

Haspel Nomination: Torture? Let's Also Not Forget the CIA's Core Program of Assassination

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*The nomination of CIA operative **Gina Haspel** to be CIA director has, fortunately, given rise to powerful arguments against the U.S. government's participation in torture, a practice that is common to tyrannical regimes. The critics of Haspel's nomination are right: The United States should never be engaged in evil conduct, and the torture of a human being is without any doubt whatsoever evil conduct. That's why torture is inevitably associated with such regimes as Nazi Germany, the Soviet Union, and North Korea. It has no place in a country whose very own founding document, the Constitution, expressly prohibits the federal government from inflicting "cruel and unusual punishments" on people.*

Unfortunately, though, hardly anyone is talking about assassination, which is another core program of Haspel's CIA, one that involves murdering people. One might be tempted to say that assassination is "legalized murder" but actually that wouldn't be correct. It's not that assassination is legal, it's that there is no one who is willing to prosecute anyone for it, especially given the overwhelming power that both the CIA and the Pentagon have long wielded within America's federal governmental structure.

Keep in mind that when the Constitution called the federal government into existence, it enumerated the powers that the federal government could lawfully wield. The idea was that if a power wasn't enumerated, it couldn't lawfully be exercised.

When one closely examines the powers that the Constitution delegated to the federal government, one thing is clear: Assassination, like torture, wasn't among them. The Framers had decided not to give federal officials the power to assassinate or the power to torture people.

Even that wasn't good enough for the American people, however. They remained convinced of the danger that federal officials would begin torturing and murdering people because that's what the British government, which had been their government only a few years before, had done when it owned and controlled its New World colonies.

That's what caused the American people to demand the passage of the Bill of Rights as a condition for agreeing to approve the Constitution. They wanted to make certain that federal officials got the message: No cruel and unusual punishments and no murder. They were concerned that without the express prohibitions found in the Bill of Rights, federal officials would inevitably start torturing and killing people.

Here is how our American ancestors phrased the restriction on murder committed by federal

officials: “No person shall be ... deprived of life ... without due process of law.”

Proponents of assassination assert that since the CIA and the Pentagon are assassinating foreigners, that particular restriction doesn't apply. They say that the Constitution applies only here in the continental United States.

But that's not what the restriction itself states. The restriction states “No person.” The framers of the Fifth Amendment obviously had a mastery over the English language. If they had wanted the restriction on murder to apply only to American citizens, they would have written, “No person except foreign citizens shall be deprived of life without due process of law.” Their intent clearly was to prohibit the federal government from murdering anyone.

What is “due process of law”? No, it's not a room full of CIA officials, Pentagon officials, and members of the National Security Agency getting together, reviewing the evidence, and voting on who is going to be assassinated. Instead, due process of law means a formal accusation, such as a grand-jury indictment, and a judicial trial before an independent judge and the right of trial by jury, where evidence has to be produced showing that the person to be killed has, in fact, committed a crime and, if convicted, is deserving of the death penalty.

There is no due process of law when it comes to the CIA's and Pentagon's assassination program. They decide among themselves who is going to be assassinated. No indictment. No judge. No jury. No testimony. No due process of law.

What is the justification for these state-sponsored murders? The CIA and the Pentagon say that the victims are evil or that they are involved in “terrorism” or both. But who made the CIA and the Pentagon the arbiters of evil? Moreover, what the CIA and Pentagon describe as “terrorism” is oftentimes nothing more than resistance to U.S. imperialist and interventionist activities in foreign lands, much like people under the yoke of the Soviet and British empires resisted them (and were labeled as “terrorists” as well). Or the victim is simply aligned with a group that is acting contrary to a foreign regime that is being run as a loyal puppet regime of the U.S. Empire, much like Eastern European countries were governed under the Soviet Empire.

It's probably worth noting that the Pentagon's and CIA's power to assassinate people now also extends to Americans, notwithstanding the restriction on assassination in the Fifth Amendment. That's what the Anwar al-Awlaki case was all about. Following their long-time deference to the supreme authority of the national-security branch of the federal government, the federal judiciary confirmed that it would not step in and interfere with the assassination of any American at the hands of the national-security establishment. For that matter, they held the same thing with respect to the CIA's and Pentagon's power to torture Americans, which was what the Jose Padilla case was all about.

One thing is indisputable: If our American ancestors had known that they were calling into existence a federal government with the power to torture and murder people, they would never in a million years have approved the Constitution, the document that called the federal government into existence in the first place.

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