



The Honorable Caroline Krass  
General Counsel  
Central Intelligence Agency  
Washington, DC 20505

July 25, 2016

**Re: Executive Order 13732, Acknowledgment of Mamana Bibi Killing**

Dear Ms. Krass,

I write to request that the CIA acknowledge responsibility for the death of Mamana Bibi, who was killed on October 24, 2012, and provide compensation to her family.

On July 1, 2016, President Obama issued Executive Order 13732, “United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force.” Section 2 of the executive order directs agencies to “acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including ex gratia payments, to civilians who are injured or to the families of civilians who are killed.”<sup>1</sup>

In compliance with this executive order, the CIA or another U.S. agency should immediately acknowledge responsibility for the drone strike that killed Mamana Bibi and injured her family members; if it does not regard this as appropriate, it should explain its basis for failing to act, including by confirming or denying documentation provided by Amnesty International.<sup>2</sup>

***Amnesty International’s Findings***

According to research by Amnesty International, Mamana Bibi, aged in her mid- to late-60’s, was gathering vegetables in her family’s fields in Ghundi Kala village, North Waziristan, Pakistan on the afternoon of 24 October 2012 when she was killed instantly by

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<sup>1</sup> Executive Order 13732 of Jul 1<sup>st</sup>, 2016, 81 FR 4483, sec. 2(b)(ii).

<sup>2</sup> Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International USA is the U.S. section of Amnesty International.

two Hellfire missiles fired from a drone aircraft.<sup>3</sup> Some of her grandchildren were also in the fields and witnessed the strike. They recounted in painful detail to Amnesty International the moment their grandmother was struck and blasted into pieces, in a drone strike that appears to have been aimed directly at her.

Zubair Rehman, one of Mamana Bibi's grandsons, was about 119ft away working in the fields when the drone strike occurred. Mamana Bibi's three granddaughters: Nabeela (aged eight), Asma (aged seven) and Naeema (aged five) were also in the field, around 115 and 92ft away from their grandmother to the north and south respectively. Around 92ft to the south, another of Mamana Bibi's grandsons, 15-year-old Rehman Saeed, was walking home from school with his friend, Shahidullah, also aged 15. They noted that they frequently saw drones flying overhead at day and night, sometimes two or three at a time flying in different parts of the sky, which is why they continued their daily routine.

Two of the children, Asma and Nabeela, sustained shrapnel injuries to their arms and shoulders. Shahidullah received shrapnel injuries to his lower back while Rehman Saeed sustained a minor shrapnel injury to his foot. Zubair required medical care for a piece of shrapnel lodged in his leg. Three-year-old Safdar, who had been standing on the roof of their home, fell ten feet to the ground and fractured several bones in his chest and shoulders. Because he did not receive immediate specialist medical care, he continues to suffer complications from the injury.

Two of Mamana Bibi's grandsons, Kaleemul and Samadur Rehman, rushed to the scene of the first strike. As they surveyed the area, they discovered their grandmother had been blown to pieces. Fearing further attacks, the two were trying to flee the area when a second volley of missiles was fired, hitting a vacant area of the field about 9ft from where Mamana Bibi was killed. One of the boys, Kaleemul, was hit by shrapnel. Surgeons in Miran Shah operated on him, inserting metal pins into his left thigh bone.

In total, nine people—all but one of them children—were injured in the drone attack that killed Mamana Bibi.<sup>4</sup>

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<sup>3</sup> See Amnesty International, "*Will I be Next?*": *U.S. Drone Strikes in Pakistan* (October 2012), available at <http://dronespakistan.amnestyusa.org>.

<sup>4</sup> See *id.*

Amnesty International's findings are based on hours of interviews conducted by three independent teams, made up of individuals who have documented human rights abuses by all parties, including armed groups such as the Taliban and Al Qaeda, for years. Researchers interviewed eyewitnesses, neighbors and other individuals with first-hand knowledge of the strike. Amnesty International corroborated written and oral testimony with photographic and video evidence and satellite imagery. Amnesty International's researchers physically saw and photographed missile fragments. Ordnance experts analyzed these photographs and concluded the fragments were very likely parts of Hellfire missiles. The pinpoint accuracy of the strike, which killed Mamana Bibi instantly, suggests a targeting ability beyond the capacity of Pakistani aircraft in use at the time.

Despite this extensive documentation and analysis, and more than three years since the strikes, the U.S. government has never acknowledged responsibility for the drone strike that killed Mamana Bibi and injured her family members. It has never officially investigated or provided compensation for her death and injuries sustained by her grandchildren. The U.S. government has failed to confirm or deny, or provide any information whatsoever about this strike or other strikes Amnesty International documented in its October 2013 report "*Will I be Next?*" *US Drone Strikes in Pakistan*, either prior to publication of the report or since.<sup>5</sup>

Amnesty International went to great lengths to verify as much of the information obtained about the killing of Mamana Bibi and other killings as possible. However, due to the challenges of obtaining accurate information on U.S. drone strikes in North Waziristan, we cannot be certain about all of the facts in the cases we documented. The full picture will only come to light when the U.S. authorities acknowledge this strike and fully disclose the facts, circumstances and legal basis for it.

If the U.S. government denies that its forces carried out the attack that killed Mamana Bibi, it should explicitly state this and provide any information it may have on the circumstances of her death.

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<sup>5</sup> None of the U.S. officials Amnesty International contacted for comment prior to publication of the report and since publication have provided information regarding the specific cases documented, including the killing of Mamana Bibi.

## *The Power of Acknowledgement*

Acknowledging Mamana Bibi's killing would be a significant and symbolic step. It would show that the CIA regards itself as bound to carry out its responsibilities under the executive order, other U.S. law and international law. It would be a sign of good faith, and indicate a willingness to go beyond rhetoric on the issue of civilian casualties. If the CIA is serious about addressing public and policymakers' concerns about its continuing role in drone strikes, acknowledging responsibility for this drone strike is a vital step.

Acknowledging responsibility for Mamana Bibi's killing would be a particularly powerful signal to the U.S. public and the international community because Amnesty International's account of this case and its October 2013 report on drone strikes generated public concern worldwide and across the United States. The report was covered in every major international and national news outlet.<sup>6</sup> It led editorial boards across the country to urge the

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<sup>6</sup> See, e.g., N.Y. Times, "Civilian Deaths in Drone Strikes Cited in Report," 22 October 2013, [http://www.nytimes.com/2013/10/22/world/asia/civilian-deaths-in-drone-strikes-cited-in-report.html?\\_r=0](http://www.nytimes.com/2013/10/22/world/asia/civilian-deaths-in-drone-strikes-cited-in-report.html?_r=0); Wash. Post, "Drone strikes killing more civilians than U.S. admits, human rights groups say," 22 October 2013, [http://www.washingtonpost.com/world/national-security/drone-strikes-killing-more-civilians-than-us-admits-human-rights-groups-say/2013/10/21/a99cbe78-3a81-11e3-b7ba-503fb5822c3e\\_story.html](http://www.washingtonpost.com/world/national-security/drone-strikes-killing-more-civilians-than-us-admits-human-rights-groups-say/2013/10/21/a99cbe78-3a81-11e3-b7ba-503fb5822c3e_story.html); Assoc. Press, "Amnesty Criticizes U.S. Drone Program in Pakistan," 22 October 2013, <http://bigstory.ap.org/article/amnesty-criticizes-us-drone-program-pakistan>; Reuters, "U.S. Drone Strikes Killed Pakistani Grandmother; Laborers: Amnesty," 22 October 2013, <http://www.reuters.com/article/us-pakistan-drone-amnesty-idUSBRE99L03R20131022>; Wall Street Journal, "U.S. Fails to Meet Drone Attack Criteria, Rights Groups Say," 22 October 2013, [http://online.wsj.com/news/articles/SB10001424052702303672404579150001613539842?mod=WSJ\\_World\\_LEFTSecondNews](http://online.wsj.com/news/articles/SB10001424052702303672404579150001613539842?mod=WSJ_World_LEFTSecondNews); Agence France Presse, "Amnesty Urges US to End Drone Attack Secrecy," 22 October 2013; CNN, "Rights groups challenge U.S. on drone strikes in Pakistan, Yemen," <http://www.cnn.com/2013/10/22/world/asia/us-drone-strikes-reports/>; USA Today, "Drone Strikes May Be War Crimes, Say Rights Groups," 22 October 2013, <http://www.usatoday.com/story/news/world/2013/10/22/drones-pakistan-civilians-killed/3149679/>; Bloomberg, "Amnesty Calls on U.S. to Justify Civilian Deaths from Drone Hits," 22 October 2013, <https://www.bloomberg.com/news/articles/2013-10-22/amnesty-calls-on-u-s-to-justify-civilian-deaths-from-drone-hits>.

U.S. government to be more transparent, accountable and compliant with the law; in many cases, editorial boards specifically cited Mamana Bibi's killing.<sup>7</sup>

This step is also critical to ending the U.S. government's pattern of selective disclosure and extreme secrecy: The U.S. has never acknowledged the death of an individual in Pakistan or Yemen whom it regards as a civilian or noncombatant, except for U.S. citizens and an Italian. The limited disclosures to date are an important first step, but we are disturbed by the apparent double standard: The Pakistani families who have lost their loved ones to U.S. drone strikes — including the family of Mamana Bibi — deserve to know the truth, too.

### ***Legal Requirements to Acknowledge Mamana Bibi Killing***

Executive Order 13732 requires agencies to acknowledge responsibility for “civilian casualties” and offer condolence payments “as appropriate and consistent with mission objectives and applicable law, including the law of armed conflict.”<sup>8</sup> We urge the CIA to take action as required under this provision of the executive order, or otherwise explain why it regards acknowledgement of the drone strike that killed Mamana Bibi as inconsistent with its mission objectives and applicable law.

Acknowledgement of this killing is not only consistent with U.S. legal obligations, it is required by international law. Where the state deliberately kills someone, the onus is on the state to demonstrate that the killing is lawful.<sup>9</sup> Family members of a person who is killed have the right to receive the results of an independent and impartial investigation, including

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<sup>7</sup> See, e.g., Christian Science Monitor, “Drone strikes that hit civilians: Time to Rethink Intelligence,” 22 October 2013 <http://www.csmonitor.com/Commentary/the-monitors-view/2013/1022/Drone-strikes-that-hit-civilians-Time-to-rethink-intelligence>; New Jersey Star-Ledger, “The dark side of drones,” 28 October 2013,

[http://blog.nj.com/njv\\_editorial\\_page/2013/10/the\\_dark\\_side\\_of\\_drones\\_editor.html](http://blog.nj.com/njv_editorial_page/2013/10/the_dark_side_of_drones_editor.html); Pittsburgh Post-Gazette, “Dreaded drones: Is the U.S. Guilty of War Crimes By Killing Civilians,” 23 October 2013, <http://www.post-gazette.com/opinion/editorials/2013/10/24/Dreaded-drones/stories/201310240151>.

<sup>8</sup> Executive Order 13732 of Jul 1<sup>st</sup>, 2016, 81 FR 4483, sec. 2(b)(ii).

<sup>9</sup> See, e.g., Decision of the UN Human Rights Committee finding a violation of article 6 in Baboeram-Adhin v Suriname, UN doc CCPR/C/24/D/154/1983 (4 April 1985), paras 14.1 to 15. See also Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, ‘Study on Targeted Killings’, paras 87-92, A/HRC/14/24/Add.6 (28 May 2010).

a judicial process.<sup>10</sup>

As UN expert Christof Heyns emphasized in a September 2013 report to the UN General Assembly: “Drone victims, just as any other human rights victims, and society at large have a right to have access to information relating to allegations of human rights violations and their investigation...Likewise, during an armed conflict, relatives of persons killed or missing have the right to know the fate of their relatives.”<sup>11</sup>

Acknowledgment of the killing of a Pakistani national—and ending the double standard of acknowledging only the unintended killings of individuals from Western countries—is also counseled by U.S. international human rights obligations. It is fundamental to the very concept of universal human rights, and it is expressly provided for in the particular human

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<sup>10</sup> See Principles 22 and 23 of the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; Principles 9 to 17 of the 1989 UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Economic and Social Council resolution 1989/65 of 24 May 1989; Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, June 2016, para. 14, A/HRC/32/39/Add.4 (“Family members of victims of unlawful deaths and enforced disappearances have the right to equal and effective access to justice; to adequate, effective, and prompt reparation...and to have access to relevant information concerning the violations and relevant accountability mechanisms.”).

<sup>11</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 13 Sept. 2013, A/68/382 (citing Human Rights Council resolution 9/11, preamble and para. 1; International Convention for the Protection of All Persons from Enforced Disappearance, art. 24 (2); Commission on Human Rights resolution 2005/66; Additional Protocol I, art. 32 and ICRC, Commentary on article 32 of Additional Protocol I, para. 1197; Additional Protocol I, art. 33 and ICRC, Commentary on article 33 of Additional Protocol I, para. 1222; Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 138). See also Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, June 2016, paras 14-15, A/HRC/32/39/Add.4 (“Satisfaction includes government verification of the facts and public disclosure of the truth”; “Family members have the right to seek and obtain information on the causes of an unlawful killing or an enforced disappearance and to learn the truth about the circumstances, events, and causes that led to it.”).

rights treaties to which the U.S. is party, that the right to life of every human being is to be respected without discrimination on the basis of their nationality.<sup>12</sup>

It is possible that the drone strike that killed Mamana Bibi was carried out as part of a non-international armed conflict in North Waziristan, in which case both international human rights law and international humanitarian law applied. The United States is a party to key instruments of international humanitarian law, including the four Geneva Conventions of 1949 and has signed the Additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). The United States is also bound by customary international humanitarian law.

States are responsible for violations of international humanitarian law by their forces and must make full reparation for loss or injury caused.<sup>13</sup> Moreover, states have a responsibility to investigate alleged war crimes perpetrated by their nationals and armed forces or on their territory, and, if warranted, prosecute the suspects.<sup>14</sup>

Acknowledging the drone strike that killed Mamana Bibi is a matter of legal obligation for

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<sup>12</sup> Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR), for instance, provides: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, *national or social origin*, property, birth or other status.” [emphasis added]. Article 26 further provides: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, *national or social origin*, property, birth or other status.” [emphasis added]. These provisions apply, of course, to the right not to be arbitrarily deprived of one’s life, under article 6 of the ICCPR.

<sup>13</sup> ICRC Customary IHL Study, Rule 150. See also Department of Defense Law of War Manual, sec. 18.16 (“A State that is responsible for an internationally wrongful act is under an obligation to make full reparation for the injury caused by that act. This principle also applies to the law of war in that a State that violates the law of war shall, if the case demands, be liable to pay compensation.”).

<sup>14</sup> ICRC Customary IHL Study, Rule 158.

the United States. It is also a matter of dignity and justice for her family. Her children and grandchildren carry memories of her—the stories she used to tell, the things she would say. They carry this dark memory too: The day she was struck by missiles, blown to bits before their eyes. They are still grieving. They are waiting for words of sympathy and apology. Most of all, they are waiting for the truth about what happened that day.

Thank you for your time and attention to this matter. For questions or other follow up, please do not hesitate to contact Naureen Shah ([nshah@aiusa.org](mailto:nshah@aiusa.org); 202-509-8174), director, Security With Human Rights program.

Sincerely,

A handwritten signature in black ink that reads "Margaret Huang". The signature is written in a cursive, flowing style.

Margaret Huang,  
Interim Executive Director  
Amnesty International USA