

“American Justice”: The Targeted Assassination of Osama Bin Laden

Extrajudicial executions are unlawful

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Theme: [Law and Justice](#), [Terrorism](#)

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When he announced that Osama bin Laden had been killed by a Navy Seal team in Pakistan, President Barack Obama said, “Justice has been done.” Mr. Obama misused the word “justice” when he made that statement. He should have said, “Retaliation has been accomplished.” A former professor of constitutional law should know the difference between those two concepts. The word “justice” implies an act of applying or upholding the law.

Targeted assassinations violate well-established principles of international law. Also called political assassinations, they are extrajudicial executions. These are unlawful and deliberate killings carried out by order of, or with the acquiescence of, a government, outside any judicial framework.

Extrajudicial executions are unlawful, even in armed conflict. In a 1998 report, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions noted that “extrajudicial executions can never be justified under any circumstances, not even in time of war.” The U.N. General Assembly and Human Rights Commission, as well as Amnesty International, have all condemned extrajudicial executions.

In spite of its illegality, the Obama administration frequently uses targeted assassinations to accomplish its goals. Five days after executing Osama bin Laden, Mr. Obama tried to bring “justice” to U.S. citizen Anwar al-Awlaki, who has not been charged with any crime in the United States. The unmanned drone attack in Yemen missed al-Awlaki and killed two people “believed to be al Qaeda militants,” according to a CBS/AP bulletin.

Two days before the Yemen attack, U.S. drones killed 15 people in Pakistan and wounded four. Since the March 17 drone attack that killed 44 people, also in Pakistan, there have been four drone strikes. In 2010, American drones carried out 111 strikes. The Human Rights Commission of Pakistan says that 957 civilians were killed in 2010.

The United States disavowed the use of extrajudicial killings under President Gerald Ford. After the Senate Select Committee on Intelligence disclosed in 1975 that the CIA had been involved in several murders or attempted murders of foreign leaders, President Ford issued an executive order banning assassinations. Every succeeding president until George W. Bush renewed that order. However, the Clinton administration targeted Osama bin Laden in Afghanistan, but narrowly missed him.

In July 2001, the U.S. Ambassador to Israel denounced Israel’s policy of targeted killings, or

“preemptive operations.” He said “the United States government is very clearly on the record as against targeted assassinations. They are extrajudicial killings, and we do not support that.”

Yet after September 11, 2001, former White House press secretary Ari Fleischer invited the killing of Saddam Hussein: “The cost of one bullet, if the Iraqi people take it on themselves, is substantially less” than the cost of war. Shortly thereafter, Bush issued a secret directive, which authorized the CIA to target suspected terrorists for assassination when it would be impractical to capture them and when large-scale civilian casualties could be avoided.

In November 2002, Bush reportedly authorized the CIA to assassinate a suspected Al Qaeda leader in Yemen. He and five traveling companions were killed in the hit, which Deputy Defense Secretary Paul Wolfowitz described as a “very successful tactical operation.”

After the Holocaust, Winston Churchill wanted to execute the Nazi leaders without trials. But the U.S. government opposed the extrajudicial executions of Nazi officials who had committed genocide against millions of people. U.S. Supreme Court Justice Robert H. Jackson, who served as chief prosecutor at the Nuremberg War Crimes Tribunal, told President Harry Truman: “We could execute or otherwise punish [the Nazi leaders] without a hearing. But indiscriminating executions or punishments without definite findings of guilt, fairly arrived at, would . . . not set easily on the American conscience or be remembered by children with pride.”

Osama bin Laden and the “suspected militants” targeted in drone attacks should have been arrested and tried in U.S. courts or an international tribunal. Obama cannot serve as judge, jury and executioner. These assassinations are not only illegal; they create a dangerous precedent, which could be used to justify the targeted killings of U.S. leaders.

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