

The Omnipotent Power to Assassinate

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It goes without saying that the Constitution called into existence a government with few, limited powers. That was the purpose of enumerating the powers of the federal government. If the Constitution was bringing into existence a government of unlimited or omnipotent powers, then there would have been no point in enumerating a few limited powers. In that event, the Constitution would have called into existence a government with general, unlimited powers to do whatever was in the interests of the nation.

If the Constitution had proposed a government of omnipotent powers, there is no way the American people would have accepted it, in which case America would have continued operating under the Articles of Confederation. Our American ancestors didn't want a government of omnipotent powers. They wanted a government of few, limited, enumerated powers.

Among the most omnipotent powers a government can wield is the power of government officials to assassinate people. Our American ancestors definitely did not want that type of government. That is why the power to assassinate is not among the enumerated powers of government in the Constitution.

Despite the enumerated-powers doctrine, our American ancestors were still leery. They knew that the federal government would inevitably attract people who would thirst for the power to assassinate people. So, to make certain that federal officials got the point, the American people enacted the Fifth Amendment after the Constitution was ratified. It expressly prohibited the federal government from taking any person's life without due process of law.

Due process of law is a term that stretches all the way back to Magna Carta. At a minimum, it requires formal notice of charges and a trial before the government can take a person's life. At the risk of belaboring the obvious, assassination involves taking a person's life without notice or trial.

For some 150 years, the federal government lacked the power to assassinate people. For the last 75 years, however, the federal government has wielded and actually exercised the omnipotent power to assassinate, including against American citizens.

How did it acquire this omnipotent power? Certainly not by constitutional amendment. It

acquired it by default — by converting the federal government after World War II from a limited-government republic to a national-security state.

A national-security state is a totalitarian form of governmental structure. North Korea is a national security state. So is Cuba. And China, Egypt, Russia, and Pakistan. And the United States, along with others.

A national-security state is based on a vast, all-powerful military-intelligence establishment, one that, as a practical matter, wields omnipotent powers. Thus, when the CIA, one of the principle components of America's national-security state, was called into existence in 1947, it immediately assumed the power to assassinate. In fact, as early as 1952 the CIA published an assassination manual that demonstrates that the CIA was already specializing in the art of assassination (as well as cover-up) in the early years of the national-security state.

In 1954, the CIA instigated a coup in Guatemala on grounds of "national security." The aim of the coup was to oust the country's democratically elected president, Jacobo Arbenz, and replace him with a military general. As part of the coup, the CIA prepared a list of people to be assassinated. To this day, the CIA will not disclose the names of people on its kill list (on grounds of "national security," of course) but it is a virtual certainty that President Arbenz was at the top of the list for establishing a foreign policy of peace and friendship with the communist world. To his good fortune, he was able to flee the country before they could assassinate him.

In 1970, the CIA was attempting to prevent Salvador Allende from becoming president of Chile. Like Arbenz, Allende's foreign policy was based on establishing a peaceful and friendly relationship with the communist world. The CIA's plan included inciting a coup led by the Chilean military. However, the overall commander of Chile's armed forces, Gen. Rene Schneider, stood in the way. His position was that he had taken an oath to support and defend the constitution and, therefore, that he would not permit a coup to take place. The CIA conspired to have him violently kidnapped to remove him as an obstacle to the coup. During the kidnapping attempt, Schneider was shot dead.

Schneider's family later filed suit for damages arising out of Schneider's wrongful death. The federal judiciary refused to permit either U.S. officials or the CIA to be held accountable for Schneider's death. Affirming the U.S. District Court's summary dismissal of the case, the D.C. Court of Appeals [held](#) that U.S. officials who were involved in the crime could not be held liable since they were simply acting within the course and scope of their employment. Moreover, the U.S. government couldn't be held liable because, the court stated, it is sovereignly immune.

Central to the Court's holding was what it called the "political question doctrine." It holds that under the Constitution, the judicial branch of the government is precluded from questioning any "political" or "foreign policy" decision taken by the executive branch.

Actually though, the Constitution says no such thing. It is in fact the responsibility of the judicial branch to enforce the Constitution against the other branches, including the national-security branch. That includes the Fifth Amendment, which expressly prohibits the federal government from taking people's lives without due process of law.

So, why did the federal judiciary come up with this way to avoid taking on the CIA? Because

it knew that once the federal government was converted to a national-security state, the federal government had fundamentally changed in nature by now having a branch that could exercise omnipotent powers, such as assassination, with impunity. The federal judiciary knew that there was no way that the judicial branch of government could, as a practical matter, stop the national-security branch with assassinating people. To maintain the veneer of judicial power, the judiciary came up with its ludicrous “political question doctrine” to explain why it wasn’t enforcing the Constitution

Once Pinochet took office after the coup in Chile, the Chilean judiciary did the same thing as the U.S. judiciary. It deferred to the power of the Pinochet military-intelligence government, declining to enforce the nation’s constitution against it. Like the U.S. judiciary, the Chilean judiciary recognized the reality of omnipotent power that comes with a national-security state. Many years later, the Chilean judiciary apologized to the Chilean people for abrogating its judicial responsibility.

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