

The “Rule of Law” and State Killings

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There are occasions when statements appearing in newspapers are so significant that one can justifiably predict they will be cited for years to come.

Such is the case with the November 29 editorial published by the *New York Times* entitled “Rules for Targeted Killing.” It marks another critical milestone in the repudiation of core democratic rights and constitutional principles by the US ruling establishment.

The editorial notes approvingly that the Obama administration is “developing rules for when to kill terrorists around the world.”

The drafting of these “rules” has been attributed to concerns within the administration in advance of the elections that “standards and procedures” be put in place in case Obama lost. Undoubtedly a more compelling motivation is the fear that one day they could all be indicted for war crimes. The new rules, and the *Times* editorial itself, are a tacit admission of criminality.

Nonetheless, the *Times* hails this “first step toward acknowledging that when the government kills people away from the battlefield, it must stay within formal guidelines based on the rule of law—especially when the life of an American citizen is at stake.”

To call such language Orwellian barely begins to do it justice.

“Targeted killings” or “when the government kills people away from the battlefield” are transparent euphemisms for state assassinations and extrajudicial murders, which are explicitly banned by international law and proscribed by the US Constitution. Over the last four years, the Obama administration has been carrying out such crimes on an industrial scale by means of drone missile attacks.

As for this policy targeting “terrorists,” the word itself has become an essential part of Washington newspeak, used to describe anyone seen as a direct or even potential obstacle to US global interests, and to label, ex post facto, anyone whom the US has killed.

The editorial acknowledges that the CIA, using remotely piloted aircraft, has carried out over 320 attacks in Pakistan alone, killing at least 2,560 people. According to the records kept by the Pakistani government, 80 percent of the dead have been innocent civilians. Many thousands more have been horribly maimed by Hellfire missiles, suffering brain injuries, the loss of limbs and severe burns.

Among those targeted for remote-control assassination have been several Americans, including the New Mexico-born cleric Anwar al-Awlaki and Samir Khan, killed on September 30 of last year, and Awlaki’s 16-year-old son, Abdulrahman al-Awlaki, murdered two weeks

later, all three in Yemen.

The *Times* affirms that “formal guidelines based on the rule of law” should be observed “especially when the life of an American citizen is at stake.” The obvious implication is that murdering noncitizens is no major concern and can be done more or less at will, an odious distinction that exists nowhere in the US Constitution.

The more fundamental conception, however, is that “formal guidelines”—elsewhere the editorial stresses that “rules for killing...need to be rigorous and formalized”—somehow legitimize what is unquestionably the most heinous crime that a government can commit—taking human life without due process of law.

To speak of some set of “rules” or “guidelines” adopted by the executive branch to govern these killings being “based on the rule of law” is both legally fraudulent and morally obscene. The entire program of drone assassinations represents a repudiation in practice of the bedrock principles of law, ranging from habeas corpus to the right to confront one’s accusers and the right to receive a trial by a jury of one’s peers.

An inherently criminal practice cannot be made legal, let alone constitutional, by cloaking it in a set of procedures and regulations drawn up in secret and implemented by high-ranking state officials. In its day, the Nazi regime drew up all sorts of secret procedures that served as a framework for mass killings. The guidelines and rules cooked up by Obama and his military and intelligence aides in the course of “terror Tuesday” sessions can no more legitimize this practice than the voluminous rules and regulations promulgated by the Third Reich could legalize mass murder under the Nazis.

If the US government is empowered to carry out the extrajudicial execution of US citizens and noncitizens alike overseas, it is only a matter of time—that is, a matter of waiting for a carefully crafted political opportunity—before the president orders an assassination within the United States.

This is implicit in the feeble assertion by the *Times* editorial that, “Standard police methods should be used on American soil.” The fact that the *Times* feels obliged to include this timid reminder in its editorial can only mean that its publisher and editors are well aware that a practice of targeted killings within the United States is under active consideration by the Obama administration. There is nothing at this point that is “off the table” when it comes to the use of state violence.

The editorial insists that “if an American citizen operating abroad is targeted, due process is required.” What will this “due process” consist of? Certainly, it will have nothing to do with the rights guaranteed by the US Constitution. Rather, it will consist of a set of administrative procedures put in place by a cabal of military officers, intelligence operatives and the US president. They will be authorized to act as judge, jury and executioner.

The *New York Times* suggests that the formal requirements of due process might be satisfied by “the formation of a special court, like the Foreign Intelligence Surveillance Court, that could review the evidence regarding a target before that person is placed on a kill list.”

In other words, the state would set up a Star Chamber—a secret extralegal body—whose function would be to rubber-stamp murders ordered by the CIA and the military, much as

the FISA court now acts in relation to the government's domestic spying.

It goes without saying that every member of this "special court" would be a carefully vetted and longtime member of the state intelligence bureaucracy, pledged to secrecy.

Little more than a decade ago, Washington publicly condemned "targeted killings," a term invented by Israel to justify its illegal assassination program against the Palestinians. And a generation back, assassinations carried out by the CIA, earning it the nickname Murder, Inc., were the subject of extensive congressional investigations and hearings that resulted in such killings being branded illegal.

On June 5, 1975, the *New York Times* quoted approvingly the late Senator Frank Church's condemnation of state assassinations. "I don't care who may have ordered it. Murder is murder. The United States is not a wicked country and we cannot abide a wicked government."

Thirty-seven years later, the *Times* does not have any principled objection to assassinations. It only desires that murders be carried out in accordance with a set of bureaucratically administered rules.

The *Times'* editorial provides an insight into the mentality that prevails within growing layers of the ruling elite and its affluent periphery. They will stop at nothing—wars, murder and terror—to get and take what they want.

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