

The al-Awlaki Killing: Rights and Safety Blown to Smithereens

October 4, 2011

The killing of Anwar al-Awlaki in Yemen on Friday by a U.S. drone has elicited cheers from most mainstream politicians and pundits. Civil libertarians, however, have noted the terrible precedent this sets: here an American citizen has been targeted for assassination and executed solely on the say-so of the president, with no need to indict him, or present open evidence of his guilt. If the U.S. government had wanted to tap al-Awlaki's phone, judicial review would have been required. But killing him was totally up to the president.

As the A.C.L.U.'s deputy legal director stated, "this is a program under which American citizens far from any battlefield can be executed by their own government without judicial process, and on the basis of standards and evidence that are kept secret not just from the public, but from the courts."

To be sure, this was not a case like the killing of Osama bin Laden, where soldiers were on the ground and could have captured him alive without needing to put a bullet through his head if they hadn't been intent on executing him. Still, Obama's justification for the drone strike on al-Awlaki — that he is an enemy combatant and we're at war — is as expansive a claim of executive authority as any put forward by the Bush administration. If the "war on terror" lasts forever and the whole world is a combat zone, then Obama is asserting the unchecked right to serve as judge, jury, and executioner of every person on Earth.

One other aspect of this case has been less commented upon. Let's assume that al-Awlaki was in fact the "external operations chief" of Al Qaeda in the Arabian Peninsula, as President Obama publicly described him on Friday—for the first time; let us assume too that al-Awlaki was involved in operationally planning attacks in the United States — as government officials and the journalists to whom they've shown pieces of documents assert, though for which no evidence has been brought before a court, despite ample opportunity to do so. Granting these points, we still might ask how al-Awlaki became such a dangerous character.

There's much that is still unknown about his life and activities, but this account by *New York Times'* national security correspondent Scott Shane and co-author Souad Mekhennet from a year ago suggests the strong possibility that it was the excesses of "the war on terror" that led al-Awlaki to become a virulent proponent of violent jihad.

"In the weeks after the Sept. 11 attacks, the eloquent 30-year-old imam of a mosque outside Washington became a go-to Muslim cleric for reporters scrambling to explain Islam. He condemned the mass murder, invited television crews to follow him around and patiently explained the rituals of his religion.

"'We came here to build, not to destroy,' the cleric, Anwar al-Awlaki, said in a sermon. 'We are the bridge between Americans and one billion Muslims worldwide.'

"There are two conventional narratives of Mr. Awlaki's path to jihad. The first is his own: He was a nonviolent moderate until the United States attacked Muslims openly in Afghanistan and Iraq, covertly in Pakistan and Yemen, and even at home, by making targets of Muslims for raids and arrests. He merely followed the religious obligation to

defend his faith, he said.

"A contrasting version of Mr. Awlaki's story, explored though never confirmed by the national Sept. 11 commission, maintains that he was a secret agent of Al Qaeda starting well before the attacks, when three of the hijackers turned up at his mosques. By this account, all that has changed since then is that Mr. Awlaki has stopped hiding his true views.

"The tale that emerges from visits to his mosques, and interviews with two dozen people who knew him, is more complex and elusive.

"All along he remained a conservative, fundamentalist preacher who invariably started with a scriptural story from the seventh century and drew its personal or political lessons for today, a tradition called salafism, for the Salafs, or ancestors, the leaders of the earliest generations of Islam.

"Finally, after the Yemeni authorities, under American pressure, imprisoned him in 2006 and 2007, Mr. Awlaki seems to have hardened into a fully committed ideologist of jihad, condemning non-Muslims and cheerleading for slaughter."

Starting in 2000, al-Awlaki recorded a series of popular CDs on the life of Muhammad. These recordings "appear free of obvious radicalism."

There were various connections between al-Awlaki and Muslim extremists, but in the days after 9-11, the FBI interviewed him four times and found no basis to hold him. Some law enforcement officials and commission experts still think he may have been involved, but no evidence has ever been presented.

"As the American authorities rounded up Muslim men after 9/11, he had grown furious.

"After raids in March 2002 on Muslim institutions and community leaders in Virginia, Mr. Awlaki led a chorus of outrage, noting that some of the targets were widely viewed as moderates.

"'So this is not now a war on terrorism, we need to all be clear about this, this is a war on Muslims!' Mr. Awlaki declared, his voice shaking with anger. 'Not only is it happening worldwide, but it's happening right here in America that is claiming to be fighting this war for the sake of freedom.'"

In 2003, al-Awlaki was giving lectures in London urging his young followers never to believe a non-Muslim. In 2004, he moved to Yemen. Shane and Mekhennet explain what happened next:

"In mid-2006, after he intervened in a tribal dispute, Mr. Awlaki was imprisoned for 18 months by the Yemeni authorities. By his later account on his blog, he was in solitary confinement nearly the entire time and used it to study the Koran, to read literature (he

enjoyed Dickens but disliked Shakespeare) and eventually, when it was permitted, to study Islamic scholarship.

“Notably, he was enraptured by the works of Sayyid Qutb, an Egyptian whose time in the United States helped make him the father of the modern anti-Western jihadist movement in Islam.

“‘Because of the flowing style of Sayyid I would read between 100 and 150 pages a day,’ Mr. Awlaki wrote. ‘I would be so immersed with the author I would feel Sayyid was with me in my cell speaking to me directly.’

“Two F.B.I. agents questioned him in the Yemeni prison, and Mr. Awlaki blamed the United States for his prolonged incarceration. He was right; John D. Negroponte, then the director of national intelligence, told Yemeni officials that the United States did not object to his detention, according to American and Yemeni sources.

“But by the end of 2007, American officials, some of whom were disturbed at the imprisonment without charges of a United States citizen, signaled that they no longer insisted on Mr. Awlaki’s incarceration, and he was released.

“‘He was different after that — harder,’ said a Yemeni man who knows Mr. Awlaki well.”

Two points are especially noteworthy here. First, the U.S. lifted its insistence on al-Awlaki’s imprisonment in 2007, after they interrogated him, indicating that even at that late date there was nothing conclusive linking him to terrorism. Second, by al-Awlaki’s account he was in solitary confinement most of the time he was in prison. There is a large body of scientific literature documenting the extremely harmful psychological effects of being subjected to solitary confinement, for periods as short as ten days. (See [here](#) and [here](#) and [here](#).) One can only imagine the mental health consequences of nearly 18 months of solitary confinement.

The specific allegations that U.S. officials make about al-Awlaki — again, based on evidence never presented to a court — involve connections to the Fort Hood shooter, Nidal Malik Hasan; the failed “underwear” bomber, Umar Farouk Abdulmutallab; the failed Times Square bomber, Faisal Shahzad; and the cargo planes bomb plot. For some of these, al-Awlaki’s involvement may have been no more than providing inspiration, but in any event these were all *after* his 18-month imprisonment.

Obviously one is entitled to protect innocent civilians from unjustified attacks coming even from someone who has been provoked into a murderous rage, but one has to wonder about the sort of protection being provided by the “war on terror.” Given the number of people who have been tortured or imprisoned without charge, it seems likely that the “war on terror” is creating terrorist leaders faster than they are being killed.

And these policies are not just those of the former Bush administration. The ACLU recently reported that

“Torture and extraordinary rendition are no longer officially condoned. But most other policies—indefinite detention, targeted killing, trial by military commissions, warrantless surveillance, and racial profiling—remain core elements of our national security strategy today.”

And even Obama's improvement on torture and extraordinary rendition should not be overstated, as some torture still seems to be contracted out.

And then we're surprised that there's still terrorism.