*: 'the work of linking together objectives of the parties to an assemblage by means of a joint problem definition'.⁸⁸ 2) *Rendering technical*: 'extracting from the messiness of the social world [...] a set of relations that can be formulated as a diagram in which problem, plus intervention, will produce a beneficial result',⁸⁹ which helps deal with tensions in the assemblage and project coherence.⁹⁰ 3) *Authorizing knowledge*: 'specifying and limiting the requisite body of 'expert knowledge'.⁹¹ 4) *Managing failures and contradictions*: 'presenting failure as the outcome of rectifiable deficiencies'⁹², and 5) *reassembling*: 'grafting on new elements and reworking old ones; deploying existing discourses, legal instruments, doctrines, to new ends; [and] transposing the meaning of key terms.'⁹³

To conclude: How can this thesis be placed in the context of the academic debates sketched above? This thesis can be positioned where the above-mentioned debates converge, as it combines elements of all three debates. While the debate on assemblage provides an analytical frame to understand *how* civil society organizations engage in the mechanisms of justice, the academic debates on the use of drones in modern warfare and transitional justice both provide a context in which the activities of EFAD can be understood. The debate on drones provides insight into the significance of armed drones in warfare and highlights pressing legal and political concerns. The legal debate, for example, helps understand why the members of EFAD view the use of armed drones as potentially unlawful and why they call on states to improve transparency and oversight. The debate on the political implications of the use of armed drones also helps to understand the significance of the work of EFAD in demonstrating to western societies the true cost of

⁸⁴ Allen, "Powerful assemblages?," 154.

⁸⁵ Anderson and McFarlane, "Assemblage and geography," 127.

⁸⁶ McFarlane, "Translocal assemblages," 562.

⁸⁷ Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 6-7.

⁸⁸ Idem, 6-7.

⁸⁹ Li, "Practices of assemblage," 265.

⁹⁰ Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 6.

⁹¹ Idem, 7.

⁹² Li, "Practices of assemblage," 265.

⁹³ Idem, 265.

modern warfare. Finally, the debate on transitional justice gives meaning to the activities of civil society organizations such as the members of EFAD that engage in mechanisms of justice.

Finally, this thesis also seeks to contribute to each of the above-mentioned academic debates. By looking beyond the individual debates it seeks to understand the implications of the use of armed drones in a broader context. Specifically, by studying how civil society organizations act as an assemblage and engage in mechanisms of transitional justice it seeks to understand the changing relationship between civil society, war victims, the state and the public in the light of remote warfare. By doing so, this thesis explores notions of justice and resulting practices in the context of low-intensity, drawn-out, transnational conflicts that appear to have become the norm rather than the exception. To this end the following research question is formulated:

How and why do the members of the European Forum on Armed Drones, through practices of assemblage, engage in mechanisms of transitional justice since April 2016, to deal with the use of armed drones by European States, in the context of increasingly common modes of remote warfare that take place outside conventional warzones?

Drawing primarily on the practices of assemblage, the following sub-questions are formulated.

1. How are the objectives of the members of EFAD linked together through a joint problem definition?
 - a. What joint problem definitions are formulated, how are they formulated and by whom?
 - b. How are these joint problem definitions used to link the objectives of the members of EFAD?
 - c. How are other organizations, institutions, discourses and laws linked by the joint problem definition?
 - d. How do the problem definitions reflect the challenges posed by remote warfare?
 - e. What objective(s) underlie the common identified problem definitions?
2. How are sets of relations that connect problem definitions, interventions and desired outcomes formulated by members of EFAD and how are mechanisms of transitional justice engaged?
 - a. What sets of problems, interventions and desired outcomes are formulated?
 - b. How are these related problems, interventions and outcomes formulated and by whom?
 - c. How do the suggested interventions engage transitional justice mechanisms such as criminal prosecution, reparations and truth telling?
 - d. How do the problem definitions reflect the challenges posed by remote warfare; how do the suggested interventions address these challenges?
3. How do members of EFAD render information authoritative by identifying it as ‘expert knowledge’?
 - a. What knowledge is identified as ‘expert knowledge’; what knowledge is rejected?
 - b. Why and how is ‘expert knowledge’ produced?

- c. What institutions, organizations and (expert) individuals are involved in producing authorized information; who is excluded?
 - d. How is expert knowledge used to align actors and justify the course of action set out by the assemblage?
 - e. How are contradicting information and critiques contained?
- 4. How are the failures and contradictions contained and rendered superficial by the members of EFAD?
 - a. What failures and contradiction have and do the members of EFAD deal with; what causes are identified?
 - b. How are failures and contradictions contained and presented as rectifiable deficiencies; how are future failures avoided?
 - c. How do these failures and contradictions limit the ability of EFAD members to produce desired outcomes and avert undesired ones?
- 5. How do members of EFAD in- or exclude states, organizations, institutions, individuals, discourses, and laws, and how do they reposition existing elements and actors within the assemblage?
 - a. How and why are new organizations, institutions, discourses and laws actors and elements in- or excluded?
 - b. How are new arrangements of organizations, institutions, individuals, discourses, and laws made?
 - c. How do arrangements engage in mechanisms of transitional justice such as truth telling, reparations and criminal prosecution?
 - d. Who determines the rearrangement of included organizations, institutions, discourses and laws?
 - e. How and why are the meanings of key terms transposed?
 - f. What arrangements have proven successful; which have not?

Chapter 2: Method

*Social research, in simplest terms, involves a dialogue between ideas and evidence. Ideas help social researchers make sense of evidence, and researchers use evidence to extend, revise and test ideas.*⁹⁴

In the quote above, Ragin argues that central to social research is a dialogue between data and theory. He explains that based on existing social theory, an analytical frame is constructed which is brought into dialogue with *images* that are induced from the data. Together, *images* and the analytical frame, form what he calls a representation of social life or ‘evidence that has been shaped and reshaped by ideas, presented along with the thinking that guided the construction of the representation’.⁹⁵ The previous chapter provided a theoretical context by situating the thesis in a broader academic debate and identifying an analytical frame: *practices of assemblage*. Before engaging in a dialogue between evidence and theory, however, it must be explained how data was collected and used to construct *images*. To do so, the following chapter discusses three points: 1) research strategy, 2) research design, and 3) the limitations and opportunities of the thesis.

2.1 Research Strategy

A research strategy, according to Ragin, is ‘best understood as the pairing of a primary *research objective* and specific *research method*’.⁹⁶ In order to determine what research strategy is appropriate, therefore, the epistemological and ontological stance of the research in question must be identified. As explained in the previous chapter, assemblage is an ontologically and epistemologically ambiguous concept. It not only blurs the ontological distinction between structure and agency, it also makes references to both the subjective experience of society and to the objective, structure and more material relations.⁹⁷ While the approach taken in this thesis implies action, it attributes agency not only to the individual, but also to arrangements of human actors and non-human elements, such as discourses and laws. Given its focus on broader alliances of human actors and elements, this thesis ontologically takes a *holistic* approach. Demmers, Gould and Li, all emphasize that an assemblage approach provides an analytical lens to understand *how and why* alliances are formed and *how* these alliance help produce beneficial outcomes.⁹⁸ Epistemologically, therefore, an *interpretive* approach will be taken, using *assemblage* as an analytical tool to understand power in social complexity. In the light of the ontological and epistemological stance of this thesis, a qualitative research strategy has been selected.

⁹⁴ Charles Ragin, *Constructing Social Research: The Unity and Diversity of Method*, (London, Thousand Oaks, New Delhi: Pine Forge Press, 1994) 55.

⁹⁵ Ragin, *Constructing Social Research*, 55.

⁹⁶ Idem, 33.

⁹⁷ George Marcus and Erkan Saka, "Assemblage," 102.

⁹⁸ Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 6; Li, "Practices of assemblage and community forest management," 264-266.

2.2 Research Design

A *research design*, according to Ragin, includes a plan to purposefully collect and analyze data in order to formulate an answer to the research question.⁹⁹ This section therefore explains how units of observation were sampled, what data collection techniques are used and how the data was used to create *images* that together with the analytical frame form a *representation of society*.

Regarding the first point, sampling, an important question is what units of observation must be sampled. As said before, the analytical frame – the *practices of assemblage* – focuses on how and why the members of EFAD act. In sampling data, therefore, the members of EFAD have been taken as a starting point. Because it was not feasible within the limits of this thesis to include all twenty-seven members, a selection of organizations from within EFAD was made based on accessibility, the type of activity engaged in, thematic focus and prominence within the network and in the broader debate on armed drones. The selection includes thirteen organizations: Airwars, Amnesty International, Article 36, the Center for Civilians in Conflict (CIVIC), the European Center for Constitutional and Human Rights (ECCHR), Drone Wars UK, the Nuhanovic Foundation, l’Observatoire des Armements, Open Society Foundation, PAX for Peace (hereafter PAX), Reprieve, Rete Italiana per il Disarmo, and Rights Watch UK. Based on this selection, a non-probability sample was taken of individuals, texts, and events as units of observations. Sampling was guided by *purposeful selection* and *data saturation*.¹⁰⁰ Individuals included representatives of selected organizations and experts affiliated with EFAD. Additionally, expert individuals with specific knowledge of or a perspective on the use of drones – such as human rights lawyers, politicians or academics – were selected to gain contextual knowledge. Texts included relevant content of the websites of EFAD members; reports, policy briefs, joint statements, case reports, press releases and articles made available on the EFAD website;¹⁰¹ and finally, topical articles and reports. Events included any conferences, meetings, parliamentary debates, UN committee meetings or other initiatives attended by the members of EFAD or deemed to be significant by respondents. Besides the above-mentioned units of observation, an array of relevant books, reports, and news articles have been included to provide contextual knowledge.¹⁰²

Then, corresponding to the qualitative research strategy identified above, content analysis, in-depth interviewing and participant and non-participant observation were used to collect data over a three month period, from March till May 2018. Secondary data, such as reports and web articles, were collected from as far back as April 2016, which marks the official formation of EFAD. Data collection was divided into three overlapping phases that corresponded to the three units of observations. The first phase of the research

⁹⁹ Ragin, *Constructing Social Research*, 26.

¹⁰⁰ Bruce Curtis and Cate Curtis, *Social research: A practical introduction*, (Sage 2011) 36.

¹⁰¹ “Resources,” EFAD, accessed February 19, 2017, <http://www.efadrones.org/resources/>

¹⁰² This includes the work of Michael Ignatieff, the reports published by the Oxford Research Group and the new articles that have been cited.

focused on content analysis, which was itself divided into three stages: Taking an inductive approach, open coding¹⁰³ was used beginning with the web content obtained from the EFAD website¹⁰⁴ and the original Call to Action document ratified at the formation of the network.¹⁰⁵ Based on the first stage, five initial code categories were developed corresponding to the five Call to Action points.¹⁰⁶ These code categories were further developed in the following two stages which respectively included the relevant web content of the selected members of EFAD and the reports, joint statements, letters to heads of states, blogs entries, victim statements, research papers, policy briefs and position papers that were made available on the EFAD website.¹⁰⁷

During the second phase of the research, in-depth interviews were conducted with representatives of the member organizations of EFAD and expert individuals who provided contextual information. In total, eighteen respondents were interviewed, eleven of which worked for member organizations including Airwars, Amnesty International, Article 36, the ECCHR, the Nuhanovic Foundation, Open Society Foundation, PAX, Reprieve, Rete Italiana per il Disarmo and Drone Wars UK. The remaining seven respondents included a legal expert, two policy analysts, an academic affiliated with EFAD and three gentlemen who work for research institutes affiliated with Dutch parliamentary parties. Additionally, members of the Dutch parliament were also asked via e-mail to share their view on the use of armed drones; four members of parliament responded.¹⁰⁸ All respondents were anonymized to avoid any negative consequences the publication of this thesis may have for their work. Only academics, who do not represent an organization or political party, will be referred to by name. Each in-depth interview was conducted using tailored, open-ended questions. Interviews were only recorded upon receiving consent from the respondents and lasted between 30 and 75 minutes.

During the third phase of the research all three data collecting techniques were combined to collect data on sampled events. Primary data was collected by marking field notes during participant and non-participant observation and interviews with representatives of member organizations.¹⁰⁹ Observations were made at a variety of events including an EFAD meeting, an art exhibition on the War on Terror at the Imperial War Museum, the publication of a research report, a parliamentary debate at the Houses of

¹⁰³ Satu Elo and Helvi Kyngäs, "The qualitative content analysis process," *Journal of advanced nursing* 62, no. 1 (2008) 109-111.

¹⁰⁴ This included the 'Home', 'About', 'Call to Action' and 'Country' pages.

¹⁰⁵ EFAD, "Call to Action," April 2016, 1, access: <https://www.paxvoorvrede.nl/media/files/efad-call-to-action.pdf>; See also the "Home," EFAD, accessed July 30, <https://www.efadrones.org/>.

¹⁰⁶ The Call to Action points include: articulate clear policies, prevent complicity, ensure transparency, establish accountability and control proliferation.

¹⁰⁷ The selection of documents that were analyzed were collected mid-March. The selection has since been updated.

¹⁰⁸ The parties that responded included: Democraten 66, Groenlinks, Partij van de Arbeid, and Christen Democratisch Appel.

¹⁰⁹ Curtis and Curtis, *Social research*, 88.

Commons, a conference hosted by Utrecht University and a tour of the International Criminal Court in the Hague. During interviews past events were discussed including expert meetings, UN First Committee meetings, UK and Dutch parliamentary meetings, UN Security Council meetings, past EFAD meetings and paramount court cases. Secondary sources, such as written documents and visual data, were collected on conferences, UN First Committee meetings, court cases and EFAD meetings.

According to Ragin, *images* 'are formed from [data] in order to make sense of the evidence, summarize it and relate it back to the ideas that first motivated the collection of evidence.'¹¹⁰ The data collected has, therefore, been combined to construct images of how the members of EFAD engage in the practices of assemblage and thereby answering the sub-questions formulated at the end of the previous chapter. The results of the content analysis, for example, are used to address the 'what' component of the first three sub-questions on *forging alignments*, *rendering technical* and *authorizing knowledge*. The data collected during the interviews is primarily used to address the 'how' and 'why' components in all five sub-questions. The data collected during the third phase is primarily used to address the 'how' and 'why' components of the sub-question on *(re)assemblage* and *managing failures*. The data collected during the above-mentioned phases and additional data collected from books, articles and news items, has also been used in chapter three to construct an empirical context. Taken together, the images constructed from the data and the analytical frame derived from the theory form a *representation of social life*, as will be discussed in the following chapters.

2.3 Limitations and opportunities

This brings us to the final point, namely, the limitations and opportunities of the thesis. Data collection was limited in three different ways, the first of which was the limited access to events. For example, in March a closed expert meeting was organized by one of the member organizations. Though the meeting presented a unique opportunity to observe how dissimilar parties are brought together and aligned, access was denied. Similarly, the limited time span of the thesis restricted the number of events that could be included in the research. For example, a number of conferences are set to be organized by member organizations in the fall. Besides this, a relatively short time frame also makes it more difficult to observe how the members of EFAD react to the changing political environment they operate in. However, both above-mentioned limitations were accommodated as much as possible by including an as wide variety of events as possible and drawing on texts, documents and interviews to include past events. Additionally, drawing on texts and interviews, data was also collected on events that were otherwise inaccessible. Finally, at a broader level it would have been insightful to include the organizations and individuals in the countries where drone strikes

¹¹⁰ Ragin, *Constructing Social Research*, 66.

are conducted. However, practical and security reasons make it very difficult to access the victims of drone strikes. Because of this, the focus in this thesis has been placed on the members of EFAD.

This thesis also provides a number of opportunities. First of all, despite its limited scope the research has included a variety of civil society organizations which provide different perspectives on the use of armed drones. As will be further explained in chapter four, the members of EFAD diverge in their perspective on drones and rely on different strategies to address their use. This offers insight into the many implications of the use of drones and the challenges of regulating their use. Second, studying civil society provides the opportunity to study how victims of drone strikes attempt to access justice, circumventing the above-mentioned practical and security challenges of working with victims directly. The strength of the research is that it provides a broader context, outlining the challenges that use of armed drones and remote warfare pose for the transparent and accountable use of force by Western states. In that sense, the thesis also serves an exploratory function, raising questions that require research in further detail, such as discussed in the conclusion.

Chapter 3: Remote Warfare

*Virtual reality is seductive. We see ourselves as noble warriors and our enemies as despicable tyrants. We see war as a surgical scalpel and not as a bloodstained sword. In doing so we mis-describe ourselves as we mis-describe the instruments of death.*¹¹¹

With the development of advanced weapon technology over the past fifty years, it is tempting to mistake war for what it actually is. For example, armed drones are often presented as means to overcome dilemmas of either prioritizing the security of friendly troops or civilians bystanders.¹¹² As such, drones are portrayed as a means to wage war in a clean, civil and precise manner.¹¹³ However, this notion is strongly contested. In an interview with Drone Wars UK, Air Marshal Greg Bagwell explained that ‘[t]hinking war is bloodless is a mistake because we need to be aware that war is nasty and opting for it must be a last resort.’¹¹⁴ To understand war, it is essential that we scrutinize the way that we describe ourselves, our enemies and the weapons we use against them. Therefore, this chapter reflects on the emerging military strategies of Western states in contemporary warfare, to provide an empirical context in which armed drones are used and where the members of EFAD seek to ‘promote human rights, respect for the rule of law, disarmament and conflict prevention.’¹¹⁵

It is important to note that drone technology has been introduced onto the modern battlefield in various forms by a wide range of actors. In Syria for example, drones have reportedly been used, not only by state actors but also the Islamic State, Syrian rebels, Kurdish forces, and also non-governmental organization that use unarmed drones for humanitarian purposes.¹¹⁶ The drones used by such non-state actors often include modified commercial drones in contrast to the larger, more advanced and powerful drones deployed by state actors. The use of these relatively small commercial drones – which are sometimes armed with improvised explosives – has shaped the practice and experience of combat in modern warfare. Nonetheless, the use of drones discussed in the following chapters will primarily refer to the military use of tactical and Medium/High Altitude Long Endurance Unmanned Aerial Vehicles (MALE/HALE UAVs), given EFAD’s primary focus on State actors.¹¹⁷

¹¹¹ Ignatieff, *Virtual War*, 214.

¹¹² Chamayou, *Drone Theory*, 138-139.

¹¹³ Interview with James Rogers, Utrecht, May 2018; Caroline Kennedy-Pipe and James Rogers, *‘Drone Chic’* (London: Oxford Research Group, 2016).

¹¹⁴ Greg Bagwell, “Interview of Air Marshall Greg Bagwell by Chris Cole, Drone Wars UK.” Interview by Chris Cole. Drone Wars UK, Januari 2018.

¹¹⁵ “About,” EFAD, accessed July 30, 2017, <https://www.efadrones.org/about/>.

¹¹⁶ Larry Friese, *Emerging Unmanned Threats: The use of commercially-available UAVs by armed non-state actors* (Perth: Armament Research Services; Utrecht: Pax for Peace, 2016) 40-47.

¹¹⁷ Well known examples of MALE drones include the American MQ-9 Reaper and the Israeli Heron TP.

3.1 A brief history of remote warfare

As briefly mentioned in chapter one, there has been a lively debate on the nature of contemporary warfare. Suggested analytical and descriptive concepts include ‘network wars’, ‘coalition proxy warfare’, ‘transnational shadow wars,’ and ‘liquid warfare’.¹¹⁸ As said before, this thesis used ‘remote warfare’ to place the use of drones in a broader context. According to Knowles and Watson, remote warfare describes an approach to combat that ‘does not require the deployment of large numbers of your own ground troops’.¹¹⁹ Rather, remote warfare strategies entail a combination of drone and airstrikes, ‘knitted together by the deployment of special forces, intelligence operatives, private contractors, and military training teams on the ground’. Importantly, remote warfare does not by definition entail the use of remote weapon systems such as drones, but may also include training foreign troops to address an identified threat. The remoteness of remote warfare, therefore ‘speak[s] more to strategic than physical distance’.¹²⁰ However, an important qualifying criteria for remote warfare, is that a military engagement must be aimed at countering a specific threat or adversary.¹²¹ In other words, remote warfare rests on three principles: 1) countering an adversary or an identified threat, 2) strategic distance and 3) reducing human and economic costs.

To provide a historical context, it must be asked when and how this approach to war has developed. The Iraq and Afghanistan wars are frequently identified as an important factor to explain the war fatigue, risk aversion and the general lack of support in the Western public for large numbers of ground troops.¹²² This has been an important incentive for states to adopt a ‘light footprint’ approach in past two decades. However, many aspects of remote warfare are not new.¹²³ For example, the various components of remote warfare strategies – the use of drones, private contractors and special forces operations – can be traced as far back nearly half a century. Krieg points out that the private military and security industry emerged in the 1980s and began to play a significant role in the 1990s.¹²⁴ Chamayou traces the use of drones for military purposes to the Vietnam War. Since then, drones have been deployed in the Yom Kippur War (1973), the Gulf War (1990-1991) and the war in Kosovo (1998-1999).¹²⁵ Finally, though there has been a recent growth in special forces, they are certainly not a new phenomenon. Alastair Finlan explains that special forces were first used during the second World War. Despite being dismantled after the war, they were soon

¹¹⁸ Demmers and Gould, "An assemblage approach to liquid warfare," 2.

¹¹⁹ Emily Knowles and Abigail Watson, *Remote Warfare: Lessons Learned from contemporary threats* (London: Oxford Research Group, 2018), 1-3; Demmers and Gould, "An assemblage approach to liquid warfare," 2.

¹²⁰ Knowles and Watson, *Remote Warfare: Lessons Learned from contemporary threats*, 3; Demmers and Gould, "An assemblage approach to liquid warfare," 2.

¹²¹ *Idem*, 2.

¹²² *Idem*, 2.

¹²³ *Idem*, 1-3.

¹²⁴ Andreas, Krieg, *Defining Remote Warfare: The Rise of the Private Military and Security Industry* (London: Oxford Research Group, 2018), 1.

¹²⁵ Chamayou, *Drone Theory*, 27.

reorganized and increasingly used for strategic reconnaissance, attacking targets in enemy territory, and training resistance or indigenous forces by providing training and material support.¹²⁶

The underlying logic of reducing the human and economic cost of war, by engaging the enemy remotely and reducing the number of troops deployed on the battlefield, has also emerged and developed over the past fifty years. In his book *Virtual War: Kosovo and Beyond*, Ignatieff provides his reader with a narrative of the NATO air campaign in Kosovo and its aftermath through the eyes of five prominent figures including Wesley Clark, the Supreme Allied Commander. Reflecting on the absence of ground troops and the precision with which the airstrikes were conducted, Ignatieff argues that while '[t]echnological mastery removed death from our experience of war,' that 'war without death – to our side – is war that cease to be fully real to us: virtual war.'¹²⁷ He traces the technological mastery that made an apparent bloodless war possible back to what is called the Revolution in Military Affairs, beginning in the 1970's. During the Cold War, nuclear weapons capable of mass destruction had caused a stalemate between the U.S. and the Soviet Union. The only way progress could be made, according to Ignatieff, was to develop conventional weapons that could legitimately be used within existing cultural constraints. These weapons had to be precise, limit any collateral damage and 'reduce, if not eliminate, the risk to those who fired them, by keeping them as far away from the battle-line'.¹²⁸ With its free market economy, increasingly based on knowledge and computer technology, America was able to outperform its opponent and win the Cold War. The use of newly developed precision weapons in the Gulf War and Kosovo War in the nineties changed the objective of war to eliminate your opponent at a distance by striking the 'nerve centers' of the war machine rather than inflict as much damage as possible. This military strategy brought with it a political advantage as it avoided 'the risk of exposing American assets to attack'.¹²⁹

The Revolution in Military Affairs brought with it another change. Besides the use of precision weapons, the development of computer technology also enhanced the collecting of intelligence and allowed military leader to closely monitor and coordinate their forces. Computers not only enhanced the collection of intelligence but they also allowed military leaders to closely monitor and coordinate their forces. These rapid advances in technology called into question the large, slow industrial armies that were needed to fight wars in the first half of the twentieth century. The American military had to face a choice: to hold on to traditional military strategies that required the deployment of a large military force, or embrace new technologies that would allow a lighter and more agile force to be deployed. The objective of the troops on the ground would no longer be to 'roll over the enemy in a traditional battle of attrition, but to maneuver,

¹²⁶ Alastair, Finlan, "The (arrested) development of UK special forces and the global war on terror," *Review of International Studies* 35, no. 4 (2009) 973-979.

¹²⁷ Ignatieff, *Virtual War*, 4.

¹²⁸ Idem, 164.

¹²⁹ Idem, 169.

outflank and call in fire in order to overwhelm opposing forces'.¹³⁰ While aircraft and ships could deliver force to take out specific targets, marines could be reorganized into light, sea-based expeditionary units trained to execute specific tasks. These changes were met with resistance from within the army and as such, Ignatieff believes that the U.S. was unable to fully reorganize its troops and would therefore have been unable to prepare its troops to enter Kosovo, had it been decided to deploy a ground force.

A stark contrast to Kosovo is of course the scale of the Iraq and Afghan wars that followed only just a few years later. Whether or not these wars can be seen in the light of the army's resistance to new military strategies, it has become clear that these wars have strengthened the aversion in the West to the risk and cost of war. Demmers and Gould point to scholars such as Duffield, Kümmel, Giegerich and Mumford who argue that the horrors of the Iraq and Afghanistan have 'involved a sense of risk aversion and war fatigue, ushering in a "post-interventionist" or "pull back" era'. In an interview, representatives of the Oxford Research Group agreed that in the UK, as well as in the US, the war efforts were heavily criticized and fostered an opposition to the deployment of troops. Besides the fear of suffering more casualties, economic costs and the limited capacity of many European countries are also contributing factors to a lack of support for such large-scale military interventions.¹³¹

Besides the risk aversion, war fatigue, advanced technology and precision weapons such as armed drones, it must be emphasized that the nature of war has also changed. As Ignatieff pointed out, the objective of war is no longer to inflict attrition on the enemy but to identify and eliminate key nodes. This notion of attacking key nodes has become a guiding principle in contemporary warfare in which states face enemies that 'operate through shadowy networks and cells', requiring states to adopt corresponding tactics.¹³² Furthermore, though the Kosovo war and the War on Terror are very different, they both indicate a shift away from territorial control toward decapitation an enemy threat. In Kosovo, the Serb threat against the Kosovar population had to be stopped, while in the context of the War on Terror the objective is to counter the threat of terrorism. This logic of countering terrorist threats has resulted in what Chamayou calls the 'man-hunt doctrine'. Rather than responding to attacks, this new military doctrine entails 'preventing the development of emerging threats by the early elimination of their potential agent (...) and to do this in the absence of any direct imminent threat'.¹³³

In the context of this research, therefore, remote warfare is understood as a trend in contemporary warfare that has emerged since the Cold War. A combination of the development of precision weapons and computer technological along with a growing risk aversion and war fatigue contributed to military strategies

¹³⁰ Ignatieff, *Virtual War*, 174-175.

¹³¹ Interview with the Oxford Research Group, London, April 2018.

¹³² Demmers and Gould, "An assemblage approach to liquid warfare," 2.

¹³³ Chamayou, *Drone Theory*, 34.

that relied on the deployment small numbers of troops on the ground. As argued above these new strategies changed both the nature and objective of contemporary warfare, not without consequence however.

3.2 The price of remote warfare

As a strategy, remote warfare is especially appealing to Western European countries that must not only legitimate their actions for their critical constituents, but must also work within the constraints of a limited capacity. In *All Quiet on the ISIS Front*, Knowles and Watson argue that, in the context of low popular support for large military commitments, the UK government has adopted greater secrecy in its responses to security threats.¹³⁴ As a result it has invested in strategies of remote warfare – including deploying armed drones, special forces operations, training missions and outsource tasks to private contractors – that lend themselves well to waging war covertly. These military engagements are considered to be ‘non-combat’ and supporting activities. As a consequence they often fall between the “cracks” of existing legislation and oversight mechanisms.¹³⁵ In the UK, for example, the deployment of drones for intelligence, surveillance and reconnaissance (ISR) operations does not require approval of parliament. However, armed drones deployed as ISR technology outside of recognized armed conflicts can easily be converted into a precision weapon to engage high value targets, a practice that became evident with the strike on Noor Khan.¹³⁶ Because special forces can be deployed in small numbers as effective force multipliers to counter a variety of threats, and because they are not subject to the same laws as regular forces, they can operate outside the public eye. Like armed drones, U.S. special force deployed in the interest of national security by the Central Intelligence Agency (CIA) or Joint Special Operations Command (JSOC) are not held accountable by the same level of scrutiny as regular troops.¹³⁷ Similarly, UK special forces are exempt from the Freedom of Information Act.¹³⁸ Though less obvious, training missions and private military and security contractors (PMSCs) also allow states to engage in obscure military endeavors. By training and supporting local military forces, for example, Western states are able to indirectly counter threats. This also allows states to deny responsibility given the fact that they are not directly involved in combat operations. However, Biegon and Watts argue that this practice ‘raises serious questions about accountability and legality of Western military interventions’ and point to the military coup in Mali in 2012 that involved US-trained forces.¹³⁹

¹³⁴ Emily Knowles and Abigail Watson, *All Quiet on the ISIS Front: British secret warfare in an information age* (London: Oxford Research Group, 2016), 4.

¹³⁵ Knowles and Watson, *All Quiet on the ISIS Front*, 6.

¹³⁶ *Idem*, 9.

¹³⁷ Naureen Shah et al, *The Civilian Impact of Drones: Unexamined Costs, Unanswered Questions* (Washington D.C.:Center for Civilians in Conflict; New York: Columbia Law School Human Rights Clinic, 2012), 64-67, 69-71; Jon Moran, *Assessing SOF Transparency and Accountability: The Use of Special Operations Forces by the UK, US, Australia, and Canada* (London: Oxford Research Group 2016), 6-7.

¹³⁸ Moran, *Assessing SOF Transparency and Accountability*, 5, 20.

¹³⁹ Biegon and Watts, *Defining Remote Warfare*, 6.

Krieg argues that by outsourcing various tasks to PMSCs, states are similarly able to wage wars discreetly by making the economic cost and the number of military personnel deployed appear smaller.¹⁴⁰

Appealing as remote warfare may be, it raises a number of points that deserve scrutiny. For example, what are the legal and political ramifications of a costless war? First, regarding the legal implications, Knowles and Watson point out that recent remote warfare strategies are an awkward fit for international legal frameworks. They point out that the transnational activities of non-state actors in contemporary conflicts pose a challenge for international law. Traditionally, international law limits the conduct of hostilities between state and non-state actors within the geographic boundaries of the states that are party to the conflict. Because of this, any military action that takes place outside the designated geographic boundaries may have serious implications for the sovereignty of other state actors. Thus, U.S. drone strikes against non-state groups affiliated with Al-Qaeda (based in Afghanistan) that are operating in Yemen may jeopardize the sovereignty of the Yemeni state. Further implications, that will be discussed more in depth in the following chapter, include determining responsibility and defining key legal concepts and principles in the context of training missions, outsourcing to PSMCs and complex military coalitions.

At a political level, remote warfare also deserves scrutiny. Ignatieff points out that democracies rely on a system of checks and balances in which the population plays a critical role and that rendering war virtual has serious consequences. He writes:

Democracy may well remain peace loving only so long as the risk of war remains real to their citizens. If war becomes virtual – and without risk – democratic electorates may be more willing to fight especially if the cause is justified in the language of human rights and even democracy itself.¹⁴¹

Besides distancing the public from the realities of war, the opacity of the government also creates an accountability gap, as ‘external scrutiny is a necessary partner of internal oversight’.¹⁴² Furthermore, Knowles and Watson caution that while opaque state policy may have been effective in the past, limited state transparency has serious consequences in an information age. The idea that by ‘removing war from the public and parliamentary debate’ a state can free its military engagements from public scrutiny, they argue, rests on the presumption that the state controls public access to information. But, in ‘a world dominated by smart phones, social media, and burgeoning access to the internet,’ such a policy may only ‘exacerbating the low levels of public trust in military interventions that secretive warfare is assumed to

¹⁴⁰ Andreas Krieg, *Defining Remote Warfare*, 2-3, 14.

¹⁴¹ Ignatieff, *Virtual War*, 179-180.

¹⁴² Knowles and Watson, *All Quiet on the ISIS Front*, 6.

avoid.¹⁴³ In the UK, for example, Knowles and Watson point out that this has prevented the state from effectively shaping public narratives, an essential practice when engaged in a conflict.

To conclude then, what does the use of armed drones in contemporary warfare convey about how war and the means by which we wage war, ought to be described? As a component of remote warfare, drones are one of the means by which states counter threats at a distance at a minimal cost. The object of war is to neutralize the enemy by attacking key nodes and eliminate potential agents while keeping military activities out of the scrutiny of the public eye. Though this last point has proven difficult in an information age, a concern remains that the public is not forced to consider the cost of war like it did when war required the mobilization of young men and the national economy.¹⁴⁴ It is in this context, that the efforts of EFAD to promote respect for the rule of law and human rights and to prevent conflict must be seen. Formally, EFAD addressed the use of one type of weapon system, armed drones. However, by doing so they actively scrutinize the common understanding of war, seeking to uncover its logic, effectiveness and its (true) costs.

¹⁴³ Knowles and Watson, *All Quiet on the ISIS Front*, 4.

¹⁴⁴ Interview with James Rogers, Utrecht, May 2018.

Chapter 4: The EFAD Assemblage

*Assemblage analytics, in our view, should not fall into the trap of proving that the social world is 'dynamic and fluid' (...). Such a focus will merely have us mistake our premise for results. Instead, we have to specify how [elements] are assembled, how and why alliances are forged, who is included and excluded, and how parties to an assemblage act - and have an effect.*¹⁴⁵

In this chapter the focus shifts from the empirical context to a theoretical analysis of the case: European Forum on Armed Drones. An assemblage approach is taken to understand how civil society addresses the implications of the emerging military strategies that are discussed in chapter three. Assemblages, according to John Allen, can be thought of as 'any powerful arrangement that hangs together as an assorted heterogeneous mix of power and authority' including the 'shifting tactics of civil society movements in response to global harm and injustice'.¹⁴⁶ However, as the quote from Demmers and Gould points out, such an analysis should not focus on demonstrating the 'dynamic and fluid' nature of the social reality that civil society operates in, but rather on *how* and *why* 'things, socially situated subjects, objectives and an array of knowledges, discourses, institutions, laws and regulatory regimes' are continuously assembled and reassembled.¹⁴⁷ The main objective of this chapters, therefore, is to understand *how* and *why* civil society organizations forge alliances, who they in- and excluded and how they act to make a change. As pointed out in chapter one, Li, Demmers and Gould define and apply the *practices of assemblage* as an analytical tool in two vastly different case studies: community forest management and the U.S. AFRICOM's involvement in the hunt for Joseph Kony.¹⁴⁸ Throughout the chapter, the analysis will therefore engage with their work by drawing on their definitions and insights.

Before continuing, it must be pointed out that an inquiry into the complex practice of power underlies the analysis in this chapter. In the introduction of her work on community forest management, Li argues that the purpose of assemblages is 'a will to govern or, more specifically, the will to improve: the attempt to direct conduct and intervene in social processes to produce desired outcomes and avert undesired ones.'¹⁴⁹ Governance, Barnett and Duvall argue, is part of the 'family of power concepts'.¹⁵⁰ Demmers and Gould similarly speak of an *assemblage of governing* and focus on the practices of in- and exclusion and

¹⁴⁵ Demmers and Lauren Gould, "An assemblage approach to liquid warfare," 6.

¹⁴⁶ John Allen, "Powerful assemblages?," 155.

¹⁴⁷ Li, "Practices of assemblage and community forest management," 266.

¹⁴⁸ Demmers and Gould, "An Assemblage Approach to Liquid Warfare," 1-32; Li, "Practices of assemblage and community forest management," 263-293.

¹⁴⁹ Li, "Practices of assemblage and community forest management," 263.

¹⁵⁰ Michael Barnett and Raymond Duvall, "Power in international politics," *International organization* 59, no. 1 (2005) 57.

boundary drawing to understand how notions of power converge.¹⁵¹ Because the practice of *re-assemblage* most clearly illustrates boundary drawing and the in- and exclusion of actors, section five will analyze how the members EFAD attempt to govern the use of armed drones and how this reflects different forms of power.

As will be explained later on in the chapter, the assemblage comprises more than just the members of EFAD, but given their centrality in the assemblage and this research, a brief introduction must be given. The European Forum on Armed Drones is a network of 27 civil society organizations, based in Europe and in the U.S. that ‘promote human rights, respect for the rule of law, disarmament and conflict prevention.’¹⁵² The network was founded in April 2016 by the members of what was known as the Brussels Group, a collective of representatives of various civil society organizations that actively addressed the use of armed drone.¹⁵³ The network was founded because its members felt that they would increase their effectiveness by bundling their efforts to address issues at an international level, while engaging with local partners at a national level.¹⁵⁴ EFAD calls on European governments to individually and collectively address the growing deployment of armed drones in the light of pressing ‘legal, ethical and global peace and security challenges’.¹⁵⁵

The network represents a broad range of civil society organizations, diverse in their capacity, expertise and approach. PAX, for example, is a peace organization committed to build ‘just and peaceful societies around the globe’.¹⁵⁶ Guided by the principles of *human security*, the organization calls on states to regulate the production, export and use of armed drones, emphasizing compliance to international arms trade regimes. Reprieve comprises a team of lawyers and investigators who represent and provide legal support for individuals ‘facing execution, and those victimized by states’ abusive counter-terror policies – rendition, torture, extrajudicial imprisonment and extrajudicial killings’.¹⁵⁷ Airwars describes itself as a ‘collaborative, not-for-profit transparency project, aimed both at tracking and archiving international military actions in conflict zones such as Iraq, Syria and Libya’.¹⁵⁸ One of the key objectives in tracking and archiving military actions is to document civilian casualties. Based on their research, Airwars addresses state accountability and transparency regarding their military actions and alleged civilian casualties by publishing reports and actively engaging politicians and ministers. Similar to PAX, Rete Italiana per il Disarmo (the Italian Disarmament Network) addresses issues related to the production, export and

¹⁵¹ Demmers and Gould, “An Assemblage Approach to Liquid Warfare,” 5, 13.

¹⁵² EFAD, “About,” accessed January 5, 2017, <https://www.efadrones.org/about/>.

¹⁵³ Interview with a representative of PAX for Peace, London, March 2018.

¹⁵⁴ Idem.

¹⁵⁵ EFAD, *Call to Action*, April 2016, <https://www.paxvoorvrede.nl/media/files/efad-call-to-action.pdf>.

¹⁵⁶ “PAX,” PAX for Peace, accessed July 20, 2018, <https://www.paxforpeace.nl/about-us>.

¹⁵⁷ “About,” Reprieve, accessed 20 July, 2018, <https://reprieve.org.uk/about/>.

¹⁵⁸ “About us,” Airwars, accessed 20 July, 2018, <https://airwars.org/about-us/>.

subsequent use of weapons by the Italian state.¹⁵⁹ A network in and of itself, Rete Italiana per il Disarmo engages in a broad range of activities including research, legal action such as strategic litigation, advocacy and uniquely, grassroots mobilizations of the public.¹⁶⁰ Though not an official member, the Oxford Research Group makes an important contribution through its research and advocacy on the engagement of the UK government in what they call *remote warfare*. Its mission is to ‘promote approaches to defence, development and foreign policies that are inclusive, accountable, sustainable and effective (...) [and] to transform the way that people and policy-makers think about security, seeking to break out of the cycle of conflict and violence’.¹⁶¹ Finally, the Open Society Foundation takes on a facilitating role. Though it is involved in some activities such as publishing reports and attending EFAD meetings, OSF’s main objective is to support the network by for example providing grants for projects.¹⁶²

The sections in this chapter are organized according to the five practices of assemblage: *forging alignments*, *rendering technical*, *authorizing knowledge*, *managing failures and contradictions* and *(re)assemblage*. Each section begins with a definition the practices, followed by an analysis of data and a brief conclusion. The chapter concludes by offering a broader analysis and interpretation of the data.

Section 1: Forging Alignments

In her study of community forest management, Li describes an assemblage composed of actors with diverging objectives and perspectives. Despite these differences, she argues that they are held together through a ‘fragile alignment’ based on a common understanding that there is an urgent need for intervention. This practice of bringing together the relevant parties is called *forging alignments* and she defines it as ‘the work of linking together objectives of the parties to an assemblage by means of a joint problem definition’.¹⁶³ Crucial to this practice is formulating a common problem definition that transcends the differences of the parties to assemblage. This section will therefore focus first on *what* common problem definitions are identified and then *how* these problem definitions facilitate alignment. The analysis will primarily draw on content analysis, interviews, observations and additional written sources. Many of the specific reports that are cited in this section were published by the members of EFAD and were all included in the content analysis.

¹⁵⁹ “The memorandum of understanding signed by the member organizations of the Network,” Rete Italiana per il Disarmo, accessed July 20, 2018, <https://www.disarmo.org/rete/a/3137.html>.

¹⁶⁰ Interview with a representative of Rete Italiana per il Disarmo, Utrecht, May 2018.

¹⁶¹ “ORG’s Vision,” Oxford Research Group, accessed July 20, 2018, <https://www.oxfordresearchgroup.org.uk/orgs-vision>.

¹⁶² Interview with a representative of Open Society Foundation, Utrecht, March 2018.

¹⁶³ Demmers and Gould, “An Assemblage Approach to Liquid Warfare,” 6.

1.1 Common problem definitions

To understand why the current use of armed drones by state actors is considered to be problematic by the members of EFAD, drones must be viewed as a means for states to use lethal force against a specific individual or group outside its territory. Most of the members of EFAD agree that drones are not inherently problematic, as long as they are used in accordance to IHL and IHRL.¹⁶⁴ When used appropriately drones even offer a number of advantages over manned aircraft. For example, because drones can stay airborne for a longer period of time they can provide ground troops with better situational awareness and, when engaging targets, drone pilots can wait for the opportune moment to strike.¹⁶⁵ In practice, however, the use of armed drones raises a number of concerns.¹⁶⁶ Illustrative is the use of drones to conduct what are called *targeted killings*, defined by UN Special Rapporteur Philip Alston as ‘the intentional, premeditated and deliberate use of lethal force, by States or their agents acting under colour of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator’.¹⁶⁷ This controversial use of lethal force is neither new nor is it limited to armed drones. A well-known example is Osama Bin Laden who was killed by a U.S. SEAL team in 2011.¹⁶⁸

Regarding the use of armed drones to target specific individuals or groups, a distinction is made between *personality strikes* and *signature strikes*, both of which raise humanitarian and legal concerns. *Personality strikes* are conducted against individuals whose identity has been established prior to the strike, based on a combination of video footage, signal intelligence (SIGINT) and human intelligence (HUMINT).¹⁶⁹ *Signature strikes*, in contrast target individuals based on established patterns of suspicious behavior, called *signature* behavior.¹⁷⁰ For example, U.S. drones pilots may decide to target a group of military aged men carrying guns and driving in a vehicle in Northern Waziristan under suspicion of being members of the Taliban and engaging in hostile activities. A crucial concern when conducting such strikes is that despite the accuracy of drones, flawed intelligence can still results in civilian casualties. *Personality strikes* conducted by the U.S. in remote areas where they do not have a presence on the ground, for example, must rely heavily on SIGINT, because there is no or limited HUMINT available. Conducting strikes based solely on SIGINT is by their own admission unreliable in mitigating collateral damage.¹⁷¹ Faulty analysis

¹⁶⁴ Interview with a representative of Amnesty International, Amsterdam, April 2018.

¹⁶⁵ Cor Oudes and Wim Zwijnenburg, *Does unmanned make unacceptable: Exploring the Debate on Using Drones and Robots in Warfare* (Utrecht: PAX for Peace, 2011), 18; Jack McDonald, *Drone and the European Union: Prospects for a Common Future* (London: Chatham House, 2018), 6-7.

¹⁶⁶ Interview with a representative of Amnesty International, Amsterdam, April 2018.

¹⁶⁷ Knowles and Watson, *All Quiet on the ISIS Front*, 8.

¹⁶⁸ Idem, 8.

¹⁶⁹ Naureen Shah et al. *The Civilian Impact of Drones (The Civilian Impact of Drones: Unexamined Costs, Unanswered Questions)*. Washington D.C.: Center for Civilians in Conflict; New York: Columbia Law School Human Rights Clinic, 2012), 38-40; Interview with a representative of Amnesty International, Amsterdam, April 2018.

¹⁷⁰ Naureen Shah et al. *The Civilian Impact of Drones*, 32-34.

¹⁷¹ Interview with a representative of Amnesty International, Amsterdam, April 2018.

caused by an overload of SIGINT intelligence, referred to as a *data crush*, may prevent civilians being distinguished from combatants.¹⁷² A lack of presence on the ground causes similar problems for *signature strikes*. Given the fact that the U.S. had difficulty establishing reliable signatures in Iraq where it deployed a large ground force, the strength of signatures established in Pakistan is highly questionable given the limited situational and cultural awareness of U.S. personnel.¹⁷³ These concerns over the increase in civilian casualties are substantiated by testimonies of drone victims, estimates of civilian casualties based on open source research and lists of high value targets which the U.S. has claimed to have killed multiple times.¹⁷⁴

A lack of reliable intelligence and a high number of civilian casualties raise legal concerns regarding the use of drones for *targeted killings*. In *Litigating Drone Strikes*, the ECCHR points out that even under IHL drone strikes must comply with the ‘the prohibition of causing unnecessary suffering; the principle of distinction, the prohibition of indiscriminate attacks, the obligation to use precautions in attack; and the principle of proportionality.’¹⁷⁵ In the light of the concerns raised above, they argue that the use of drones for targeted killings undermine the principle of distinction and the prohibition of indiscriminate attacks. Even in the context of an armed conflict, the distinction between civilians and combatants follows an innocent-until-proven-guilty logic; ‘in case of doubt, a person must be presumed to be protected against direct attack.’¹⁷⁶ This stands in contrast to the practice of *signature strikes*, which relies on *signatures* to distinguish combatants from civilians and is therefore likely to constitute a violation of the requirements set by IHL, let alone IHRL. However, due to a lack of state transparency and difficulties in accessing victims and witnesses of drone attacks in remote areas, it remains difficult to determine why and based on what kind of intelligence individuals are attacked. This hinders making any hard claims regarding the legality of specific drone strikes.¹⁷⁷

The members of EFAD raise further concerns regarding the application of IHL and IHRL to the use of drones to target individuals. Determining what international legal framework a drone strike falls under is often very difficult in and of itself. As pointed out in the chapter one, the transnational activity of non-state actors makes it very difficult to determine whether a U.S. drone strike against an Al-Qaeda affiliate outside the geographic boundary of a recognized armed conflict falls under IHL or exclusively

¹⁷² Naureen Shah et al. *The Civilian Impact of Drones*, 36-43.

¹⁷³ *Idem*, 41-42.

¹⁷⁴ “Drone Warfare,” The Bureau of Investigative Journalism, accessed July 20, 2018: <https://www.thebureauinvestigates.com/projects/drone-war>; Amnesty International, *Will I Be Next: US Drone Strikes in Pakistan* (London: Amnesty International Publications, 2013); Andreas Schüller et al., *Litigating Drone Strikes: Challenging the Global Network of Remote Killing* (Berlin: The European Center for Constitutional and Human Rights, 2017), 59, 68 ; Reprieve, *You Never Die Twice: Multiple kills in the US drone Program*, November 2014, http://reprieve.org/wp-content/uploads/2014_11_24_PUB-You-Never-Die-Twice-Multiple-Kills-in-the-US-Drone-Program-1.pdf.

¹⁷⁵ Andreas Schüller et al., *Litigating Drone Strikes*, 66.

¹⁷⁶ *Idem*, 73.

¹⁷⁷ Naureen Shah et al, *The Civilian Impact of Drones*, 6-8, 64-66.

under IHRL. The consequences of such legal obstacles are substantial as the criteria for the use of force under IHRL are far more restrictive. Drone strikes conducted outside a recognized armed conflict are therefore far more likely to constitute a violation of international law.¹⁷⁸ Furthermore, a lack of consensus among states over the interpretation of international law also poses a challenge. For example, when faced with scrutiny, the U.S. has justified its use of armed drones for targeted killings as an act of self-defense. Such a claim must be supported by overwhelming evidence that an attack is imminent. An apparent lack of overwhelming evidence raises question over the interpretation of what an imminent threat entails. Using the principle of self-defense to justify *how* lethal force is used blurs the distinction between IHL and the laws that govern the use of armed force.¹⁷⁹ A final obstacle is determining state responsibility for a specific drone strike. This point is especially relevant for European states that often collaborate with the U.S. in conducting drone strikes by offering logistical support or sharing intelligence.¹⁸⁰ As such, the responsibility for drone strikes may be shared by several nations. Finally, notwithstanding these legal obstacles, states rarely disclose any information on their practice or policy, due to national and operation security. This not only creates ambiguity regarding the legal basis for the extra-territorial use of lethal force, it also prevents states from being held accountable for possible violations of international law.

On a broader level, the members of EFAD raise concerns regarding the implication of the perception of drones as a cost- and risk-free approach to war. In an interview, a representative of Drone Wars UK explained that because drone technology reduces the perceived risk and cost of warfare it becomes much ‘easier for states to use force with impunity’.¹⁸¹ Because of this, it is easier to legitimize the use of armed drones for a risk averse public which also offers a ‘quick fix’ alternative to long-term and often cumbersome diplomatic and political means. Besides this, the use of drones for targeted killing is also believed to cause unintended ‘blowback’. In various reports, drone strikes are sited to have caused retaliation against local authorities and cultivate anti-western sentiments that feed polarization and radicalization in countries such as Yemen, Afghanistan and Somalia.¹⁸² Finally, in the light of the proliferation among both states and non-state actors, concerns are raised about the consequences drone technology may have as possible instruments for terrorist ends.¹⁸³

The perception of drones as a risk and cost-free approach to war is also considered to obscure the human cost. In *The Civilian Impact of Drones* (jointly published by the Center for Civilian in Conflict),

¹⁷⁸ Interview Jessica Dorsey, Utrecht February 2018; Amnesty International, *Will I Be Next?*

¹⁷⁹ Interview with Jessica Dorsey, Utrecht, February 2018; Jack McDonald, *Drone and the European Union*, 15; UNIDIR, *Increasing Transparency, Oversight and Accountability over Armed Unmanned Aerial Vehicles* (Geneva: UNIDIR, 2017), 9-10.

¹⁸⁰ Jack McDonald, *Drone and the European Union*, 16.

¹⁸¹ Interview with a representative of Drone Wars, London May 2018; EFAD, *Call to Action*, April 2016, <https://www.paxvoorvrede.nl/media/files/efad-call-to-action.pdf>.

¹⁸² See for example: Andreas Schüller et al., *Litigating Drone Strikes*, 21.

¹⁸³ Oudes and Zwijnenburg, *Does unmanned make unacceptable*, 21.

President Obama is cited as having said: ‘As a general proposition... I want to make sure that people understand that actually, drones have not caused a huge number of civilian casualties.’ He adds ‘For the most part they have been precise, precision strikes against al-Qaeda and their affiliates and we are very careful in terms of how it’s been applied.’¹⁸⁴ This notion of drones as precision weapons is strongly contested, not just by civil society. The same report cites Micheal Schmitt, Chairman of the U.S. Naval War College, who warns that the enhanced IRS and precision strike capabilities of drones give a false impression of ‘zero collateral damage’.¹⁸⁵ Likewise, in an interview with Drone Wars UK Air Marshal Greg Bagwell points out that ‘[t]hinking war is bloodless is a mistake’.¹⁸⁶ In *The Civilian Impact of Drones*, the authors also emphasize that drone strikes not only cause civilians deaths but ‘cause other kinds of harm to civilians and local communities, and may fuel anger toward the U.S. in the aggregate.’¹⁸⁷ These other ‘kinds of harm’ include the psychological trauma caused by the near constant threat of an attack from drones flying above, the stigmatization of civilians mistakenly targeted, physical injuries (such as losing a limb) and the material loss of property. Additionally, due to the close interdependence of families in countries such as Pakistan, drone strikes jeopardize the well-being of the families of victims. Finally, the continual presence of drones is claimed to have an impact on socio-cultural activities. For example, in interviews conducted by Amnesty International, respondents living in Northern Waziristan said that they avoided gathering in large groups and that the movement of women, children and the elderly is limited due to the presence of drones.¹⁸⁸

1.2 Aligning actors

Having identified the common problem definition, it must now be asked *how* it help the members of EFAD link the objectives of the parties to the assemblage. The answer is threefold. First, by focusing on a state practice and its implications as opposed to a specific weapon system, armed drones are place in a broader context and serve as a focus point for actors that address related issues. In an interview, a representative of the Oxford Research Group explained that the focus on drones came as a reaction to a shift in the policy of Western states to focus solely on counterterrorism.¹⁸⁹ Because of this, the use of armed drones highlights many of the question that are also applicable to other counterterrorism strategies such as the deployment of special forces. The use of drones also brought to light broader issues, such as a lack of consensus on the interpretation of international law and the implications of sharing intelligence.¹⁹⁰ The function of drones as

¹⁸⁴ Naureen Shah et al. *The Civilian Impact of Drones*, 23.

¹⁸⁵ Idem, 31.

¹⁸⁶ Greg Bagwell, “Interview of Air Marshall Greg Bagwell by Chris Cole, Drone Wars UK.” Interview by Chris Cole, *Drone Wars UK*, Januari 2018.

¹⁸⁷ Naureen Shah et al. *The Civilian Impact of Drones*, 2.

¹⁸⁸ Idem, 21-27.

¹⁸⁹ Interview with a Representative of Remote Warfare, London April 2018.

¹⁹⁰ Interview with Jessica Dorsey, Utrecht, February 2018.

a focus point was aptly illustrated during an EFAD meeting held in March 2018. A representative of the All Parliamentary Group on Armed Drones cautioned that the focus must not be placed exclusively on drones, as they are but one component of a larger system. Those attending the meeting agreed and it was pointed out that drones are often used as a ‘short hand’ to speak about the ‘system’ of infrastructure, technology, policies and strategies that facilitate drone warfare.¹⁹¹ Furthermore, focusing on a state practice also helps accommodate diverging views and perspectives of member organizations. For example, Drone Wars UK argues that drones are inherently problematic because it believes that the specific features of drones lower the threshold for states to use force with impunity.¹⁹² Despite the fact that not all EFAD members agree with this position, a concern is shared that the unregulated use of drones does lower the threshold of violence.¹⁹³ Though Drone Wars UK would go further, the use of armed drones in compliance with international law is accepted as a common objective.¹⁹⁴

Second, by tapping into the legal debate, the use of drones is situated in a broader debate on the consequences of counterterrorism policies of western states. Besides a lack of consensus on the interpretation of international law, these consequences include obstacles in applying international law to the transnational activity of non-state actors. Furthermore, a representative of PAX explained in an interview that emphasizing compliance to international law can help apply pressure on democratic states that claim to support the rule of law.¹⁹⁵ Finally, though not explicitly confirmed in any of the interviews, an international legal perspective helps demonstrate the significance of limited information on state use of lethal force. For example, a representative of Reprieve explained they often have to work with *circumstantial evidence*, as governments are reluctant to release any exact, factual information. Within a legal framework, however, circumstantial evidence and information gathered through open source and field research can be used to question the legality and thereby the legitimacy of state use of armed drones. Reports such as *The Civilian Impact of Drones* and *Will I Be Next* illustrate how various sources of data can be combined to question the legality of U.S. drone strikes.¹⁹⁶

At the same time, it must be noted that the legal debate is not the ‘be all and end all’.¹⁹⁷ This brings us to the final point, namely, that by focusing on the civil cost, EFAD members can convey the urgent need to address the use of armed drones. Representatives of Reprieve explained that the stories of victims must be included to humanize the debate. Demonstrating the human impact of drones and telling the stories of victims is believed to be meaningful for the victims and resonate with the Western public. However, in the

¹⁹¹ Field notes EFAD meeting, London March 2018.

¹⁹² Interview with a representative of Drone Wars UK, London May 2018.

¹⁹³ EFAD, *Call to Action*.

¹⁹⁴ Interview with a representative of Drone Wars UK, London May 2018.

¹⁹⁵ Interview with a representative of PAX for peace, London March 2018.

¹⁹⁶ Naureen Shah et al., *The Civilian Impact of Drones*; Amnesty International, *Will I Be Next?*.

¹⁹⁷ Interview with a representative of Reprieve, London April 2018.

context of the war on terror, stories of victims must be carefully selected to convince the public that not all casualties are terrorists and that the use of force is not always justified.

In conclusion, the question *how* the members of EFAD *forge alignments* around a common objective, raises four points. First, by laying the emphasis on a state practice, armed drones serve as a focus point to address broader issues related to counterterrorism policies and strategies. Second, by taking a technical approach, the members of EAFD accommodate diverging views on drones as a weapon system. Third, a legal focus also provides the assemblage with a framework to act and to signify the meaning of limited information. Fourth, taking a humanitarian perspective helps to demonstrate the urgency by seeking resonance with the Western public. To understanding how the members of EFAD seek to address their common problem definition, the following section turns to the practices of *rendering technical*.

Section 2: Rendering Technical

According to Li, the practice of *rendering technical* entails ‘extracting from the messiness from of the social world with all the processes that run through it, a set of relations that can be formulated as a diagram in which problem plus intervention will produce a beneficial result.’¹⁹⁸ Similar to Li, Demmers and Gould define the practices as ‘the production of technical descriptions’ that entail a problem and a solution.¹⁹⁹ The function of these technical descriptions is to ‘overcome tensions and make the assemblage appear more coherent than it is’.²⁰⁰ Though similar, the practice of *rendering technical* is distinct from that of *forging alignment*, discussed in the previous section. *Forging alignments* entails gathering dissimilar parties around commonly identified problem, while *rendering technical* goes a step further by establishing the causes and the needed intervention to produce the desired outcome. In that sense, *rendering technical* helps formalize the existing alignment between parties in the assemblage. The object of this section is to describe and analyze *how* EFAD engage in this process, *what* technical descriptions of the use of armed drones are produced and *how* these descriptions overcome tensions in the assemblage and project coherence. To do so, this section will focus on the five-call-to-action points that were drawn-up and unanimously accepted at the formation of EFAD. The five Call to Action points are first briefly described, identifying problems and solutions, and are then analyzed as a means to overcome tensions and project coherence.

¹⁹⁸ Li, "Practices of assemblage," 265.

¹⁹⁹ Demmers and Gould, "An assemblage approach to liquid warfare," 5.

²⁰⁰ Idem, 5.

2.1 Call to Action

When EFAD was formed on April 7th, 2016, its members ratified a common Call to Action.²⁰¹ In it, members write that armed drones ‘presents a number of legal, ethical and global peace and security challenges’ that raises concerns over their use.²⁰² These concerns reflect the common problem definitions discussed in the previous sections: lowering the threshold of violence, challenges to international law, the unintended blowback of drone strikes and civilian harm. In the light of these concerns, the members of EFAD emphasize the need for public and democratic debate and call on states to *articulate clear policies, prevent complicity, ensure transparency, establish accountability and control proliferation*. Though the Call to Action prescribe concrete actions that offer solutions for the concerns raised above, implied are also five key causes that have been identified through content analysis.²⁰³

The first action point, *articulate clear policy*, calls on states to recognize the challenges posed by the use of armed drones and to publicly articulate clear policy and a clear legal position accordingly.²⁰⁴ Specifically, states are called on to demonstrate their compliance with international law by disclosing the rules and procedures that guide the use of drones. These should include measures to prevent, mitigate and investigate any alleged unlawful deaths and civilians harm. In the data this Call to Action was associated with three causes. First, a lack of clear, public state policy creates confusion and uncertainty regarding compliance with international law which can jeopardize the international and local legitimacy of a state. Furthermore, without a common understanding or a legal position the use of armed drones can result in lowering international norms. For example, the U.S. relies on permissive interpretations of international law to justify its use of force which is considered to lower the threshold of violence. A lack of consensus may lead to European states to adopt U.S. policy and practice. Upholding existing norms and fostering a common understanding regarding the acceptable use of force are considered to be necessary to maintain global peace and security. A lack of clear policy and commitment by states also creates obstacles in holding belligerents accountable for their use of force and providing sufficient protection for civilians.

The second action point, *prevent complicity*, calls on states to take their ‘third party responsibility’ and to avoid being complicit in the unlawful use of armed drones by providing their allies with logistical support or sharing intelligence.²⁰⁵ Given the fact that armed conflicts are increasingly ‘undertaken by states in coalition with one another’ and specifically the reliance of European states on U.S. military capability, this Call to Action has become especially relevant in remote warfare strategies.²⁰⁶ European states support

²⁰¹ EFAD, *Call to Action*.

²⁰² *Idem*, 1.

²⁰³ These causes have been constructed based on an aggregate of coded data. When describing the causes, therefore, direct reference are made to individual sources are only made when citing an example that was given.

²⁰⁴ EFAD, *Call to Action*, 2.

²⁰⁵ *Idem*, 2.

²⁰⁶ Jack McDonald, *Drone and the European Union*, 7.

the deployment of U.S. drones in various ways, of which intelligence sharing appears to be most common. Germany, the United Kingdom and the Netherlands all allegedly shared intelligence that allowed the U.S. to identify and target individuals with armed drones. Other forms of support include providing logistical support, such as allowing the U.S. to use air bases or relaying satellite communications, embedding troops and trading arms. The chief concern is that states will become complicit in the violations of international law or compromise their principles and regulations that guide the use of lethal force. The complicity of European states in U.S. drone strikes can therefore undermine their commitment to the rule of international law. Furthermore, the complex coalitions that characterize contemporary western interventions can raise legal hurdles in determining state responsibility that prevent accountability.

The third point, *ensure transparency*, calls on states to share all information that ‘can contribute to the development of restrictive norms of behavior, the prevention of harm and the strengthening of international law.’²⁰⁷ Specifically, states are called on to provide case-by-case information on the ‘legal and factual grounds’ for drone strikes that target groups or individuals in counterterrorism operations.²⁰⁸ Such information should also include the number of civilian casualties and their identity. Though there are several reasons why non-transparency is considered to be problematic, the first and foremost reason is that it prevents legal accountability and effective oversight of the use of lethal force. The compliance with international and domestic law cannot be ensured when states refuse to disclose the legal grounds for their use of lethal force outside of armed conflict. This may include disclosing the procedures that guide the targeting groups or individuals. Furthermore, a lack of transparency limits public scrutiny and debate which not only undermines the legitimacy of the use of force but also prevents policy evaluation and setting long-term strategies. Finally, a lack of transparency is considered to exacerbate low levels of public trust and deprive victims of their right to know why their family and friends were killed.

It is recognized by the members of EFAD that transparency regarding the use of armed drones can be complicated. As mentioned above, states are increasingly collaborating in coalitions in which each party may have different commitments and obligations regarding transparency. This may limit the access state have to information or their liberty to publish data. Furthermore, because drone strikes are frequently used outside in remote areas it may be very difficult for states to be able to verify the status of casualties.

The fourth action point, *establish accountability*, calls on states to ‘investigate any allegations of unlawful death or civilian harm’.²⁰⁹ Investigations must be conducted in a prompt, thorough and impartial manner and must ensure that the rights of victims are upheld, which includes ‘effective access to judicial remedies and reparations.’²¹⁰ A common concern is that a lack of accountability creates an environment of

²⁰⁷ EFAD, *Call to Action*, 2.

²⁰⁸ *Idem*, 2.

²⁰⁹ *Idem*, 2.

²¹⁰ *Idem*, 2.

impunity that undermines the rule of law. This has distinct implications for the victims of drone strikes who receive no official acknowledgement, apologies or compensation for their loss. This lack of accountability can lead to frustration and erodes sentiments toward the West, as pointed out in the first section. A lack of accountability, especially toward victims of U.S. drone strikes in providing redress, is also seen to break with preceding practice and claimed commitment to norms of humanity.

The two main obstacles in establishing accountability are state secrecy and large, complex military coalitions. Though military coalitions are not a new phenomenon, drones are considered to add a new dimension. For example, UK pilots flying a U.S. drones in a joint operation are obliged to abide by the UK Rules of Engagement (UKROE). However, if the pilots are prevented by UKROE to strike a given target, U.S. pilots can take over the control of the drone.²¹¹ In this way, states are considered to be able to easily maneuver around their individual constraints.

The fifth and final point, *control proliferation*, calls on states to enact ‘stricter controls on the transfer of military and dual-use drone technology’ by establishing clear categories and integrating drone technology into existing arms control regimes and treaties to prevent irresponsible transfers.²¹² States are specifically called on to engage in global debates to cultivate a common understanding and support among states to control the proliferation of drone technology. The uncontrolled proliferation of drones is considered to lower the threshold for military activity that may lead to heightened tensions between states, or worse, spark violence. The use of commercial drone technology by non-state actors is also seen as a concern regarding international peace and security. Finally, the rapid development of drone technology raises concerns over the quality of the weapon systems and that malfunctions may result in more civilian casualties.

One of the main obstacles in controlling the proliferation drones is the growing number of countries that are developing, producing and exporting drone technology. China, for example, is developing and producing its own drone technology and is willing to trade with nations that the U.S. is not.²¹³ Likewise, Israel is not signatory to Missile Technology Control Regime which allows it to trade more freely.²¹⁴ This may lead to an arms race between drone producing countries that undermines international treaties and control regimes.

²¹¹ Greg Bagwell, “Interview of Air Marshall Greg Bagwell by Chris Cole, Drone Wars UK.” Interview by Chris Cole. Drone Wars UK, January 2018.

²¹² EFAD, *Call to Action*, 2-3.

²¹³ Jack McDonald, *Drone and the European Union*, 5.

²¹⁴ Oudes and Zwijnenburg, *Does unmanned make unacceptable*, 12.

2.2 Projecting coherence

Then, to understand *how* the Call to Action helps overcome tensions and project coherence, a number of observations and questions provide insight. First, how does the Call to Action provide a comprehensive problem and solution relation to approach the use of armed drones? Noticeable is how three prominent themes that emerged from the content analysis – transparency, accountability and policy – offer a comprehensive approach to the identified problems related to the use of armed drones. *Transparency* is presented as a prerequisite for the other *call-to-action-points*; without transparency there can be no effective oversight, accountability or the public scrutiny of state policy. Accountability, on the other hand, seems to function as the common objective. Better transparency, clear policy and even the controlled development, production and transfer of drones is considered to contribute to the accountable use of lethal force. Finally, policy provides a means to ensure sufficient transparency and establish effective accountability.

Second, an important question is *who* the Call to Action addresses. The document unambiguously calls on all ‘European governments, individually and through European institutions’ to engage in the five points described above. Calling on states to take action, individually on a national level and collectively on an international level, reflects EFAD’s approach and its objectives.²¹⁵ In an interview, a representative of PAX explained that the EFAD was formed to bundle the effort of civil society to address issues at both a national and international level.²¹⁶ Interestingly, though EFAD members actively addressed the use of armed drones at international and domestic level, engaging with states individually is considered to be more effective.²¹⁷ In an interview a representative of the Open Society Foundation explained that this was because European institutions are unable to provide binding legislation regarding the foreign policy (and therefore the military engagements) of European states.²¹⁸ By actively engaging with states, the Call to Action also allows EFAD to *align* state actors with their objectives. For example, in an interview a representative of Article 36 explained how they engage with state representatives at meetings of the UN First Assembly to raise their concerns. At such events, civil society also represent states *joint statements* in which pressing concerns regarding the use of weapons systems are addressed and which contain a Call to Action in the form of recommendations.²¹⁹

Third, as pointed out in the previous section, the use of armed drones serves as a focus point to gather and arrange a variety of civil society organizations that address issues related to the state use of extraterritorial lethal force.²²⁰ Similarly, point of EFAD’s Call to Action are applicable to other modes of

²¹⁵ EFAD, *Call to Action*, 2.

²¹⁶ Interview with a representative of PAX, London March 2018.

²¹⁷ Interview with a representative of PAX, London March 2018; Interview Open Society Foundation, Utrecht April 2018.

²¹⁸ Interview with a representative of Open Society Foundation, Utrecht April 2018.

²¹⁹ Interview with a representative of A36, London April 2018.

²²⁰ Interview with a representative of Remote Warfare, London April 2018.

remote warfare.²²¹ For example, the call to *ensure transparency, establish accountability, prevent complicity* and *articulate clear policy* are also applicable to the use deployment of special operations forces and the use of private security and military contractors.

Finally, the Call to Action also help to overcome tensions and project coherence. In an interview, a representative of PAX, explained that it was difficult to bring together the various perspectives and approaches of members, but that through carefully negotiated the Call to Action was unanimously ratified. The Call to Action also brings together the different approaches and thematic focuses of members by addressing five interrelated areas that need change. Though members have ratified all five *call-to-action-points*, not all organizations equally focus on all five points. Reprieve, for example, takes a legal approach and focuses on issues related to complicity, while Article 36 focuses more on controlling proliferation by engaging in advocacy.²²² In an interview, representatives of Reprieve pointed out that they considered this to be a strength of EFAD. Because it brings together a variety of civil society organizations that address specific interrelated issues, they EFAD's approach to the use of drones as holistic.²²³

To answer the question how EFAD engages in the practice *rendering technical* and how this helps deal with internal tensions, the following can be concluded. In the Call to Action, EFAD offers a *technical description* of the use of armed drones by providing a comprehensive approach that identifies cause, objective and a means to effect change. Furthermore, the Call to Action helps to bridge tensions by accommodating for diverging approaches and thematic focuses and thereby project coherence by creating a holistic approach to the use of armed drones.

Section 3: Authorizing knowledge

Both sections 1 and 2 address the lack of state transparency regarding the use of armed drones. *Authorizing knowledge* is therefore of special significance to the EFAD assemblage. Li defines the practice as 'specifying the requisite body of knowledge; confirming enabling assumptions; [and] containing critiques.'²²⁴ Demmers and Gould add that *authorizing knowledge* also entails *limiting* the 'body of requisite knowledge'.²²⁵ In her study of forest community management, Li traces the knowledge that is used to substantiate the claim that intervention is indeed needed and that forest communities offer means to do so. Li describes how both academics and activists engage in a debate over the contested turn to forest community management.²²⁶ Demmers and Gould, on the other hand, focus on how state actors, NGOs and

²²¹ Interview with a representative of Remote Warfare, London April 2018.

²²² Interview with a representative of Reprieve, London April 2018; Interview with a representative of Article 36, April 2018.

²²³ Interview with a representative of Reprieve, London April 2018.

²²⁴ Li, "Practices of assemblage and community forest management," 265.

²²⁵ Demmers and Gould, "An assemblage approach to liquid warfare," 5.

²²⁶ Li, "Practices of assemblage and community forest management," 273-276.

international institutions engage in constructing a discourse which advocates a military approach to the Lord's Resistance Army.²²⁷ Though the cases studies differ significantly, they both emphasize that authorizing knowledge serves to aligning actors and justifying a course of action. Drawing on content analysis, interviews and an array of written sources, this section analyzes what specified body of requisite knowledge is authorized by EFAD, what experts are relied on to produce knowledge and how this knowledge helps align actors and justify a course of action. The section begins by providing a brief context, before addresses why and how knowledge is produced.

3.1 The importance of *authorizing knowledge*

To provide this section with a context, the question why *authorizing knowledge* is so important for the EFAD assemblage is addressed first. There is very little credible information that is available regarding the use of armed drones, especially their use outside of recognized armed conflict. Two reasons for this are a lack of state transparency and the difficulties and risks involved in conducting research in the areas where drone strikes occur. Strikes that take place outside of the conventional battlefield often take place in areas that are remote and difficult to access.²²⁸ Going to these areas not only poses risks for the researchers but also for the respondents, who at times have been threatened for speaking to Western researchers.²²⁹ The lack of state transparency is more difficult to explain, but there are several possible motives. As pointed out in chapter two, the use of armed drones must be seen in the light of a risk averse approach to war that grew in the wake of the Iraq and Afghan wars. Due to a lack of popular support for large military commitments, the UK, for example, has opted for a more secretive approach to war.²³⁰ This secrecy helps obscure the 'true' cost of war, making war look clean and civilized. Drones used in classified counterterrorism operations are emblematic of this approach to war and are presented as precise and civil means to wage war.²³¹

The American government and its European counterparts justify limited transparency by claiming that disclosing data on how armed drones are used, when, where and who was killed would jeopardize national and operational security.²³² In an interview, a representative of the Oxford Research Group pointed out that in the UK the government believes that limited transparency also allows for reasonable deniability which provides more operational flexibility.²³³ A representative of Reprieve added that deniability also

²²⁷ Demmers and Gould, "An assemblage approach to liquid warfare," 9-10.

²²⁸ Interview with James Rogers, Utrecht, May 2018; Amnesty with a representative of International, *Will I Be Next?*, 33-34; Interview with Jessica Dorsey, Utrecht, February 2018; Interview Reprieve, London, March 2018.

²²⁹ Interview with James Rogers, Utrecht, May 2018.

²³⁰ Knowles and Watson, *All Quiet on the ISIS Front*, 4.

²³¹ Caroline Kennedy-Pike, James Rogers and Tom Waldman, "*Drone Chic*," (London: Oxford Research Group, 2016) 1-8.

²³² Interview with a representative of Airwars, Utrecht, March 2018; Interview with Jessica Dorsey, Utrecht, February 2018.

²³³ Interview with a representative of the Oxford Research Group, London, April 2018.

allows the government to avoid legal responsibility for allegations made regarding drone strikes.²³⁴ Finally, given the complex military coalitions of western states that form the context for many air strikes and a lack of presence on the ground it may also be that governments simply do not possess sufficient data to assess the damages of air strikes. In an interview, a representative of Airwars added that they also suspect that the lack of transparency of the Dutch government regarding the strikes conducted in Syria could partially be attributed to its position in the coalition.²³⁵ Though this is unsure, the absence of troops on the ground is recognized as significant challenge in assessing the damage caused by a drone strike. In *Losing sight of the Human Cost*, Hofstra and Minor point out that aerial drone footage, intercepted signal intelligence and paid informants do not provide a reliable means establish the level of collateral damage.²³⁶

It is easy to understand that the production of expert knowledge is crucial in a context in which governments seek to obscure their military actions and reliable sources of information are difficult to access. But to understand the significance of *authorizing knowledge* for the EFAD assemblage it is also important to also ask *why* the representation of drones as a clean and precise means to wage war is questioned. In other words, why do the members of EFAD try uncover the state use of armed drones and establish the number of civilian casualties? First, the discrepancy in the number of civilian casualties identified by official government reports and the estimates of independent sources such as The Bureau of Investigative Journalism, raises questions in and of itself. In *The Civilian Impact of Drones*, the authors point out that even if official estimates are not empirically disproven, they still raise concerns given what is known about the level of civilian casualties caused by military operations in general and how targets are selected.²³⁷ Furthermore, as pointed out in the previous section, a lack of transparency also has serious consequences for effective oversight and accountability. A very real consequence for victims in this is accessing redress and compensations for their loss.²³⁸ As pointed out in chapter two, a lack of state transparency is also likely to create confusion, exacerbate existing public and parliamentary distrust, and prevents governments from effectively shaping public narratives on its engagements in conflict.²³⁹ Finally, in an interview a representative of Airwars outlined two additional reasons.²⁴⁰ First, in a healthy democracy citizens and their representatives should be able to inform themselves about the lethal force that is used in their name. In the Netherlands, for example, parliament must extend approval for military missions. However, if parliamentarians are not fully informed, they cannot fully scrutinize the military engagements they agree to. Second, a lack of transparency excludes the perspectives and experiences of victims, which is

²³⁴ Interview with a representative of Reprieve, London, April 2018.

²³⁵ Interview with a representative of Airwars, Utrecht March 2018.

²³⁶ Kate Hofstra and Elizabeth Minor, *Losing sight of the Human Cost: casualty recording and remote control warfare* (London: Oxford Research Group, 2014) 8.

²³⁷ Naureen Shah et al. *The Civilian Impact of Drones*, 19.

²³⁸ Hofstra and Minor, *Losing sight of the Human Cost*, 10.

²³⁹ Knowles and Watson, *All Quiet on the ISIS Front*, 4.

²⁴⁰ Interview with a representative of Airwars, Utrecht, March 2018.

problematic from both a humanitarian and strategic perspective. Excluding stories from the ground deprives victims of the right to know, leaving them in ambiguity over who targeted them and why. Strategically, only including ‘the story from the air’ does not look beyond the narrative of a clean and precise war and does not take into account the full cost and effects of military actions. Stories from the ground are therefore considered to be essential for a comprehensive understanding of the conflict.

3.2 The production of knowledge

Given the lack of state transparency and limited access to information on the ground, it is also important to ask *how* expert knowledge is produced and authorized. To overcome the obstacles above, the members of EFAD engage in complex knowledge production methods, drawing on alternative sources of data.²⁴¹ Airwars is an important knowledge producing actor in the assemblage, working with journalists in Europe, America and the Middle East to monitor casualty reporting attributed to international military action in Syria, Iraq and Libya.²⁴² Arab speaking journalists in the Middle East monitor local news and social media, as well as local casualty monitors and NGOs, for allegations. Journalists based in Europe and America monitor international news platforms, NGOs and international organizations. The collected data is corroborated to reconstruct as accurately as possible what happened, when, where and who was involved. The aim is to create live, hyperlocal casualty recording.²⁴³ Geolocation techniques are used to verify and locate visual data. Incidents are further verified by comparing them with reports published by other human rights NGOs and with reports published by the government.²⁴⁴

The data produced is not flawless, despite the corroboration with a wide range of data sources. To account for the varying quality of the data, incidents of civilian casualties are categorized ranging from cases confirmed by international belligerents to cases where the responsibility for the attack is contested, the combatant status of casualties cannot be determined or where no casualties appear to have fallen.²⁴⁵ ²⁴⁶ This data is not only used to generate statistics but is also to create an archive, documenting civilian casualties. Archiving not only documents the stories of victims and the events in the war in Syria, Iraq and Libya, it also allows trends to be identified and studied.²⁴⁷

²⁴¹ Interview with a representative of Open Society Foundation, Utrecht, April 2018.

²⁴² “Our Methodology,” The Bureau of Investigative Journalism, accessed July 11, 2018, <https://www.thebureauinvestigates.com/explainers/our-methodology>.

²⁴³ Interview with a representative of Airwars, Utrecht, March 2018.

²⁴⁴ Idem.

²⁴⁵ Interview with a representative of Airwars, Utrecht, March 2018; “Our methodology,” Airwars, accessed July 11, 2018, <https://airwars.org/methodology/>.

²⁴⁶ The full scale ranges from confirmed, fair, weak contested to discounted. See <https://airwars.org/methodology/> for further explanation.

²⁴⁷ Interview with a representative of Airwars, Utrecht, March 2018.

The Bureau of Investigative Journalism also engages in research, relying on open sources to track covert drone strikes conducted outside ‘areas of hostilities’ in Afghanistan, Iraq, Yemen and Somalia.²⁴⁸ Similar to Airwars, the Bureau is transparent about its research method, what data sources it uses, how incidents are documented and what definition of ‘civilian’ is used to determine the (non)combatant status of casualties. Both the Bureau and Airwars emphasize the importance of identifying and naming casualties for the victims.

Besides open source research, the members of EFAD also engage in field research, and legal action and consult journalists, ex-military and intelligence personnel to produce knowledge. Through strategic litigation, for example, a government can be obliged to comment on a significant case.²⁴⁹ Supporting victims with filing cases against a government, also provides the opportunity for victims to tell their story and voice their request. A notable example is the Faisal bin Ali Jaber who lost his nephew (Waleed Abdullah bin Ali Jaber) and his brother in law (Salim Ahmed bin Ali Jaber) when a drone hit a wedding ceremony in Yemen in August 2012.²⁵⁰ With the help of Reprieve and the ECCHR, he traveled to both the U.S. and Germany to tell his story.²⁵¹ Besides litigation, requests can be made under the Freedom of Information Act (FOIA) in the U.S. and UK. Similar legislation is in place in Germany, the Netherlands and Italy. Under the FOIA, civil society can obtain circumstantial evidence through filling indirect question. Direct questions are often rejected, as factual information on the deployment of drones or special forces in the interest of national security operations are exempt from FOIA requests.²⁵² Despite the dangers and risks involved, field research is conducted by organizations such as Amnesty and by journalists. Amnesty’s research in Northern Pakistan documents first and second-hand accounts of drone strikes that targeted civilians.²⁵³ An extensive research by journalists working for the New York Times documents the story of an Iraqi victim of a drone attack and his efforts to receive amends.²⁵⁴ Finally, ex-military and intelligence personnel provide a source of information. Such information varies from retired marshals to ex-drone pilots and whistle blowers such as Edward Snowden.²⁵⁵

²⁴⁸ “Our methodology,” Airwars, accessed July 11, 2018, <https://airwars.org/methodology/>.

²⁴⁹ Interview with a representative of Reprieve, London, April 2018; Interview Jessica Dorsey, Utrecht, February 2018.

²⁵⁰ European Center for Constitutional Rights and Reprieve, *Declaration of Faisal bin Ali Jaber*, Berlin, May 2015.

²⁵¹ See for example: Robert F. Worth and Scott Shane, “Questions on Drone Strike Only Find Silence,” *The New York Times*, November 22, 2013, https://www.nytimes.com/2013/11/23/world/middleeast/a-yemenis-long-trip-to-see-answers-about-a-drone-strike.html?pagewanted=all&_r=1& and “No End in Sight for US Drone War via Germany,” Double Standards and Democracies, ECCHR, accessed July 7, 2018: <https://www.ecchr.eu/en/case/no-end-in-sight-for-us-drone-war-via-germany/>.

²⁵² Interview with a representative of Reprieve, London, April 2018; Knowles and Watson, *All Quiet on the ISIS Front*, 6; Naureen et al, *The Civilian Impact of Drones*, 64-67,69-71.

²⁵³ Amnesty International, *Will I Be Next?*.

²⁵⁴ Azmat Khan and Anand Gopal, “The Uncounted,” *The New York Times Magazine*, november 16, 2017, <https://www.nytimes.com/interactive/2017/11/16/magazine/uncounted-civilian-casualties-iraq-airstrikes.html>.

²⁵⁵ Interview with a representative of Reprieve, London, April 2018; Naureen Shah et al. *The Civilian Impact of Drones*, 31; Greg Bagwell, “Interview of Air Marshall Greg Bagwell by Chris Cole, Drone Wars UK.” Interview by Chris Cole, *Drone Wars UK*, Januari 2018.

3.3 Authorization and assemblage

Finally, how does the requisite body of expert knowledge described above serve to align actors and to justify the course of action set out by the Call to Action points addressed in the previous section? Regarding the first aspect of the question - how the expert knowledge serves to align actors - it is interesting to note the broad range of experts that are included in the production of knowledge. Besides civil society actors, knowledge production includes journalists, academics, local casualties monitors and NGOs, international organizations, ex-military and intelligence personnel, judges and victims. Furthermore, Airwars also actively involves military data analysts at CENTCOM – tasked with assessing the collateral damage of airstrikes – by sending them data to confirm or refute recorded casualties. The relationship is not without tension, but cooperation does take place.²⁵⁶ Though they may not contribute directly, by presiding over cases filed against the government court judges also shape the exchange of information between civil society, the victims, the government and the public.²⁵⁷ Finally, by providing politicians with expert knowledge, civil society hopes to raise awareness and thereby facilitate informed debate. In such a way, politician who are receptive are aligned to address issues relating to transparency, oversight and accountability.²⁵⁸

Regarding the second aspect of the question – how the expert knowledge serves to justify their course of action – it is insightful to compare the knowledge produced with the problem definitions and technical descriptions discussed in the previous two sections. For example, monitoring and recording civilian casualties helps substantiate claims made about the human cost of drone strikes. Likewise, statistics on civilian casualties, testimonies of victims, information provided by retired or anonymous government and military officials, and circumstantial evidence obtained through legal action substantiate the legal concerns raised over the use of drones outside recognized armed conflict. Finally, in the light of these claims, the Call to Action points are justified as a necessary course of action.

Section 4: Managing Failures

Li defines *managing failures* as the activity of ‘presenting failure as the outcome of rectifiable deficiencies; smoothing out contradictions so that they seem superficial rather than fundamental; [and] devising compromises.’²⁵⁹ In her study of community forest management, Li writes that ‘contradiction is managed less by technique than by compromise in its dual sense: parties to the assemblage make compromises and,

²⁵⁶ Interview with a representative of Airwars, Utrecht, March 2018.

²⁵⁷ Interview with a representative of Reprieve, London, March 2018; Interview with Jessica Dorsey, Utrecht, February 2018.

²⁵⁸ Interview with a representative of Airwars, Utrecht, March 2018; Interview with a representative of Reprieve, London, March 2018; Interview with a representative of Drone Wars UK, London, May 2018; Interview with a representative of Amnesty International, Amsterdam, May 2018. Fieldnotes, London, May 2018.

²⁵⁹ Li, "Practices of assemblage and community forest management," 265.

in so doing, they become implicated, their positions compromised and their critiques contained.²⁶⁰ She argues that the government, NGOs, village communities, activists and academics broker their position through making compromises and in so doing hold the assemblage together. This activity creates ambiguity, which appears to diverge attention from the integrity of the objective or fundamental activity of the assemblage.²⁶¹ Demmers and Gould describe a similar process of deflecting responsibility in their study of AFRICOM. Despite the failures of the military mission to capture Kony – failures that question the legitimacy of the objective of the assemblage and its decided course of action – actors deflect responsibility, reassembling to pursue new, emerging objectives.²⁶² The question addressed in this section is, therefore, *how* actors in the EFAD assemblage manage failures and *how* this helps smooth out contradictions and hold the assemblage together. Data will be drawn from interviews, observations and written sources.

4.1 Defining success and failure

In order to answer the question above, it is necessary to first ask the question, *what* failure needs to be managed and *what* contradictions need to be rendered superficial. EFAD poses an interesting case, regarding the practice of *managing failure*, due to the ambiguity of what failure and success entail: how do actors in the assemblage measure impact? How do actors demonstrate their contribution in the collective effort of achieving the set common objective: the effective regulation of armed drones? In an interview, a representative of Reprieve explained that work on this subject is very dynamic, as it requires adequate anticipation of and reaction to the continual change in politics, at home and abroad.²⁶³ Likewise, a representative of PAX explained that, after a decade, one of the most important lessons learnt is that U.S. policy and practice are an important determining factor in the use of armed drones by European States. Under the Obama Administration some progress was made, such as taking initiative on the *Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled UAVs*. However, with the election of Donald Trump, the concern is that the progress made will be lost as the current president appears to be intent on facilitating the export of drones, rather than on addressing transparency or accountability.²⁶⁴

This dependence on the course of events and state action is significant in managing failure as it makes it easier for actors in the assemblage to explain perceived failures as caused by external factors. For example, a representative of PAX explained that they decided to cancel a campaign when it became clear that the procurement of four MQ-9 Reaper drones by the Dutch government was delayed for budgetary reasons.²⁶⁵ Similarly, during an EFAD meeting members expressed regret at not being able to respond to

²⁶⁰ Li, "Practices of assemblage and community forest management," 279.

²⁶¹ *Idem*, 279.

²⁶² Demmers and Gould, "An assemblage approach to liquid warfare," 11-13.

²⁶³ Interview with a representative of Reprieve, London, April 2018.

²⁶⁴ Interview with a representative of PAX for peace, London, March 2018.

²⁶⁵ *Idem*.

an important vote in the European Parliament and the announcement of the French Ministry of Defense that it would arm its drones. While the vote was said to have been announced on to short a notice, the lack of a response to the announcement of the French Ministry of Defense was attributed to a weak tradition of civil society in France.²⁶⁶ Finally, the limited success of legal actions is also attributed to legal complications such as the limit jurisdiction of domestic courts on the use of lethal force by the state, commonly referred to as the *political doctrine question*.²⁶⁷

It is important to note that this does not mean that the members of EFAD are attempting to cover up any perceived failures by simply denying responsibility. Rather, it should be understood as an important dynamic in the work of civil society. This dynamic has a flip-side, namely, if actors are indeed to a large extent dependent on external factors, how do they then demonstrate their success? Again, how can their impact be measured? A representative of Reprieve explained that, under the Trump Administration, success is likely to be limited to ‘damage control’ as opposed to actually making progress in transparency and accountability. This creates problems when demonstrating the importance of their work to donors who work with set indicators of progress.²⁶⁸

4.2 Models of change

In the light of the above mentioned contradiction, the question how change is most effectively achieved becomes critical. Models of changes become more than just strategies, but paramount for actors to position themselves in the assemblage by proving their effectiveness. Within EFAD, there are diverging positions on how change is effectively achieved. Organizations such as Drone Wars UK and the Italian Network for Disarmament emphasize the need to build public opinion and to engage in grassroots mobilizations.²⁶⁹ Building public opinion is viewed as more reliable than influencing key individuals, as they can just as easily be influenced negatively.²⁷⁰ Other organizations emphasize the importance of working with individual politicians, policy makers or specific councils and committees on this subject matter.²⁷¹ These organizations are not opposed to popular campaigning but do not consider it effective to mobilize the public. Still other organizations focus primarily on legal action and research.²⁷²

²⁶⁶ Field notes of EFAD meeting, London, March 2018.

²⁶⁷ Interview with a representative of Reprieve, London, April 2018; See for an example: “U.S. COURT OF APPEALS Faisal bin Ali Jaber et al v. United States of America et al, Case no. 16-5093, 30 June 2017,” Nuhanovic Foundation, accessed July 22, 2018, <http://www.nuhanovicfoundation.org/en/reparation-cases/us-court-of-appeals-faisal-bin-ali-jaber-et-al-v-united-states-of-america-et-al-case-no-16-5093-30-june-2017/>.

²⁶⁸ Interview with a representative of Reprieve, London, April 2018.

²⁶⁹ Interview with a representative of Drone Wars UK, London, May 2018; Interview with a representative of the Italian Disarmament Network, Utrecht, May 2018.

²⁷⁰ Interview with a representative of Drone Wars UK, London, May 2018.

²⁷¹ Interview with a representative of Reprieve London, April 2018; Interview with a representative of Amnesty International, Amsterdam, April 2018.

²⁷² Interview with a representative of Airwars, Utrecht, March 2018; Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018.

Various reasons were given to explain the differing approaches. Most often different approaches were explained as a result of different thematic focuses and expertise and the broader context in which actors worked.²⁷³ A representative of Reprieve pointed out, for example, that in countries where drone strikes take place, such as Pakistan, grassroots mobilization had proven to be effective in putting the local government under pressure to take action.²⁷⁴ It was also pointed out that the fact that there is more funding available for research than for example public protests may also influence the approach that organizations take.²⁷⁵

The ability to demonstrate impact is not only important for organizations to ensure funding from donors, it is also crucial for the assemblage to legitimate its course of action. There are a variety of ways in which actors deal with the failures and the contradiction described above. Besides pointing to external factors, actors also highlight the progress they have made. A representative of Reprieve explained that they have had to adopt a ‘loose definition of success’ to demonstrate what is accomplished by their legal action. Similarly, a representative of the ECCHR explained that there are ‘multiple layers’ to strategic litigation. The first and foremost objective is winning a case, holding the belligerent accountable and thereby shaping state action. However, strategic litigation also provides the opportunity for victims to tell their story, and it stimulates public debate. When a case filed by Reprieve was rejected by the Court of Appeals, it was initially seen as a failure and Reprieve received criticism for the potential legal implication of the case. However, the statement made by the presiding judge did help draw attention to some of the issues that were addressed and caused a parliamentary inquiry to be put into motion by the human rights committee.²⁷⁶ Advocacy is approached in a similar manner. A representative of Amnesty explained that they endeavor to achieve the highest possible goals, but that progress is still made by achieving secondary goals.²⁷⁷ Thus, for example, when lobbying for countries to take a common position or adopt a resolution on the use of armed drones, joint or bilateral statements – though potentially less effective – are still considered positive achievements. The inherent value of activities is also highlighted. For example, a representative of Airwars explained that even though limited progress was made in transparency, they believed that monitoring casualties and documenting the stories of victims was of inherent value and could be useful for civil society in the future.²⁷⁸ Finally, successful cases are also highlighted. For example, a representative of Airwars pointed out the improvement in transparency of the Dutch and Australian government on their airstrikes in Syria and Iraq.²⁷⁹ Another example is a case filled in early January, 2018 by Rights Watch UK against the

²⁷³ Interview with a representative of the Italian Disarmament Network, Utrecht, May 2018.

²⁷⁴ Interview with a representative of Reprieve London, April 2018.

²⁷⁵ Interview with a representative of Drone Wars UK, London, May 2018.

²⁷⁶ Interview with a representative of Reprieve London, April 2018.

²⁷⁷ Interview with a representative of Amnesty International, Amsterdam, April 2018.

²⁷⁸ Interview with a representative of Airwars, Utrecht, March 2018.

²⁷⁹ Idem.

UK government over the blanket exemption of military operations addressing matters of national security from the Freedom of Information Act. Though the government was not obligated to disclose the information in question, it was seen as an important success and a clear step forward in gaining recognition for the problematic lack of state transparency.²⁸⁰

Regarding the diverging approaches of the members of EFAD in addressing the use of armed drones, actors emphasized that the differences in approach, expertise and thematic focus complimented each other.²⁸¹ By bundling their efforts, sharing knowledge and expertise, and addressing issues domestically and internationally, actors believed to be more effective.²⁸² For some members, such as Drone Wars UK, this requires compromises regarding to the framing of the use of drones or the strategies adopted. However, through compromises, actors are implicated in the assemblage and the burden of achieving demonstrable impact is shared, thereby reaffirming the existence of individual actors and the assemblage as a whole.

In answering the question *how* actors manage failures and *how* this helps smooth out contradictions and hold the assemblage together, the following can be concluded. The dependence of actors on external factors contains a contradiction that brings into question the legitimacy of the actions of actors and the assemblage as a whole in achieving common objectives. However, by demonstrating the significance of actions despite apparent failure, and by sharing the burden of effectivity, reaffirms the relevance of individual actors and the assemblage as a whole. As the case in Li's study of forest community governance, compromise and adjustment are necessary, which creates 'fussiness' over where and how change is achieved and by whom.²⁸³

Section 5: Assemblage

The practices discussed in the previous sections – *forging alignments*, *rendering technical*, *authorizing knowledge*, and *managing failures* – are focused on how actors and elements are assembled, how the assemblage and its course of action are legitimized and how failures and contradictions are dealt with. The practice of *reassembling*, on the other hand, is focused on how actors and elements are (re)arranged, in- and excluded, towards a new end. According to Li this practices entails 'grafting on new elements and reworking old ones; deploying existing discourses to new ends; [and] transposing the meanings of key terms.'²⁸⁴ In her study of community forest management, Li focuses on what she calls 'potential relays

²⁸⁰ Rosalind Comyn, "Upper Tribunal Rejects the Uk Government's Blanket National Security Claim to Withhold Targeted Killing Legal Advice," published 2 January, 2018, <http://www.rwuk.org/upper-tribunal-rejects-the-uk-governments-blanket-national-security-claim-to-withhold-targeted-killing-legal-advice/>.

²⁸¹ Interview with a representative of the Italian Disarmament Network, Utrecht, May 2018.

²⁸² Interview with a representative of PAX for peace, London, March 2018.

²⁸³ Li, "Practices of assemblage and community forest management," 279.

²⁸⁴ Idem, 265.

points or points of connection' where elements can be 'grafted' into the assemblage.²⁸⁵ According to Demmers and Gould this practice also entails processes of in- and exclusion, invoking notions of power.²⁸⁶ They argue that their case study of AFRICOM and the hunt for Joseph Kony reflects both notions of compulsory and productive power. The former refers to using available resources, material and symbolic, to shape or control the actions of others in an often-coercive way. Barnett and Duvall explain that, besides states non-governmental organizations can resort to compulsory power by 'deploying normative resources to compel targeted states to alter their policies through a strategy of shaming.'²⁸⁷ The latter – productive power – refers to how the capacity and knowledge is produced that allows actors to act effectively within a social domain. As illustration, Barnett and Duvall explain how the human rights regime constitutes the world population as human rights victims, perpetrators, monitors and prosecutors.²⁸⁸ When these notions of power are combined with Li's 'relay points', new arrangements create opportunities for actors in the assemblage to 'direct conduct and intervene in social processes to produce desired outcomes and avert undesired ones'.²⁸⁹ The main question in this section is therefore how actors in the EFAD assemblage engage in *re-assemblage* to produce the desired, regulated use of armed drones and avert the undesired, unregulated and illegal use of armed drones. To answer this question, this section draws on content analysis, interviews and various written sources.

5.1 The boundaries of the assemblage

To provide a context for this analysis of *re-assemblage*, it is helpful to begin by asking what actors and elements are assembled to constitute the EFAD assemblage. Reflecting on the *practices of assemblage* discussed in the previous sections, a wide range of organizations, institutions, groups, individuals, discourses, laws and even states can be identified besides the formal members of EFAD. For example, the practices of *forging alignments* and *rendering technical* allow EFAD to align not only civil society organizations but also states who are responsive to the Call to Action. By addressing the legal implication of the use of armed drones, the common problem definition discussed in section 1 also aligns international law and human rights discourses. By advocating for effective transparency and accountability, the assemblage also invokes democratic ideals such as the rule of law, effective oversight and public scrutiny. Likewise, *authorizing knowledge* also highlights a wide range of actors who contribute to the production of *expert knowledge*. These actors include NGOs, casualty monitors, journalists, activists, lawyers and judges, military data analysts, ex-drone pilots and ex-intelligence officers.

²⁸⁵ Li, "Practices of assemblage and community forest management," 284.

²⁸⁶ Demmers and Gould, "An assemblage approach to liquid warfare," 5, 9-10.

²⁸⁷ Michael Barnett and Raymond Duvall, "Power in international politics," *International organization* 59, no. 1 (2005): 50.

²⁸⁸ Barnett and Duvall, "Power in international politics," 61.

²⁸⁹ Li, "Practices of assemblage and community forest management," 264.

Though the members of EFAD represent a semi-permanent assemblage of civil society actors, the broader assemblage frequently changes. For example, a representative of Airwars explained that their cooperation with CENTCOM to establish civilian casualties is sporadic.²⁹⁰ Likewise, a representative of PAX explained how cooperation with specific politicians fluctuates depending on the course of events.²⁹¹ Finally, a representative of Article 36 explained that at events such as UN First Committee meetings, civil society attempt to lobby their cases with state representatives and bundle their efforts by drawing joint statements which they present to the assembly.²⁹² The assemblage should therefore be thought of as a fluid arrangement of actors and elements that expands and contracts. The semi-permanent assemblage of civil society organizations that together form EFAD is relatively uncontested and can be thought of as the core, while the in- and exclusion of contested actors and elements can be thought of as the ‘periphery’. It is in the periphery that *relay points* and the creation of new arrangements and possibilities become most visible. To understand the practice of *re-assemblage*, two questions must be answered: 1) what relay points can be identified and how do these help to create new arrangements; and 2) how do these new arrangements produce new opportunities to produce desired outcomes and avert undesired ones?

5.2 Power and the assemblage

As pointed out in the previous section, the work of civil society organizations is in many ways dependent on contextual factors and requires continual adaptation to the change in politics at a national and international level. The possibilities, likewise come and go and the emerging arrangements are therefore temporal in nature. Take for example the events such as the UN First Committee meetings; here the assemblage can expand to include a wide range of civil society organizations and state representatives for a limited period of time.²⁹³ Besides being subject to this ebb and flow, emerging arrangements are actively contested. To illustrate how the members of EFAD engage in *re-assemblage*, two focal points or *relay points* are analyzed.

In the first section it was pointed out that international law is used to as a framework to address the use of armed drones. This is evident not only from the legal questions raised by EFAD but also from its efforts to foster a common position on the accepted use of armed drones according to international law. Besides questioning the legality of the use of armed drones, the Call to Action emphasizes the obligation of states to use force in a transparent and accountable manner and to take responsibility for the loss of

²⁹⁰ Interview with a representative of Airwars, Utrecht, March 2018.

²⁹¹ Interview with a representative of PAX, London, March 2018.

²⁹² Interview with a representative of Article 36, London, April, 2018.

²⁹³ Idem.

civilian life.²⁹⁴ Expert knowledge that demonstrates the extent of the loss of civilian life and uncovers secretive state practices is crucial in substantiating these claims and justifying the Call to Action.

The opportunities that an international consensus on the use of drones in compliance with international law offers can be analyzed as a form of *productive power*. Barnett and Duvall write that productive power entails ‘the social processes and the systems of knowledge through which meaning is produced’ and the identities and capacities of actors that result from discursive practices and processes.²⁹⁵ Drawing on existing international law and produced expert knowledge, the consensus that is intended by the EFAD assemblage constitutes states as belligerents, obliged to take and capable of taking responsibility for their use of force to prevent the violation of international law and compensate for the damage that is caused. Civilian casualties are constituted as the victims, entitled to public acknowledgement, the disclosure of truth and access to an effective remedy. Civil society, international organizations and state judiciaries are constituted as the monitors and prosecutors of the violations of international law in this context.

As is so often the case where there is the opportunity for power, there is contestation. As such, there is a lack of consensus as to the interpretation and application of international law to the use of armed drones. In an interview, Jessica Dorsey explains that international law is dynamic: ‘it is open to interpretation, states are actors in this field, they interpret particular provisions and then people either agree with them or reject them’.²⁹⁶ State interpretation of key legal principles such as *imminent threat*, *self-defense*, and *(non)combatants* allow states to legitimize their use of force. The interpretation of international law by states allows them to shift their constituted identity and capacity. They are no longer the belligerents, but rather a state using force legitimately to protect their constituents, the victims of the perceived terrorist threat. Therefore, if they are able to transpose the meanings of key terms, actors can harness the productive power of existing international law and discourses on human rights.

Besides engaging in the production of knowledge, the members of EFAD also interact directly and indirectly with state and non-state actors, which presents additional possibilities for emergent arrangements. A good example of this is advocacy. Through advocacy states, international organizations and other civil society organizations can be aligned to form new arrangements. A representative of Article 36, an organization that addresses the use of conventional and non-conventional weapons, explained that, taking a humanitarian perspective, they attempt to work ‘in global coalitions, working (...) in close cooperation with allies from states and international organizations to reframe issues and change debates to make them (...) more productive to work towards new standards.’²⁹⁷ A representative of Amnesty explained how they worked to get their concerns on the political agenda by working with politicians and government

²⁹⁴ EFAD, *Call to Action*, 1-2.

²⁹⁵ Barnett and Duvall, "Power in international politics," 55-56.

²⁹⁶ Interview with Jessica Dorsey, Utrecht, February 2018

²⁹⁷ Interview with a representative of Article 36, London, April 2018.

representatives providing them with research reports, recommendations and joints statements.²⁹⁸ Using a staircase as an analogy, they explained that by lobbying at both a national and an international level, they endeavored to step by step gain international attention for their human rights concerns.

The individuals, organizations and states that are engaged are carefully selected. Regarding their work on the use of armed drones, a representative of Article 36 explained that they ‘look for groups of people that are willing to look at it [the use of armed drones] from a principled and humanitarian approach, so not necessarily trying to build a group of states that includes everyone but... but having a mixed group that can push from a principled approach’.²⁹⁹ When asked how they decided who to engage with, a representative of PAX explained that they map out individuals, groups, organizations, states and events to identify possible opportunities.³⁰⁰ They added that opportunities to, for example, work with a politicians are often temporal and change depending on the political climate and the personal ambitions of the person in question. Events where the individuals, groups, organizations and state representatives are accessible – UN First Committee meetings, parliamentary meetings or special expert meetings – are understandably paramount.³⁰¹ By aligning relevant actors at such key events, the members of EFAD hope to create the needed momentum to push toward an international consensus. Through, for example, state resolutions, joint or bilateral statements and international treaties, target states can collectively be pressured to change their policy and practice.³⁰²

Analyzing the members of EFAD’s engagement with national and international actors as a form of *compulsory power*, two key aspects must be pointed out: 1) there must be a conflict of desires and 2) besides material resources, symbolic or normative resources can be used to control the actions of others.³⁰³ Regarding the first point it could be argued that since civil society is trying to build an international consensus, there is no conflict in desires; states are simply convinced to change their behavior. However, the quote above by the representative of Article 36 points out that not all states are included. Actors that are receptive to EFAD’s Call to Action are included and collectively pressure excluded states that are less compliant. This pressure is not the coercive force at the disposal of the assemblage described by Demmers and Gould,³⁰⁴ yet the engagement describe above illustrates how civil society can draw on the aggregate ‘expert, moral, delegated and rational-legal authority’ of international organization and states.³⁰⁵

²⁹⁸ Interview with a representative of Amnesty International, Amsterdam, April 2018.

²⁹⁹ Interview with a representative of Article 36, London, April 2018.

³⁰⁰ Interview with a representative of PAX for peace, London, March 2018.

³⁰¹ Interview with a representative of PAX for peace, London, March 2018; Interview with a representative of Article 36, London, April 2018; Interview with a representative of Amnesty International, Amsterdam, April 2018.

³⁰² Interview with a representative of Article 36, London, April 2018; Interview with a representative of Amnesty International, Amsterdam, April 2018.

³⁰³ Barnett and Duvall, "Power in international politics," 49-50.

³⁰⁴ Demmers and Gould, "An assemblage approach to liquid warfare," 1-18.

³⁰⁵ Barnett and Duvall, "Power in international politics," 50.

The notion of the assemblage drawing on aggregate resources brings an important insight addressed by Demmers and Gould. In their analysis of the U.S. AFRICOM and the hunt for Joseph Kony, they argue that notions of productive and compulsory power intersect.³⁰⁶ They cite Barnett and Duvall, who argue that ‘productive power makes some instances of compulsory power possible’ and that vice-versa ‘compulsory power shapes the terms of meaning that influence how actors see what is possible and desirable.’³⁰⁷ In the EFAD assemblage, a similar intersection can be observed. As pointed out above by a representative of Article 36, one of the objectives of advocacy (conceptualized as compulsory power) is to ‘reframe issues’ and to ‘change debates to make them (...) more productive to work towards new standards’.³⁰⁸ Through direct interaction therefore, the members of EFAD attempt to engage states to establish new standards. These standards, set out in the Call to Action, rest on an interpretation of international law that constitutes states as belligerents responsible for the civilian casualties caused by drone strikes (conceptualized as productive power). Similarly, as pointed out by a representative of PAX, compliance to international law (interpreted in from a humanitarian perspective) is used to apply pressure on states. Therefore, besides drawing on an aggregate of resources, *re-assemblage* also allows the members of to draw on multiple and intersecting forms of power.

In answering the question as to how the members of EFAD engage in *re-assemblage*, the following can be concluded. It is important to note that the practice is continual, as actors anticipate and act on emerging opportunities. *Relay points*, such as the interpretation of international law or aligning international actors, allow temporal arrangements to be formed which harness different forms of power to produce desired, regulated use of drones and avert the unregulated and potentially unlawful use. The practice of *re-assemblage* therefore not only underlines the emerging character of assemblages but the potential for agency.

Conclusion

In chapter one, assemblages are defined as emergent and dynamic ‘social and material formations’³⁰⁹ of heterogeneous elements, that engage in the continued activity of re- and dis-assemblage and attempt ‘to direct conduct and intervene in social processes to produce desired outcomes and avert undesired ones’.³¹⁰ As pointed out at the beginning of this chapter, the objective is not to prove the fluid and dynamic nature of the social world, but rather to understand *how* and *why* the members of EFAD engage in the continual practices of assemblage to ‘produce desired outcomes’. To understand how the members of EFAD engage

³⁰⁶ Demmers and Gould, "An assemblage approach to liquid warfare," 5, 10.

³⁰⁷ Barnett and Duvall, "Power in international politics," 44.

³⁰⁸ Interview with a representative of Article 36, London, April 2018.

³⁰⁹ Allen, "Powerful assemblages?," 154.

³¹⁰ Li, "Practices of assemblage and community forest management," 263.

in this practice of governing, therefore, six *practices of assemblage* have been analyzed, each providing insight into the EFAD assemblage, its objectives and practices.

The practice of *forging alignments* demonstrates how drones serve as a focus point for civil societies, international organizations, expert individuals and states actors that address related issues. The practice also shows how, by focusing on a state practice, rather than banning a specific weapon system, the assemblage accommodates diverging perspectives. The practice of *rendering technical* provides insight into how identifying a cause, an effective means and a collective object to address a common problem definition helps to overcome tensions and project coherence. Besides the technical processes of assemblage, the *technical descriptions* produced by the EFAD assemblage also shed light on the challenges remote warfare poses to holding states responsible for their use of force and protecting the rights of victims by addressing issues applicable not only to armed drones but to counterterrorism policies and practices in general. The practices of *rendering technical* and *forging alignments* both shed light on the desired outcome the assemblage intends to produce. The Call to Action, for example, addresses the use of armed drones not just out of a humanitarian motive but also to produce an order in which states use lethal force in a transparent and accountable manner.

The practice of *authorizing knowledge* shows not only how knowledge is produced but also how through the production of knowledge, sources of information and experts are aligned. The practice also highlights the challenges the members of EFAD face regarding a lack of state transparency, as well as providing insight into the dynamic the availability of open source information brings to contemporary conflicts as is further discussed in chapter two and the conclusion. The practices of *managing failures* gives insight into what contradictions threaten the assemblage and how they are dealt with. This not only helps understand what challenges civil society organizations face, but also how the credibility of individual actors and the assemblage as a whole is affirmed. Finally, the practice of *re-assemblage* provides valuable insight into how new arrangements create opportunities that allow the assemblage to react to the continually changing political environment it operates in. The practice also provides an interesting case of how practices of knowledge production and forging alliances (through advocacy e.g.) allow the assemblage to harness various forms of power.

Though the practices of assemblage discussed in chapter provide insight into *why* and *how* the members of EFAD engage in practices of assemblage, it provides only a partial answer to the main research question. Because of this the next chapter addresses the remaining subject of transitional justice and thereby seeks to explore notions of justice in the context of remote warfare.

Chapter 5: Remote Justice?

“Your silence in the face of these injustices only makes matters worse. If the strike was a mistake, the family – like all wrongly bereaved families of this secret air war – deserve an apology.”³¹¹

The quote above comes from a letter addressed to former President Barack Obama and President Abdrabbuh Mansur Hadi of Yemen. In the letter, Faisal seeks official recognition that his nephew and brother in law were mistakenly killed by a drone strike in Yemen, early 2012. Though Faisal and his family were offered a sum of 100,000 dollars in 2014 via the Yemeni National Security Bureau, they never received public recognition or an official apology.³¹² With the help of Reprieve, Faisal filed a case against the Obama Administration seeking a declaratory judgment stating that his nephew and brother in law were lawfully killed. However, in 2017 the U.S. Court of Appeals dismissed the case on the grounds that the Executive’s extraterritorial use of force lies outside its jurisdiction, a principle known as the *political doctrine question*.³¹³

Faisal’s story illustrates not only the many difficulties the victims of drone strikes face in accessing justice, but also how important official acknowledgement is for victims. In his account of the NATO air campaign in Kosovo, Ignatieff reaches a similar conclusion after visiting a village called Celine. He writes ‘beyond revenge, the villagers seem to want recognition and acknowledgement. Otherwise suffering is just suffering, pointless, stupid, ruinous’.³¹⁴ However, in contrast to the conflict in Kosovo, the use of drone strikes in Yemen seems indefinite. As Heyns et al. explain, the use of armed drones are considered to lower the threshold for states to use violence resulting in ‘low-intensity, but drawn-out, applications of force’ that stand in contrast to notions of a demarcated conflict followed by a ‘time for healing and recovery’.³¹⁵

This raises questions concerning how states are to be held accountable for their use of lethal force and how victims are to access justice. As pointed out in chapter one, these questions are traditionally dealt with using mechanisms associated with transitional justice. Initially transitional justice was defined as ‘the conception of justice (...) characterized by legal responses to confront the wrongdoing of repressive predecessor regimes’ that were associated with a period of political change or conflict.³¹⁶ The shift toward

³¹¹ “Letter to Obama and Hadi on Yemeni drones,” Middle East Monitor: *Creating new perspectives*, last modified February 4, 2014, <https://www.middleeastmonitor.com/20140204-letter-to-obama-and-hadi-on-yemeni-drones/>

³¹² “Faisal Bin Ali Jaber,” Reprieve, accessed 24 July 2018, <https://reprieve.org.uk/case-study/faisal-bin-ali-jaber-2/>.

³¹³ The Nuhanovic Foundation, “2017 | U.S. COURT OF APPEALS Faisal bin Ali Jaber et al v. United States of America et al, Case no. 16-5093, 30 June 2017,”; Jonathan H. Adler, “D.C. Circuit rejects judicial review of drone strikes (but at least one judge is unhappy about it),” *Washington Post*, June 30th, 2017, https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/30/d-c-circuit-rejects-judicial-review-of-drone-strikes-but-at-least-one-judge-is-unhappy-about-it/?noredirect=on&utm_term=.45d57de3ad76.

³¹⁴ Ignatieff, *Virtual War*, 134.

³¹⁵ Heyns et al, “The international law framework regulating the use of armed drones,” 793-794.

³¹⁶ Ruti Teitel, “Transitional justice genealogy,” *Harvard Human Rights Journal* 16 (2003) 69.

remote warfare strategies and the transnational and indefinite use of force by Western states, however, raises a number of issues. As explained before, armed drones are used in and outside of recognized armed conflict and thereby blurs the line between war and peace. Partial because of this ambiguity, a representative of the ECCHR questioned if a transitional justice approach would be appropriate or necessary. Their approach is that prosecutions and legal accountability are possible under the existing legal frameworks.³¹⁷ Besides a change in conflict, a shift away from state dependence has also been identified in the literature. The the role of non-state actors such as civil society organizations, international NGOs and international institutions in transitional justice mechanisms has increased since the Cold War.³¹⁸

Recent shifts in contemporary armed conflict toward remote warfare strategies clearly require that concepts such as transitional justice be revisited. Notwithstanding, victims of drone strikes continue to seek access to justice, accountability, recognition and compensation. This chapter will therefore seek to understand how the members of EFAD engage in mechanisms of transitional justice. To do so this chapter addressed three questions, namely, 1) how the use of armed drones hinders victims from accessing justice, 2) how do the members of EFAD address the challenges posed by armed drones in this regard, and 3) how are the activities of the members of EFAD understood in relation to the mechanisms of transitional justice?

5.1 How to access justice

Regarding the first questions, there are many hurdles and obstacles that victims of drone strikes such as Faisal face on their quest to access justice. In many cases, victims do not know who or what state is responsible.³¹⁹ Even if it does become clear what state is responsible, they are left with the question of how they must then hold a state responsible. There are very few possibilities for this given the fact that international law does not know any enforcement mechanisms, but instead relies on states to hold each other accountable.³²⁰ This means that powerful states such as the U.S. can act with relative impunity. A representative of Article 36 added that the dependence of Western European states on the U.S. and their complicity in its drone program makes it awkward to hold their Ally accountable.³²¹ This dynamic also weakens the effectiveness of international courts such as the International Court of Justice, which hears cases between states. The International Criminal Court, which addresses individual criminal responsibility,

³¹⁷ Interview with a representative of the ECCHR, Utrecht, April 2018.

³¹⁸ Ruti Teitel, "Transitional justice in a new era," *Fordham International Law Journal* 26 (2002); Sara Dezalay, "The role of international NGOs in the emergence of transitional justice," 202-220; van der Merwe and Schkolne, "The role of local civil society in transitional justice," 221-243.

³¹⁹ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018; Interview with a representative of Reprieve, London, April 2018.

³²⁰ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018; Interview with Jessica Dorsey, Utrecht, February 2018.

³²¹ Interview with a representative of Article 36, London, April 2018.

is likewise still be dependent on the compliance states even if individual responsibility could be demonstrated.³²²

Those victims that have taken legal action have done so in domestic courts, where they face an array of legal and practical hurdles. For many victims living in remote areas of Yemen or Somalia, difficulties in communications, limited financial means and an a lack of knowledge and experience are a serious barrier. For example, the two Somali men who have taken the Dutch government to court for sharing data spent a year and a half applying for funding in order to proceed with their case.³²³ A representative of the Nuhanovic Foundation explained that progress was further impaired due to limited communication. Any form of contact requires both men to travel to the Mogadishu and communicate via their lawyer. A representative of the ECCHR confirmed that a major obstacle in their litigation work on armed drones is finding and contacting victims.³²⁴

Besides these practical obstacles, victims also face many legal challenges. For example, many cases are dismissed on procedural grounds before reaching an official hearing.³²⁵ In Europe it can be particularly difficult to demonstrate a clear relation between state action and the loss a victim has endured, referred to as the *legal standing*.³²⁶ This is because many European states do not conduct drone strikes themselves, but do support the U.S. drone program. In the U.S., the *political question doctrine* prevents courts from hearing any case regarding the Executive's extraterritorial use of lethal force.³²⁷ These obstacles are exacerbated by a lack of state transparency and limited access to the factual information needed to build a case.³²⁸

Finally, a representative of the ECCHR added that at a broader level they believe that distance allows states to act with impunity.³²⁹ They explained that some elements of the public believe that anyone who is killed by a drone strike in Pakistan, Afghanistan, or Yemen is probably a terrorist and as a result there is little outcry. If the same occurred in Europe, however, there would be much more opposition.

5.2 Facilitating access

This brings us to the second question, namely, how the members of EFAD address the challenges described above? Organizations such as Reprieve and the ECCHR support and represent victims in court. Faisal Bin

³²² Interview with Jessica Dorsey, Utrecht, February 2018.

³²³ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018.

³²⁴ Interview with a representative of the ECCHR, Utrecht, April 2018.

³²⁵ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018; Interview with a representative of Reprieve, London, April 2018.

³²⁶ Interview with a representative of the ECCHR, Utrecht, April 2018.

³²⁷ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018; See also: "2016 | Due Process of War in the Age of Drones, by J. Andresen, Yale Journal of International Law Vol. 41 (1) 2016," Reparations Database, Drones, The Nuhanovic Foundation, accessed July 24, 2018, <http://www.nuhanovicfoundation.org/en/articles-14/due-process-of-war-in-the-age-of-drones-by-j-andresen-yale-journal-of-international-law-vol-41-1-2016/>.

³²⁸ Interview with a representative of the ECCHR, Utrecht, April 2018.

³²⁹ Idem.

Ali Jaber, for example, filled a case against both the Obama Administration and the German government with the help of Reprieve and the ECCHR.³³⁰ As mentioned above, Faisal requested a declaratory judgment from the U.S. court while in Germany he addressed the role of the U.S. Air Force base in Ramstein in the drone program. Ramstein is an important satellite relay point without which the U.S. could not pilot its drones from within its borders.³³¹ Both cases were rejected and in both cases Faisal filled for appeal. The U.S. Court dismissed Faisal's claim while in Germany it prompted the Federal Prosecutors office to initiate a "monitoring process" to investigate possible violations of international law by hosting a U.S. Air Force base at Ramstein and thereby facilitating its drone program.³³² Though it does not offer direct legal support, the Nuhanovic Foundation does provide financial support to, for example, the two Somalian drone victims who have filed a case against the Dutch government. The organization also maintains a database to facilitate access to useful legal information.³³³

By engaging in advocacy through research, campaigning or legal action many of EFAD's members attempt to address systemic issues, stimulate debate and raise awareness. Chapter four explains how the members of EFAD engage states and international organizations. In the Call to Action, states are called upon to improve transparency, a significant hurdle when build a case, and establish accountability, which includes the active investigation of all alleged unlawful deaths and providing victims with access to an effective remedy.³³⁴ Within EFAD, the Center for Civilians in Conflict (CIVIC) has a long pedigree of working with local civil society, the U.S. Congress and international military coalitions to mitigate civilian harm and improve victims' access to an effective remedy in countries in the Middle East and Africa.³³⁵ Through research and advocacy, for example, CIVIC was able to improve NATO's policy regarding making amends to Afghan war victims which lead NATO to take more precautions to mitigate civilian harm.

Finally, Airwars and The Bureau of Investigative Journalism monitor, investigate and archive civilian casualties, as explained in chapter four. The Bureau of Investigative Journalism has also set up a separate project, called Naming the Dead, dedicated to identifying the casualties of drone attacks in Pakistan.³³⁶ According to both Jessica Dorsey and a representative of Airwars establishing what happened

³³⁰ "Faisal Bin Ali Jaber," Reprieve, accessed 24 July 2018, <https://reprieve.org.uk/case-study/faisal-bin-ali-jaber-2/>; ECCHR, "No End in Sight for US Drone War via Germany."

³³¹ Jeremy Scahill, "ECCHR - Litigating Drone Attacks," published June 16, 2018, video, 4:03, <https://www.youtube.com/watch?v=eUtW6Erfsw8>.

³³² "Faisal Bin Ali Jaber," Reprieve, accessed 24 July 2018, <https://reprieve.org.uk/case-study/faisal-bin-ali-jaber-2/>; The Nuhanovic Foundation, "2017 | U.S. COURT OF APPEALS Faisal bin Ali Jaber et al v. United States of America et al, Case no. 16-5093, 30 June 2017."

³³³ Interview with a representative of the Nuhanovic Foundation, Utrecht, March 2018.

³³⁴ EFAD, *Call to Action*, 2.

³³⁵ "Impact," Center for Civilians in Conflict, accessed July 24, 2018, <https://civiliansinconflict.org/our-work/impact/>.

³³⁶ "Naming the Dead," The Bureau of Investigative Journalism, accessed July 24, 2018, <https://v1.thebureauinvestigates.com/namingthedead/?lang=en>.

and identifying the casualties is meaningful for the friends and relatives of victims.³³⁷ Dorsey added that it gives a sense of closing and contains an element of transitional justice.³³⁸ At a broader level, a representative of the ECCHR explained that telling the stories of victims is also important to help the Western public understand that the casualties of drone attacks are not exclusively terrorists but also include innocent civilians.

5.3 EFAD and transitional justice

The final question that must be answered is how the work of the members of EFAD described above can be understood as mechanisms of transitional justice. As pointed out in chapter one, Van de Merwe and Schkolne identify seven roles that civil society organizations play in transitional justice processes.³³⁹ They argue that a broader understanding of transitional justice has developed which includes not only legal inventions but also broader peacebuilding efforts.³⁴⁰ Despite the breadth of the term, it remains difficult to conceptualize the members of EFAD as engaging in transitional justice mechanisms. The roles of civil society organizations that Van de Merwe and Schkolne identify are aimed at facilitating the transition of their society into a more peaceful and democratic society. The members of EFAD, in contrast, address the use of drones by Western states which has caused civilian harm in communities in multiple countries in and outside conventional warzones. Notwithstanding, the work of the members of EFAD does serve a function similar to at least three of the roles identified by van der Merwe and Schkolne: monitoring and transparency, targeted advocacy and truth telling, commemoration and memorialization.

Regarding the first role, Van der Merwe and Schkolne explain that civil society organization engage in targeted advocacy regarding ‘specific demands or specific mechanisms’ deemed necessary to advance the process of transitional justice. Through advocacy, organizations may endeavor to stimulate debate on the need for a long-term integrated transitional justice approaches, campaign for the rights of a particular group, expand the mandate of the state, and to ensure sufficient measures are taken to prevent future violence and abuses.³⁴¹ Similarly, the members of EFAD seek to: 1) stimulate debate on the need to address the unregulated use of armed drones; 2) campaign for the rights of drone victims; 3) to expand and at least reinforce state mandates to protect civilians and use drones in a transparent and accountable manner; and 4) ensure sufficient policy measures are taken to prevent future unlawful use of drones and killing of civilians.

³³⁷ Interview with Jessica Dorsey, Utrecht, February 2018; Interview with a representative of Airwars, Utrecht, March 2018.

³³⁸ Interview with Jessica Dorsey, Utrecht, February 2018.

³³⁹ Hugo van der Merwe and Maya Schkolne, "The role of local civil society in transitional justice."

³⁴⁰ *Idem*, 222.

³⁴¹ *Idem*, 232-235.

Regarding monitoring and transparency, Van der Merwe and Schkolne explain that civil society organizations fulfill a ‘vital watchdog role’ to ensure that state remains committed and that it is thorough and transparent in its investigation of past violence and abuses.³⁴² In a similar fashion, the members of EFAD address state transparency and accountability over the past use of violence and act as a ‘watchdog’ to ensure states are committed to international law and specifically human rights.

Regarding truth telling, commemoration and memorialization, Van der Merwe and Schkolne explain that a crucial role of civil society is to ensure that there are sufficient opportunities for victims to tell their stories and for past event to be commemorated given the inclination of states to shape history in their interest.³⁴³ As discussed in the previous chapter, the telling of the stories of victims is considered to be crucial by the members of EFAD to counter the state narrative which frames armed drones as precision weapons and excludes the loss of civilians life.

Finally, as described above the member of EFAD aid victims in litigation as a means to receive official recognition and hold states accountable. It should be pointed out that the litigation work that organizations such as Reprieve and the ECCHR do on behalf of drone victims is limited in the sense that it includes only a fraction of the victims targeted by drones. The organizations therefore focus on strategic litigation, selecting cases that are paramount and have the potential of establishing useful jurisprudence.³⁴⁴ Strategic litigation is therefore not a means for large groups to receive individual recognition. It does however have the potential for victims to speak on behalf a larger group and force states to acknowledge the loss of civilian life despite the precision of drones. As Faisal wrote to President Obama and President Hadi, if the strike on his nephew and brother in law were indeed a mistake, then not only his family but all other wrongly bereaved families, deserve an apology.³⁴⁵

To conclude, victims of drone strikes must overcome a variety of challenges in seeking recognition and accountability for their loss. The members of EFAD address these challenges by either directly supporting victims, through litigation or ‘truth telling’, or by addressing systemic problems through, for example, advocacy work. To make the link to the previous chapter, it is important to point out that the *practices of assemblage* provide insight into *how* and *why* the members of EFAD engage in litigation and address more structural problems such as a lack of state transparency and accountability. For example, in chapter four it is argued that litigating on behalf of victims and telling their stories serves two purposes. Not only does it provide a means of seeking official recognition for individual victims and holding states accountable for

³⁴² Hugo van der Merwe and Maya Schkolne, "The role of local civil society in transitional justice," 235-236.

³⁴³ *Idem*, 238-239.

³⁴⁴ Interview with a representative of the ECCHR, Utrecht, April 2018; Interview with a representative of Reprieve, London, April 2018.

³⁴⁵ "Letter to Obama and Hadi on Yemeni drones," Middle East Monitor: *Creating new perspectives*, last modified February 4, 2014, <https://www.middleeastmonitor.com/20140204-letter-to-obama-and-hadi-on-yemeni-drones/>.

specific acts of violence, it also provides a means to bring about broader, systemic change. In the context of assemblage, therefore, specific activities such as litigating behalf of drone victims becomes a component part of a greater whole that is aimed at changing the actions of states. As such, it can be argued that the work of EFAD does entail a transition towards a more democratic, transparent and accountable use of lethal force. This does not mean that the work of EFAD should first and foremost be understood as an engagement in transitional justice mechanisms, or a reinvention of the concept. However, seeing EFAD in this light, does highlight the consequences of remote warfare for existing justice mechanisms and how international alliances of civil society can provide an alternative perspective on what justice mechanisms entail in the context of remote warfare.

To illustrate this point, consider that the victims of drones strike find themselves at the receiving end of the indefinite and secretive use of force that is not limited by geographic boundaries and blurs the distinction between war and peace. In such a context, distance and public ignorance contributes to the state use of armed drones with impunity.³⁴⁶ It is paramount, therefore, to bridge the distance and to inform the public of the actions of their leaders. This links back to the concerns raised by Ignatieff in chapter two regarding the consequences of removing death from our experience of war.³⁴⁷ A consequence of this is that the public is not forced to think about the military engagement of their states, explains political scientist James Rogers.³⁴⁸ By addressing the state practice of using armed drones, EFAD actively scrutinizes the common understanding of war, seeking to uncover its logic, effectiveness and its (true) costs. A such, in the context of remote warfare, the EFAD assemblage mediates between Western states, the civilian victims and the public, thereby reintroducing the loss of life into our experience of war and bringing a little more balance to the asymmetry of contemporary warfare.

³⁴⁶ Interview with a representative of the ECCHR, Utrecht, April 2018.

³⁴⁷ Ignatieff, *Virtual War*, 4.

³⁴⁸ Interview with James Rogers, Utrecht, May 2018.

Conclusion

The empirical starting point of this thesis was a U.S. drone strike in Somalia that intended to take out a terrorist leader Ahmed Godane but instead killed two innocent bystanders and injuring a third.³⁴⁹ This thesis argues, that the remote and covert nature of such drone strikes conceals the loss of innocent life, making drones appear to be the ideal weapon to eliminate individual threats from a distance. In that sense, war has become virtual to us: we are no longer forced to consider its true cost.³⁵⁰ The members of EFAD seek to regulate the use of armed drones by European states. The objective of this thesis has therefore been to understand how the members of EFAD act in changing and heterogeneous alliances to address this use of armed drones outside conventional warzones. To this end the following question was formulated:

How and why do the members of the European Forum on Armed Drones, through practices of assemblage, engage in mechanisms of transitional justice since April 2016, to deal with the use of armed drones by European States, in the context of increasingly common modes of remote warfare that take place outside conventional warzones?

The answer to this question is built on the five practices of assemblage. Each of the five practices gives insight into *how* the members of EFAD form and maintain alliances of dissimilar parties that change continually. *Forging alignments* demonstrates how the use of armed drones by states serves as a focus point for civil society and international organizations, expert individuals and state actors that seek to address related issues. *Rendering technical* provides insight into how technical descriptions, such as EFAD's Call to Action, help to overcome tensions and project coherence by identifying a cause, an effective solution and an objective to address a common problem definition. *Authorizing knowledge* not only shows how knowledge is produced but also how sources of information and experts are aligned in the process. *Managing failures and contradictions* sheds light on how the credibility of individual member organizations and the assemblage as a whole is affirmed. Finally, *re-assemblage* provides valuable insight into how new arrangements create opportunities that allow the assemblage to react to the continually changing political environment it operates in.

Besides insight into how assemblage are formed and held together, the practices of assemblage also shed light on *why* the members of EFAD engage in practices of assemblage. The common problem definitions and the Call to Action discussed in chapter four indicate that the members of EFAD do not simply wish to bring to light the 'true cost' of drone warfare, but also want to ensure the transparent and

³⁴⁹ Starr, "Military strike in Somalia targeted Al-Shabaab leader, U.S. officials say"; The Bureau of Investigative Journalism, "Somalia: Reported US covert actions 2001-2016."

³⁵⁰ Ignatieff, *Virtual War*, 4; Interview with James Rogers, James Rogers, Utrecht, May 2018.

accountable use of drones by states. In line with the work of Demmers, Gould and Li, there is a distinct purpose to govern, 'a will to improve'.³⁵¹ Of the five practices, *re-assemblage* most clearly shows how acting within alliances of states, institutions, organizations, groups, expert individuals, discourses, treaties, laws and regulations allows the of the member of EFAD to pursue their objectives. Specifically, it is argued that by interpreting key principles of international law in a specific way and by engaging in advocacy, the members of EFAD exert power in two different, yet overlapping ways. Transposing the meaning of key legal principles reflects notions of *productive power*, while advocacy reflects notions of *compulsory power*.³⁵² The overlap between these two activities, reflects the converging of compulsory and productive power addressed by Bernadett and Duvall.³⁵³ As such this thesis makes a similar argument as Demmers and Gould, that the act of assemblage illustrates how notions of power are not distinct but rather interact and are mutually constitutive.³⁵⁴

How and why the members of EFAD engage in practices of assemblage is but one aspect of the inquiry that this thesis makes. What remains to be answered is how these practices of assemblage relate to mechanisms of transitional justice in the context of remote warfare. As argued in the final chapter, the work of member organizations servers three functions that are similar to the roles that van Merwe and Schkolne attribute to local civil society organizations in transitional justice processes: targeted advocacy; truth telling, commemoration and memorialization; and monitoring and transparency.³⁵⁵ Additionally, the members of EFAD also support the victims of drone strikes in accessing justice by representing them in court and providing them with financial support and legal expertise.

Nonetheless, mechanisms of transitional justice remain an awkward fit regarding the use of armed drones, especially outside of armed conflict. The civil society organizations that Van der Merwe and Schkolne study, for example, aim to facilitate the peaceful transition of a specific society following a conflict. The use of drones, on the other hand, is not limited to the time and spatial dimension of recognized armed conflict. Furthermore, a broad range of non-state actors is involved in addressing the use of armed drones reflecting the privatization of transitional justice address by Teitel.³⁵⁶ In this sense, the findings of this thesis confirm the shortcomings of transitional justice identified in the literature.³⁵⁷ However, when viewed from an assemblage approach, the members of EFAD aim to governing the use of armed drones and thereby push for a transition towards the more democratic, transparent and accountable use of lethal

³⁵¹ Li, "Practices of assemblage and community forest management," 264; Demmers and Gould, 'An Assemblage Approach to Liquid Warfare,' 4.

³⁵² Barnett and Duvall, "Power in international politics," 43.

³⁵³ Idem, 44.

³⁵⁴ Demmers and Gould, "An assemblage approach to liquid warfare," 5, 10.

³⁵⁵ Van der Merwe and Schkolne, "The role of local civil society in transitional justice," 229-239.

³⁵⁶ Teitel, "Transitional justice in a new era," 895-899.

³⁵⁷ Teitel, "Transitional justice in a new era."; Hansen, "The Time and Space of Transitional Justice."; Van der Merwe and Schkolne, "The role of local civil society in transitional justice."

force. In this light, the EFAD assemblage can be understood as an alternative means to bridge the distance between the victims of the use of violence by Western states and the societies that those states represent. In other words, EFAD is countering the asymmetry of contemporary warfare, by reintroduce the reality of loss and suffering that threatens to slip entirely from our experience of war. It is interesting to note that this ambition of the EFAD assemblage to regulate the use of armed drones by European States, stands in contrast to the bias towards non-western actors that is often attribute to established institutions such as the ICC.³⁵⁸

Reflecting on the findings discussed above, the assemblage approach made it possible to explore possible notions and mechanisms of justices in the context of remote warfare. To avoid giving no more than a *thin description* of our social reality, a pitfall Allen warns against, the practices of assemblage have been used to gain analytical insight into how civil society organizations exercise power in different and overlapping ways to achieve their goal.³⁵⁹ Despitess its analytical insight, however, an assemblage approach also comes with number of limitations. While it is useful to study broader practices of governance, it provides limited insight into specific activities nor does it provide insight into the experiences of individuals in the context of the broader whole. For example, though the individual victims of drone strikes and their stories are included, they remain a component part of the assemblage. To understand the experience of the individual would require a different analytical lens. Similarly, specific activities, such as the open source research done by Airwars and the Bureau of Investigative Journalism, are seen as a component part of the assemblage. As such, an assemblage approach does not provide equally detailed insight into how knowledge is produced and contested as a discursive approach would. Finally, as pointed out by Martin Müller in chapter one, assemblage should be thought of as an analytical tool rather than a theory geared toward explaining.³⁶⁰ In seeking to explain social phenomenon, therefore, an assemblage approach would fall short. Notwithstanding, it has proven to be valuable in seeking an in-depth understanding of how civil society organizations respond to ‘global harm and injustice’ as it places, what Li calls, a Foucauldian emphasis on ‘how’.³⁶¹

Last but certainly not least, this thesis highlights a number of possibility for further research. As pointed out above, this thesis only skims the surface regarding its inquiry into justice in the context of remote warfare. For example, research documenting the stories of individual drone victims and tracing their steps in seeking justice would provide valuable insight. Furthermore, this thesis has focused on civil society organizations based in western Europe. More research is therefore needed into the role of organizations such as the Foundation for Fundamental Rights in Pakistan and Mwatana for Human Rights in Yemen. By focusing on EFAD, this thesis addresses the use of armed drones by European states and the U.S.. Following

³⁵⁸ Du Plessis, “Universalising international criminal law-the ICC, Africa and the problem of political perceptions.”

³⁵⁹ Allen, "Powerful assemblages?," 156.

³⁶⁰ Müller, "Assemblages and actor-networks," 28.

³⁶¹ Li, "Practices of assemblage and community forest management," 286.

research should also include countries such as China, Iran, Turkey, Egypt and Nigeria as all these countries have also started deploying armed MALE UAVs.³⁶² As mentioned in chapter three, commercial drones are also increasingly being armed and deployed by non-state actors.³⁶³ Further research is therefore also needed to understand how the use of drones such actors is shaping the modern battlefield.

³⁶² Joanna Frew, *DRONE WARS The Next Generation*, (Oxford: Drone Wars UK, 2018).

³⁶³ Larry Friese, *Emerging Unmanned Threats*, 40-47.

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Appendix 1: List of respondents

Representative of	Location	Date
Airwars	Utrecht	April 4, 2018
Amnesty	Amsterdam	May 4, 2018
Article 36	London	April 26, 2018
Drone Wars UK	London	May 16, 2018
ECCHR	Utrecht	May 3, 2018
Rete Italiana per il Disarmo	Utrecht	May 30, 2018
Nuhanovic Foundation	Utrecht	March 28, 2018
Open Society Foundation	Utrecht	April 10, 2018
Pax for Peace	London	March 12, 2018
Reprieve (Two respondents were interviewed together.)	London	April 25, 2018
Oxford Research Group (Two respondents were interviewed together.)	London	April 26, 2018.
Research Foundation 1	Utrecht	March 5, 2018
Research Foundation 2 (Two respondents were interviewed together.)	Amersfoort	March 30, 2018

Academic respondents:

Jessica Dorsey was interviewed on the 28th of February, 2018 in Utrecht. Jessica holds a degree in Public and International Law and is a former coordinator of EFAD. Jessica Currently is currently an associate fellow at the International Center for Counter-Terrorism The Hague.

James Rogers was interview on the 23rd of May in Utrecht via Skype. James is an associate professor at the Center for War Studies at the University of Southern Denmark. His latest book, *Drone Warfare: Concepts and Controversies* will, be published in the Fall.

Appendix 2: Code Categories

These are the code categories and their definitions used to identify the technical descriptions in section two of chapter four.

Intervention	All text that describe/prescribe the action/change that is needed that address the causal problems identified by EFAD and its members relating to the undesired use of armed drones.
Clear Policy	The code ‘Clear Policy’ includes all text pertaining to the promotion of the rule of law and international consensus on legal standards that restrict the use, proliferation and the development of drones. Recurring themes include the compliance with International Human Rights Law and International Humanitarian Law, clear definition and criteria that prescribe the use of force, the rules and procedures that govern the use of armed drones and the non-permissive interpretation of international law.
Control Proliferation	All texts pertaining to the incorporation of drones into existing European and international arms control regimes; the need for transparency regarding the funding of drone development projects by the EU and member States; the link between the export of drones and their potential unlawful use; and the need to consider the human rights implication of the use of armed drones. Recurring themes include regulation that uphold IHRL and IHL and the Joint Declaration.
Ensure Transparency	The code ‘Ensure Transparency’ includes all texts pertaining to the transparency of authorization procedures for targeted killings, records of the use of armed drones and prompt and independent investigations into any possible violations of international law. Recurring themes include the importance of transparency for accountability and providing appropriate compensations to victims and the need for public awareness and debate.
Establish accountability	The code ‘Establish Accountability’ includes all texts pertaining to the investigation of allegations, a (unified) position on the functioning of intelligence services and the sharing of intelligence, public attribution of responsibility, the punishment of those responsible, the interpretation of international law, effective access to redress, and the legal justification of State support of drone strikes conducted by other States.
Problem definition	All text pertaining to the causal problems identified by EFAD and its members associated with the undesired use of armed drones that need to be addressed.
Complicity	All text pertaining to insufficient policy on the sharing of intelligence, the use of data gathered by drones for unlawful killings, the perceived need large amount of data to ensure safety at home and abroad, military operations un-authorized by hosting nations and the lack of policy on the use of drone technology. Recurring themes include third-party-responsibility and the role of international relations in data sharing.
Lack of clear policy	All text pertaining to the lack of transparency on the existing policies and practice, insufficient precise, clear legal definitions and criteria, extensive

	(permissive) interpretation of existing law, international legal consensus, and the influence of defence contractors on financial investments in the development and production of drone technology. Recurring themes include extrajudicial (targeted) killings, the interpretation of IHL and IHRL and the criteria for lethal force.
Non-accountability	All text pertaining to the lack of information made available by States on their drone operations, the lack of thorough, impartial and timely investigations, the authorization of foreign military operations by host nations and the legal grounds on which States operate. Recurring themes also include drone operations, the lack of thorough, impartial and timely investigations, the authorization of military operations by host nations and the legal grounds on which States operate.
Non-Transparency	All text pertaining to the consequences of non-transparency for accountability and complicity, the lack of political will, agreements made between nations obstructing transparency, a lack of clear policy regarding transparency, the lack of public awareness and a subsequent lack of public opposition and the classified nature often ascribed to information on the use of armed drones. Recurring themes include, terrorism, the principle of self-defence and national security.
Proliferation	All text pertaining to the spread of drone technology, the ease with which adapt civil drone technology for military purposes, the lack clear criteria and definitions, the lack of support from drone producing states, and the lack of clarity concerning the interpretation of existing laws and new initiatives and the implementation IHRL.