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The CIA, Assassination, and the War on Terrorism

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In late July, the *New York Times* disclosed a secret plan by the CIA to assassinate suspected terrorists around the globe. According to the *Times*, the agency decided against implementing the plan, possibly because of the risk of being prosecuted for murder in countries in which the assassinations would take place.

Actually, it's not at all clear yet that the CIA is telling the truth about never having implemented its assassination program. After all, in November 2002, the CIA fired a missile into an automobile containing suspected al-Qaeda terrorists who were traveling in Yemen. The missile killed everyone in the car, including an American citizen named Ahmed Hijazi.

How did the CIA justify its Yemen assassination? The rationale has become a familiar one: since the United States is at war with the terrorists, it has the authority to kill suspected terrorists wherever it finds them. In the war on terrorism, as U.S. officials have reminded us so often, the entire world is a battlefield.

However, the fact is that terrorism is a crime. Everyone, including federal prosecutors and federal judges, will acknowledge that. It is denominated a crime in the federal criminal code. Accused terrorists are indicted by a federal grand jury and put on trial in a federal district court. They have included Zacarias Moussaoui, Jose Padilla, Ramzi Yousef, Timothy McVeigh, and many others.

So, if terrorism is a crime, how is it that the CIA assassinated people traveling in a car in Yemen? As suspected criminals, why weren't the occupants in the car entitled to be arrested and extradited to the United States for trial rather than being assassinated?

The answer lies in a radical action taken by President George W. Bush in the immediate aftermath of the 9/11 attacks. Without even the semblance of a constitutional amendment or an act of Congress, he simply declared that henceforth U.S. officials would treat terrorism as either a criminal offense or an act of war, at their option.

Thus, some suspected terrorists are treated as criminal defendants, which means that they are accorded the procedural protections provided by the Bill of Rights.

Other suspected terrorists are not so fortunate. They are treated as illegal enemy combatants and denied the protections of the Bill of Rights. Suspected terrorists in this group are also subjected to such things as torture, kangaroo tribunals, and lifetime incarceration, even in the unlikely event that a tribunal acquits them of all charges.

Bush's war-on-terrorism paradigm obviously provides another way to treat suspected terrorists — simply by killing them. No arrests, no Miranda warnings, no presumption of innocence, no attorneys, no trials, and no other messy procedures associated with the criminal-justice system. Not even incarceration in a military dungeon, torture, or trial before a kangaroo tribunal.

Instead, just have the CIA assassinate them.

The whole thing brings to mind the movie *Star Chamber*, starring Michael Douglas and Hal Holbrook, which came out in 1983. The movie was about a group of judges who had grown sick and tired of suspected criminals' getting set free on procedural "technicalities." So they simply formed their own assassination team, which took out the suspected criminals.

America: part of the battlefield

While government officials have chafed against the restrictions in the Bill of Rights ever since it was adopted, they have never been able to ignore them, thanks to criminal defense attorneys and an independent federal judiciary willing to enforce such provisions ... until, that is, federal officials figured out a way to do so under the regime of George W. Bush. By simply declaring a "war on terrorism" and announcing that this federal crime would now also be treated as an act of war, the executive branch has been able to completely ignore the Bill of Rights where this particular crime — terrorism — is concerned. It would be difficult to find a more perfect and ingenious scheme for circumventing the Bill of Rights for what everyone acknowledges is a federal criminal offense.

Keep in mind that in criminal proceedings a trial determines whether the state has provided sufficient evidence to convince a jury or judge beyond a reasonable doubt that the defendant is guilty of the offense. In the war on terrorism, there is no trial, and the CIA is free to assassinate anyone it wants, so long as CIA agents believe that the target is a suspected terrorist.

One presumption in all this is that the CIA will be assassinating only foreigners in foreign lands, which some Americans might find comforting. "They're protecting us from our enemies," the

sentiment might be. Or, as the CIA might put it, “We’re doing what’s necessary to protect the national security of our country.”

But there is a basic problem here. As U.S. officials have often reminded us, in the war on terrorism the entire world is a battlefield. That includes the fact that the United States is part of that worldwide battlefield. It also includes the possibility that American citizens can be terrorists.

That’s in fact why the CIA treated a foreign citizen — Ali al-Marri — and an American citizen — Jose Padilla — as illegal enemy combatants and transferred both of them into military custody, notwithstanding the fact that both of them had been arrested by federal law-enforcement personnel in the United States. The idea was that both of them were suspected of having committed terrorist acts and, therefore, were subject to being treated as enemy combatants in the war on terrorism, at the option of the government.

Even though federal officials later treated Padilla as a criminal defendant instead, indicting him for the federal crime of terrorism, that was after he had spent three years in prison as an illegal enemy combatant in the war on terrorism. During those three years, he was subjected to torture, sensory deprivation, denial of counsel (until the federal courts ordered otherwise), isolation, and the prospect of spending the rest of his life in a military dungeon.

But at least Padilla was alive. The disquieting fact is that under the war on terrorism, the CIA wields the same authority to do to him what it did to the American traveling in the car in Yemen — simply take him out through assassination. After all, what difference does it make whether a suspected terrorist is traveling in Yemen or in the United States, given that in the war on terrorism the entire world is a battlefield? In fact, couldn’t one make the case that an American terrorist in the United States is much more dangerous than an American terrorist traveling in Yemen?

Operation Condor

The CIA’s assassination scheme brings to mind Operation Condor, a worldwide political program of repression and assassination led in the 1970s by Chilean military strongman Augusto Pinochet’s intelligence agency, which was known as DINA. It shouldn’t surprise anyone that Operation Condor had the support and cooperation of the CIA.

Operation Condor bears some similarities to the manner in which the CIA has waged the war on terrorism. DINA took countless people into custody, tortured them, killed them, “disappeared” them, or held them indefinitely in dark dungeons. Of course, back then it was the war on communism, rather than the war on terrorism, that was used to justify these extraordinary measures.

It is no surprise that Operation Condor also employed assassination as one of its primary tools. DINA agents did not only assassinate domestic people suspected of being communists, it also sent its agents abroad to assassinate people, just as the CIA has done in the war on terrorism.

DINA officials viewed the situation the same way that U.S. officials view the war on terrorism today: in the war on communism, the entire world was a battlefield and the enemy was subject to being killed wherever they could find him.

Needless to say, the battlefield in the war on communism included the United States, just as it is part of the battlefield in the global war on terrorism. One day, DINA agents, led by a man with CIA ties, Michael Townley, assassinated a Chilean citizen named Orlando Letelier on the streets of Washington, D.C. The assassination was carried out with a car bomb. Also killed in the attack was an American citizen named Ronni Moffitt, Letelier's assistant.

Why did DINA agents assassinate Letelier? Because DINA officials believed that he was a communist. He had served in the socialist Salvador Allende regime, which had been ousted from power by Pinochet in a military coup (a coup that had the approval of U.S. officials, including those in the CIA). After the coup and after having been tortured by Pinochet's henchmen for about a year, Letelier was released. He moved to Washington, where he lobbied against the Pinochet regime. Thus, in the eyes of Operation Condor, Letelier not only was a communist, he also constituted a danger to the Pinochet regime.

What was the difference between DINA's assassination of Letelier and Moffitt, on the one hand, and the CIA's assassination of the people traveling in that car in Yemen? In principle, there isn't any. In Yemen, the CIA assassinated people it believed were terrorists, including an American citizen. In Washington, DINA assassinated people it believed were communists, including an American citizen.

A federal grand jury in Washington, however, apparently didn't endorse the war-on-communism paradigm for justifying assassination. It indicted Townley and his group of anti-Castro Cubans who were accused of helping him to plant the car bomb. Townley was given a plea bargain that enabled him to testify against his underlings and that ultimately permitted him to live the rest of his life somewhere in the United States under the Federal Witness Protection Program.

Other assassinations

An interesting and revealing part of the Pinochet coup involved a young American journalist named Charles Horman, who was murdered during the coup. The killing was made famous in the 1982 movie *Missing*, which starred Jack Lemmon and Sissy Spacek. For years the CIA denied involvement in the Horman murder. In 1999, however, the State Department released a document acknowledging that the CIA had played "a role" in the killing.

What role precisely? We don't know. Don't forget that this is the CIA we're talking about. Despite the State Department's open acknowledgement that the CIA had participated in the murder of an American citizen, there was no special prosecutor appointed and there were no grand jury investigations or indictments. The CIA has been permitted to get away with participating in a murder, the murder of an American citizen, no questions asked.

Of course, the CIA's history of assassination goes back further than the war on terrorism and Operation Condor. There was a CIA scheme to assassinate Cuban president Fidel Castro. That operation involved a partnership between the CIA and the Mafia, a criminal organization that itself is famous for its many murders. There was also a CIA scheme to assassinate Congo leader Patrice Lumumba by providing him with a toothbrush carrying a deadly disease. We also shouldn't forget the CIA's use of LSD and other drugs in the 1960s on American citizens without their knowledge or consent, which led to at least two deaths.

Is the existence of the CIA consistent with the principles of a free society and a limited-government republic? With its willingness to assassinate on order, the answer clearly has to be no. It's high time that the American people dismantled this dangerous threat to democracy, freedom, and limited government.