

Lawsuit challenges Obama administration's "targeted killing" of US citizens

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The American Civil Liberties Union (ACLU) and the Center for Constitutional Rights (CCR) filed a lawsuit in federal court in Washington, DC, Monday challenging the US government's program of "targeted killings" of US citizens.

The plaintiff in the lawsuit is the father of a US citizen living in Yemen, Anwar Al-Awlaki. The CIA and Defense Department admitted in April that they have targeted Awlaki for death based on the unsubstantiated claim that he is a "terrorist." The defendants named in the lawsuit are President Barack Obama, CIA Director Leon Panetta and US Defense Secretary Robert Gates.

The lawsuit asserts that outside of actual armed conflict, both the US Constitution and international law prohibit targeted killing, except as a last resort to protect against concrete, specific and imminent threats of death or serious physical injury. An extrajudicial killing policy under which names are added to CIA and military "kill lists" through a secret executive process, and stay there for months at a time, is plainly not limited to such imminent threats.

The lawsuit seeks a declaration from the court that the policy violates protections under the Fourth and Fifth Amendments to the US Constitution of the right to life and due process of law, and against unlawful seizure. The suit also asserts that the policy is a violation of international law and treaties. Along with the complaint that initiated the lawsuit, plaintiff's attorneys have filed a motion seeking a preliminary injunction that would bar the government from continuing the assassination program until trial in the case is completed.

The lawsuit further asserts that US citizens have a due process right to be on notice as to what conduct the US government considers in order to justify extrajudicial killing. It asks the court to order the government to

disclose the specific standards it uses to place US citizens on government kill lists.

In announcing the lawsuit, Vince Warren, executive director of CCR explained, "The United States cannot simply execute people, including its own citizens, anywhere in the world based on its own say-so. The law prohibits the government from killing without trial or conviction other than in the face of an imminent threat that leaves no time for deliberation or due process."

Anthony D. Romero, executive director of the ACLU, added, "A program that authorizes killing US citizens, without judicial oversight, due process or disclosed standards is unconstitutional, unlawful and un-American. We don't sentence people to prison on the basis of secret criteria, and we certainly shouldn't sentence them to death that way."

One might add that it virtually goes without saying that secret summary execution deprives a person of any chance to defend against such accusations.

Targeting individuals for execution plainly violate international law as well. On August 3, the United Nations Special Rapporteur on extrajudicial executions, Philip Alston, a professor of law at the New York University School of Law, issued a statement declaring, "The United States' assertion of an ever-expanding but ill-defined license to commit targeted killings against individuals around the globe, without accountability, does grave damage to the international legal frameworks designed to protect the right to life."

Alston explained that rather than disclose the criteria and a recognized legal basis under international law for its actions, the US government "has claimed a broad and novel theory that there is a 'law of 9/11' that enables it to legally use force in the territory of other States as part of its inherent right to self-defence on the

basis that it is in an armed conflict with al-Qaeda, the Taliban and undefined ‘associated forces.’ This expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force contained in the UN Charter, which is essential to the international rule of law. If other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos.”

The Obama administration does not at all hesitate in brushing aside these basic principles of constitutional and international human rights law. Its failure to prosecute Bush administration officials for their war crimes has established the operative principle that breaking such laws bears no consequences.

Thus the Obama regime now arrogates to itself the right to murder Americans abroad based on a subjective decision by an unaccountable official, resting on the most amorphous notions of what may constitute a “terrorist threat.”

The claim to be targeting “terrorists” is, however, a fraud. The US government is seeking to establish the principle that it has the right to summarily execute anyone, anywhere. Purported terrorists are often nothing more than those who oppose invasion or occupation.

The record of CIA and US military special operations in murdering innocent civilians in targeted killings is now also amply documented in Afghanistan and Pakistan. Awlaki himself barely escaped death last December 17 when US cruise missiles carrying cluster bombs—a weapon banned by international treaties—killed at least 41 Yemenis, 21 of them children and 14 of them women.

In the case of Awlaki, the government went so far as to attempt to preclude any legal challenge to its policy. In July Secretary of the Treasury Timothy Geithner labeled Awlaki a “specially designated global terrorist,” under a federal regulation that makes it a crime for lawyers to provide representation for his benefit without first seeking a license from the government.

The ACLU and CCR had to file a separate lawsuit challenging the legality and constitutionality of the licensing scheme before the US government relented and granted them the right to represent Awlaki without risking criminal prosecution. There can be no doubt

that the government will do whatever it can to derail this lawsuit and shroud its illegal practices.

Historically assassinations have been a hallmark of totalitarian regimes utilized against civilians, such as in the case of Nazi Germany, and political opponents, as in the case of Stalin’s regime. International legal prohibitions on such practices were adopted after World War II.

The CIA employed such tactics in the cold war to kill troublesome foreign politicians, but was later required—at least officially—to abandon such practices by virtue of a 1981 executive order of the president, which declared, “No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.”

This prohibition was almost immediately abandoned in practice. The attempt to kill Libya’s Muammar al-Gaddafi in 1986 is only one example.

Now under the direction of Obama, the so-called “war on terrorism” has now served as the pretext for systematically abandoning the universal legal norms that have outlawed such practices.



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