

Unconstitutional Killings

By [Judge Andrew P. Napolitano](#)

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The Biden administration is killing people, openly in Ukraine and Gaza and secretly around the world. It has continued to use the killing machinery crafted by President George W. Bush, expanded by President Barack Obama, and employed by President Donald Trump. These presidents have used drones and other unmanned projectiles to target persons in foreign countries with which the United States is not at war.

They have done this notwithstanding the prohibition against taking life, liberty or property from any person — not just any American, but any person — in the Constitution each has sworn to uphold, and they have done so pursuant to secret rules that they themselves have established for these killings.

Last year, 11 senators and 39 members of the House of Representatives sent a harshly worded letter to President Joe Biden asking him to stop the secret, but not the public, killings. As of this writing, he has not publicly replied.

Here is the backstory.

The purpose of the Bill of Rights — the first 10 amendments to the Constitution — is to protect personal liberty by restraining the government.

The Fifth Amendment prohibits killing persons, restraining liberty, and taking property without due process; that means a jury trial at which the government must prove criminal behavior or fault, depending upon its goal.

If the country is at war — lawfully and constitutionally declared by Congress — obviously the president can use the U.S. military to kill the military of the opposing country. And if an attack on the U.S. is imminent, the president can strike the first blow against the military of the entity whose attack is just about to occur.

There are no other constitutional circumstances under which a president may kill.

When President Harry Truman targeted Japanese civilians as the Japanese government was within days of surrendering in World War II, he murdered them. Notwithstanding his unprosecuted war crimes, and with the government's version of Pearl Harbor still fresh in many Americans' minds, Truman was regarded as heroic for using nuclear bombs to cause the profoundly immoral, militarily useless, and plainly criminal mass killings of the hated Japanese.

Fast-forward to the 9/11 era, and Bush had precedent to begin his own presidential killings of people the government wanted Americans to hate. While Congress did authorize him to use force against those who caused or aided the 9/11 attacks, we all know that his thirst for Middle Eastern blood knew no regard for the Constitution, evidence, proportionality, civilian lives, morality or human decency. Thus, \$3 trillion spent and 1 million dead in Afghanistan and Iraq.

Julian Assange sits in a British dungeon awaiting decisions on his extradition to the U.S. because he courageously, lawfully and constitutionally published documents and videos demonstrating conclusively that Bush's use of drones targeted and murdered Afghan and Iraqi civilians, and his administration covered it up.

Obama took this to another level when he targeted and killed Anwar al-Awlaki, who was born in the U.S. Obama's attorney general, Eric Holder, advised Obama that the killing was lawful, as al-Awlaki had encouraged folks in the Middle East to fight against American soldiers there. Holder likened killing al-Awlaki to police shooting at a bank robber whom they are chasing while he is shooting at them.

Holder forgot that al-Awlaki was unarmed, was not charged or indicted for any crime, was never accused of violence, and was not even the subject of an arrest warrant when a drone evaporated him while sitting at an outdoor cafe in Yemen.

The exercise of power by the federal government is largely based on precedent and politics. Whenever a president wants to kill, he need only find an example of a predecessor having killed with impunity — without due process, without a declaration of war and without an imminent attack. And then he needs only to calculate what he thinks he can politically get away with.

Joe Biden — whose drones in 2021 destroyed a dam in Syria, killing thousands, and who targeted civilians in Afghanistan, killing dozens, and whose shipments of guns to Ukraine and Israel are killing tens of thousands of folks he wants us to hate — is using unlawful powers that his modern predecessors used and got away with to target and kill unsympathetic persons. But the U.S. has not declared war on Russia or Gaza.

The nature of political power is to expand so that it fills a perceived need, unless there are mechanisms in place to restrain its expansion.

The founding generation believed that British monarchs had no limits on their powers and that was a good enough reason for the 13 colonies to secede violently. They also believed that they had crafted the Constitution and the Bill of Rights to impose sufficient restraints on the federal government. And they believed that the states could peacefully leave a federal government they had voluntarily joined when it exceeded its constitutional powers.

The Constitution is the supreme law of the land. Its language is clear that only Congress

writes laws and declares war, and presidents can kill only troops in wartime or civilians consistent with due process.

Sadly, the Founders were wrong.

Every president takes an oath to preserve, protect and defend the Constitution as it was written, not as he may wish it to be.

Yet, today, the president writes laws and rules that let him restrain personal liberty and kill with impunity, and Congress and the American people let him get away with it. Formally, we still have a Constitution. Functionally, it has utterly failed to restrain the government.

Ultimately, we have ourselves to blame for these killings and undeclared wars. Why do we repose the Constitution for safekeeping into the hands of those who subvert it? If a future president uses Bush's lust and Obama's logic and Biden's hatreds to kill Americans in America, then no one's life, liberty or property will be secure.

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Judge Andrew P. Napolitano is a graduate of Princeton University and the University of Notre Dame Law School. He is the youngest life-tenured Superior Court judge in the history of the State of New Jersey. He sat on the bench from 1987 to 1995, when he presided over more than 150 jury trials and thousands of motions, sentencings, and hearings. Judge Napolitano taught constitutional law and jurisprudence at Delaware Law School for one and half years and at Seton Hall Law School for 11 years, and at Brooklyn Law School for four years. He was often chosen by the students as their most outstanding professor. As Fox News' Senior Judicial Analyst from 1997 to 2021, Judge Napolitano gave 14,500 broadcasts nationwide on the Fox News Channel and Fox Business Network. He is nationally known for watching and reporting on the government as it takes liberty and property. His weekly newspaper column is seen by millions every week. The Judge is a nationally-recognized expert on the U.S. Constitution and a champion of personal freedom.

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