

# Obama's Post-Bin Laden Rules of War

Tonya Morton

If you're like me, you likely watched the TV news coverage on the night of the assassination of Osama Bin Laden with mixed feelings.

First, relief. It's nice to know there's one fewer man plotting the deaths of others. And who didn't hate having to be the annoying liberal the past ten years, when the topics of Afghanistan and Iraq inevitably arose, saying over and over again, "But how does this relate at all to September 11th and finding Bin Laden?" At least that conversation is over.

Second, concern. No one seems to be discussing whether we had a legal right to assassinate Bin Laden, and judging from the 24-hour news cycle, I'm not the only one thinking this may provoke some retaliation on the part of angry Al Qaeda sympathizers.

And third, has anyone suggested creating a drinking game based solely on news anchors' Obama/Osama name mix-ups?

But, after watching the uninformed speculation about Obama's speech, and then the slightly-more informed speculation about Obama's speech, and then Obama's speech, and then the post-speech speculation about the effect of Obama's speech, I turned off the television May 1st and crawled into bed with one question in mind: Now what? Not how will this cripple global terror networks, since every TV pundit has agreed now that Bin Laden was, at most, a figurehead of Al Qaeda the past few years, removed from the day-to-day operations of the organization; but rather, to what end will the Obama administration use this assassination? In a supreme moment of liberal goodwill, will Bin Laden's death finally provide the rationale to scale down the futile "war on terror," as it fumbles into its tenth year? Or, in an Orwellian victory for irrationality, will this be justification for greater aggression and military involvement overseas?

As anyone who follows politics knows, given the choice of a rational option and an irrational option, the US will always choose that which more closely resembles a video game.

**Or, in an Orwellian victory for irrationality, will this be justification for greater aggression and military involvement overseas?**



And so, four days after Bin Laden's body hit the water, the CIA, under the orders of the President, attempted to assassinate American citizen Anwar Al-Awlaki. Awlaki, who currently resides in Yemen, is unquestionably an American citizen. He was born in New Mexico in 1971, was raised in both Yemen and America, and received a Bachelor's degree in Civil Engineering from Colorado State University. The reason provided for his attempted assassination: Awlaki is a Muslim cleric, now affiliated with Al Qaeda, who reportedly had some contact with the Fort Hood shooter and also possibly the man who attempted the Christmas Day bombing a couple years ago. And last year, despite the fact that Awlaki hasn't been directly linked to any deaths, he was placed on the list of people singled out for "targeted killing" by this administration.

First of all, the fact that President Obama has a "kill list" of people he wants assassinated is pretty scary even before you consider that it contains the names of American citizens. The public has known that the list contains Awlaki's name, along with the names of at least two other Americans, for a year; and the response, needless to say, has been muted. Awlaki's father, represented by the ACLU and the Center for Constitutional Rights, brought suit against the government last year, requesting the removal of his son's name from the list. Unfortunately, the suit was dismissed on technicalities; but the judge admitted the case raised "stark, and perplexing, questions." Among these questions, of course, was the issue of whether the president could "order the assassination of a U.S. citizen without first affording him any form of judicial process whatsoever, based the mere assertion that he is a dangerous member of a terrorist organization."

Then on May 5th, with a predator drone attack, the president's authority to kill American citizens without a trial became less a theoretical question and more a frightening reality.

Now, the argument in favor of stopping Al-Awlaki can be quite compelling. He is affiliated with Al Qaeda. He has expressed support for men who kill innocent civilians, and he has provided religious justification, through his popular sermons, for his listeners to commit violent acts. It has even been suggested that, with the death of Bin Laden, Awlaki will rise to greater prominence in Al Qaeda, possibly to the point of taking over Bin Laden's operational role.

But all of that information still doesn't add up to a justification for murder. First of all, it isn't as though Awlaki is the only religious leader advocating violence against his enemies. In Uganda, Rev. Martin Ssempe, who in the past worked with President Bush on AIDS prevention and Pastor Rick Warren's Saddleback Church, is known as the "Kill-the-Gays" Pastor for a reason. His sermons have inspired numerous acts of violence against homosexuals. And yet he remains

alive. Here in America, Televangelist Pat Robertson still appears on TV even after has called for the assassination of Venezuelan President Hugo Chavez. The Reverend Fred Phelps and his followers openly pray for God to kill all the homosexuals with disease and/or earthquakes. And, in 2009, Arizona pastor Steven Anderson stated in a sermon that he prays for President Obama, the "socialist devil," to die and go to hell. You'd think if Obama really wanted to sic a predator drone on a religious leader, it'd be that guy.

But while the Bible may argue that thinking about adultery is as evil as committing adultery, and that wishing a man dead is as evil as actually killing him, the law does not. That is why Pat Robertson is free to advocate assassination and Rev. Fred Phelps can wish upon every star that all the gay people were dead. As long as they don't act on those hateful wishes, they remain innocent in the eyes of the law.

Of course, the argument could be made that, in addition to expressing verbal support for violence, Awlaki has conspired to commit violence—that he has aided people like the Fort Hood shooter in their intent to murder people. But "conspiracy to commit murder" is an offense to be proven before a jury, and this case has not been made in any court of law. No evidence has been provided to a judge; no jury has confirmed its veracity.

As anyone who took high school Civics knows, under the Fifth Amendment to the Constitution, "No person shall...be deprived of life, liberty, or property, without due process of law." An argument could be made that, while the Constitution is an American document, the rights it enumerates are universal—that we should grant Constitutional protections to every enemy we face; but even under the Bush-era philosophy that Constitutional rights are reserved only for American citizens, Awlaki has the right to a trial.

Even during the Civil War, when the fate of America was far more imperiled than it is now, certain practices of war were deemed incontrovertibly wrong. In Section 9, Article 148 of General Order 100, known as the Lieber Code, President Lincoln established that:

"The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government, an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such intentional outlawry; on the contrary, it abhors such outrage. The sternest retaliation should follow the murder committed in consequence of such proclamation, made by whatever authority."

In other words, even in a state of war, America does not label certain individuals as "outlaws" who can be killed at whim. So, what does it say about our current government that it would murder its own citizens without trial even when no war has been declared?

This is an act without legal precedence. While, admittedly, our country has done some terrible things over the years—let's not even get into the stuff we did in South America—the formal stance of our government has always favored a judicial approach to our enemies. In the wake of World War Two, when the fates of the Nazi leaders lay in our hands, we didn't merely line them up against a wall and shoot them. On the contrary, we held trials, we presented evidence, and we passed fair sentences. And those men were responsible for the deaths of millions. Is the argument of the current administration that Anwar Al-Awlaki is more evil than them?

When we captured the mastermind of the first bombing attempt at the World Trade Center, in 1993, responsible for six deaths and thousands of injuries, we didn't assassinate him. Though he wasn't an American citizen, he was given a trial, and he was sentenced to life in prison.

When we captured Timothy McVeigh, responsible for 168 deaths in the Oklahoma City bombing, we didn't just kill him. He was given a trial; evidence was presented against him and he was sentenced to execution by a jury.

Both Saddam Hussein and Slobodan Milosevic, leaders responsible for genocide and the torture and murder of their own people, faced a jury and were presented with the evidence against them.

So what's so special about Anwar Al-Awlaki, that he deserves an immediate death? The answer, it seems, is that—as of May 1st—you don't have to be "special" to die without trial anymore. In the wake of the assassination of Osama Bin Laden, a quick death just seems more efficient than a drawn-out trial. The thinking of the Obama administration seems to be that, since Americans were joyous at the extra-judicial killing of one Al Qaeda leader, and seemingly comfortable now with the attempted killing of a second, where's the barrier to further action? Congress will follow their constituents and the courts will refuse to step in. The question is not, is it Constitutional? The question is not, is it moral? The only question to ponder is: who's next?

*TONYA MORTON is a regular contributor to The Zephyr.*





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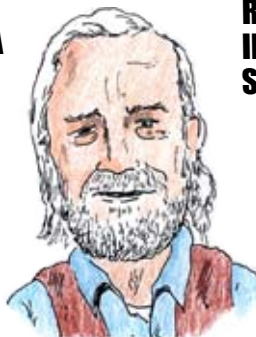
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