

Attorney general defends presidential assassinations of US citizens

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In a speech delivered Monday at Northwestern University Law School in Chicago, US Attorney General Eric Holder asserted the “right” of the president to secretly order the assassination of US citizens. Laying out a brief for virtually unchecked executive power to carry out military aggression abroad and repression at home, the speech was a sweeping attack on fundamental democratic and constitutional principles.

Holder’s remarks were cast within the framework of the so-called “war on terror.” In words intended to instill fear and panic, he declared early in his remarks that America had reached an “hour of danger.” He continued: “We are a nation at war... there are people currently plotting to murder Americans, who reside in distant countries as well as within our own borders.”

The attorney general’s remarks come five months after President Obama ordered the killing of Anwar al-Awlaki, a US citizen, in a drone attack in Yemen. Another US citizen, Samir Khan, was killed in the same attack. Two weeks later, Awlaki’s 16-year-old son, Abdulrahman, was killed in subsequent US drone strike.

Obama had placed al-Awlaki, alleged to be a leading Al Qaeda figure in Yemen, on the “kill or capture” list in April 2010. He was never formally charged and no direct evidence was ever presented against him.

The “kill or capture” list is itself known only to the president and a handful of advisors. There is no way of knowing when or how a name is entered on the assassination list, and there exists no legal means for having a name stricken once the president has selected an individual for elimination. (See: “The legal implications of the al-Awlaki assassination”.)

Holder referred to the joint congressional resolution, the Authorization for Use of Military Force, as the legal

justification for waging unprovoked and preemptive wars in Afghanistan, Iraq and any other country targeted by the US, and carrying out targeted assassinations and extrajudicial killings of alleged Al Qaeda-linked terrorists, including US citizens, anywhere in the world.

Passed on September 18, 2001, seven days after the September 11, 2001 terrorist attacks on New York and Washington, the resolution was at the time presented as narrowly focused against those in Al Qaeda and the Taliban directly responsible for 9/11. It was then repeatedly used first by the Bush administration and then the Obama White House to justify wholesale violations of both international and domestic laws, and to assert a pseudo-legal basis for indefinite detention without trial, the abduction and transfer of alleged terrorists for interrogation and torture in foreign countries (rendition), military tribunals, domestic spying, the maintenance of the concentration camp at Guantanamo, and other police-state measures.

“Because the United States is in an armed conflict,” Holder declared, “we are authorized to take action against enemy belligerents under international law... None of this is changed by the fact that we are not in a conventional war.”

In fact, the so-called global war on terror is a phony war, conjured up to provide an overarching political framework for a turn by the United States to unbridled militarism abroad and police-state measures domestically. Its geographical scope is the entire planet, its duration is unbounded, and its enemies are determined by the political exigencies of US imperialist foreign policy. Moreover, its initial justification, the events of 9/11, remain shrouded in mystery, including the apparent role of US intelligence and security agencies in facilitating the terrorist plot.

Holder spent the first portion of his speech extolling the success of domestic civilian courts in gaining convictions against alleged terrorists—most of whom were entrapped by federal undercover agents. He cited as an example the young Nigerian “underwear bomber,” Umar Farouk Abdulmutallab, who attempted to blow up an airplane as it approached Detroit Metro Airport in December 2009. Holder claimed Abdulmutallab told his interrogators that he was acting under instructions from al-Awlaki.

The promotion of the civilian court system as a weapon against terrorism was in response to demands from Republican as well as many Democratic members of Congress that all alleged terrorists be placed in military custody and either held without trial or brought before military commissions, rather than civilian courts.

The attorney general at the same time affirmed the Obama administration’s support for the drumhead military commissions set up at Guantanamo, implying that such extra-constitutional bodies were a permanent feature of US jurisprudence.

Holder placed no limits in time or space on those who might be targeted for murder by the White House. “Our legal authority is not limited to the battlefields in Afghanistan,” he said. He baldly asserted that the “war on terror” exempted the president from the 1975 executive order issued by President Gerald Ford banning assassinations.

He laid out the supposed guidelines to which the executive branch must adhere in deciding to kill alleged terrorists, stressing that “United States citizenship alone does not make such individuals immune from being targeted.” However, he insisted that such decisions are not subject to judicial review, meaning the executive branch has unilateral power to function as judge, jury and executioner of those targeted for extermination.

In this context, Holder made the astonishing assertion “‘Due process’ and ‘judicial process’ are not one and the same, particularly when it comes to national security. The Constitution guarantees due process, not judicial process.”

This means, in effect, that bedrock principles such as habeas corpus, the right to a trial, the right to face one’s accuser—in fact, the whole panoply of civil liberties laid down in the Bill of Rights is subject to revocation by a president wielding quasi-dictatorial

powers.

The American Civil Liberties Union (ACLU), which has sued to force the government to release classified documents related to the Awlaki assassination, issued a statement condemning the speech.

“While the speech is a gesture towards additional transparency,” Hina Shamsi, director of the ACLU’s National Security Project, said, “it is ultimately a defense of the government’s chillingly broad claimed authority to conduct targeted killings of civilians, including American citizens, far from any battlefield without judicial review or public scrutiny.”

The statement continued: “Few things are as dangerous to American liberty as the proposition that the government should be able to kill citizens anywhere in the world on the basis of legal standards and evidence that are never submitted to a court, either before or after the fact. Anyone willing to trust President Obama with the power to secretly declare an American citizen an enemy of the state and order his extrajudicial killing should ask whether they would be willing to trust the next president with that dangerous power.”

From the continuance of the prison camp at Guantanamo to the defense of torture, rendition, indefinite detention, domestic spying, secret prisons and state secrets, Obama has deepened the far-reaching attack on democratic rights and processes launched by his predecessor, George W. Bush. He has gone beyond Bush in ordering the assassination of US citizens and asserting his right to do so.

The Obama administration has sought to institutionalize the police-state measures that were initiated, in a somewhat ad hoc fashion, by Bush. Holder’s speech follows Obama’s signing of the National Defense Authorization Act of 2012, which allows alleged terrorists to be tried by the military and held indefinitely without trial. The current administration has worked to erect a more secure framework for the imposition of dictatorial forms of rule.



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