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## "The CIA Hit List": Muslim Men to be Murdered as "Threats to the US" Against the Killing of Anwar al-Aulaqi

by J. B. Gerald



You delight in laying down laws  
Yet you delight more in breaking them  
Khalil Gibran

## First

"The CIA Hit List" is a media term for selected Muslim men to be murdered as threats to the United States. As President, Bush used the phrase for his list of "terrorist" suspects when the policy was first made public mid-December 2002. Names on the "hit list" surface, then recede so it is hard to be sure who is current. (1)

The Bush announcement, aware of prohibitions against assassinations in the executive orders of former presidents, designated the suspects as "enemy combatants" to avoid a direct confrontation with the laws of war (LOW) aka laws of armed conflicts (LOAC), which are binding on the U.S.(2). Media reports of Dennis Blair, the Director of National Intelligence, in testimony to the House Intelligence Committee February 3, 2010, make no mention of "enemy combatants" when he reserves the right to include American citizens as targets for murder.(3) Then on April 6, 2010 a spokesman for the intelligence community announced that Anwar al-Aulaqi, a Muslim cleric and American citizen is added to the CIA hit list.(4) The imam is known for his statements of faith on the internet. Because he is an American citizen Presidential approval was required for the death command. But more importantly, al-Aulaqi is a civilian.

To quote the International Covenant on Civil and Political Rights,(5) signed and ratified by the U.S. and now part of the Laws of War,(6)

"In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

"When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide." (ICCPR, Part III Article 6, #2, & 3).

Assassination of anyone is expressly forbidden in the Laws of War (Law of Land Warfare, Section 2, #31). Because this addresses State policies so clearly, both Presidents Ford and Reagan issued executive orders forbidding assassination. President Reagan's Executive Order 12333 (Dec. 4, 1981) states: "Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination" (Section 2.11). "Indirect participation is forbidden as well"(Section 2.12).(7) An attempt to counter the Executive order was proposed through legislation ( H.R. 19: Terrorist Elimination Act of 2001) which failed and again in 2003 which failed. This order remains in effect. As customary law it can't be superseded as law for executive convenience. Germany's Third Reich, for example, evolved convenient laws to strip Jews of the right to own property or work.(8) At liberation those "laws" were recognized as simply tactics of the genocide.

It is the declared policy of the the Department of Defense to "comply with the law of war."(9)

## **Anwar al-Aulaqi**

Al-Aulaqi is a devout Muslim, born in and educated in the U.S.. He and his father, a former Minister of Agriculture in Yemen, say he isn't connected to al-Qaeda. Imam successively of three mosques in the U.S. he was arrested by the FBI in 2006 and released after they found no ties to al-Qaeda. He was on the Army's targeted list and target of a Yemeni / U.S. intelligence air strike on the house where he was supposed to be, killing thirty people.(10) It was against the law to target him, either as a civilian, or as an imam (chaplains are considered medical personnel).(11) It is a war crime to target a non-combatant under any circumstances. It was also against the law to kill thirty more Muslim civilians in a non-war zone.(12)

The U.S. considers al-Aulaqi an inspirational threat, "dangerous" since both Major Hassan, the Army psychiatrist who killed personnel at his station, and an alleged Nigerian attempted "bomber" of a Detroit bound plane, are said to have been influenced by his thinking. There are others. While there is extreme carelessness in assuming al-Aulaqi ordered crimes of violence, Dennis Blair, U.S. director of National Intelligence, has insisted that the intelligence community is "not careless" in killing Americans abroad.(13)

Al-Aulaqi is said to believe in a jihad against the U.S. in response to its war against Islam and Muslim people. There is evidence that the U.S. really is conducting a war against Islam. News sources quote al-Aulaqi as saying "I have come to the conclusion that jihad against America is a duty for me, as for every Muslim who can do it." A broad term, "jihad" does not specify violence or armed action, financial war as Libyan president Gaddafi recently announced against the Swiss, or a battle of cultures. Is it a crime for an imam to approve of jihad? Was the U.S. Civil Rights Movement song "You gotta do what the spirit say do" a death penalty offense? If al-Aulaqi bears arms or counsels others to bear arms against the U.S., then under U.S. law he has committed a serious crime. There is little specific evidence presented the public that al-Aulaqi has. He is a civilian entitled to a fair trial in civilian court. Within a military context, as a cleric he is a non-combatant. It is in all cases against the laws of war to target a non-combatant.(14)

The SITE Intelligence Group which monitors Islamic web sites and provides information to field forces and U.S. Defense agencies, brought to the public's attention al-Aulaqi's anti-American and pro jihadist statements on March 19, 2010. SITE's co-founder was the primary Canadian government witness, web-expert and translator at the recent Quebec trial of Said Namouh,(15) a Muslim from Morocco, arrested and sentenced to life in prison for conspiring to plant bombs in Austria. Namouh committed no act of violence. His computer hard drive, emails and web postings were culled by the witness, for "jihadist" materials which transformed him into an al-Qaeda "propagandist." SITE is an activist company with an agenda. The co-founder is an Israeli who has served in the IDF, and is a Zionist, with a parent hung by Iraq as an Israeli spy. Blackwater, infamous for its murder of civilians, lists SITE as an invaluable resource, and this private company-for-profit / intelligence group receives half a million dollars a year from the U.S. tax free. By selecting for its web site(16) instances of violent resistance from among the world's 1.6 billion Muslims, with statements of imams who protest the slaughters that other moral people don't dare protest openly, SITE offers, I think, something other than an impartial witnessing or presentation. Instances of 'web-terrorism' by extremists, are used for the political purposes of those who would wage war on Islam.

Al-Aulaqi is faulted for his associations with known "terrorists" and he is faulted for honest religious statements. The first implies guilt by association while it is the duty of clerics and chaplains to be open to those who seek them out. As for the honesty of al-Aulaqi's religious statements, the freedom to express these is guaranteed under U.S. law. Both the Constitution and American culture historically affirm both al-Aulaqi's religious freedom and his freedom of speech. It is extreme to sacrifice these for any government agenda, particularly a "war on terrorism." His freedom to think, believe, express thoughts / beliefs is furthered by international covenants, treaties, the laws of all advancing countries. Because a cleric states moral truths common to Judaism, Christianity, and ethics, a criminal U.S. policy finds itself threatened tactically as well as morally. If U.S. policy asks the American public and people of the world to accept rule by murder it should listen more closely to the morality of others. With no comfortable reason to arrest and try him, Anwar al-Aulaqi is to be murdered as an "inspirational" threat. In the case of each target on the CIA Hit List, extra judicial murder is a crime against humanity with no statute of limitations.

### **Public acceptance**

It is an inappropriate response to murder people for hating America, especially as U.S. policy continues illegal massacres of civilians by drone attacks, aggressive military actions in civilian sectors, destruction of the infra-structures and the entire cultural fabric of victim societies. Current President Obama was elected to end the U.S. aggressive wars. It would be an appropriate response to change the policy.

Public understanding of what it means to murder people because they inspire others, is thoroughly buffered by context: since 1990 in Iraq millions of Iraqi Muslim civilians have been killed, mothers, fathers, children, who showed no ill will against America. That is partly what an "illegal war" means. Thousands of "combatants" and civilians were arrested in both Iraq and Afghanistan, clearly deprived of Geneva Convention rights in the instance of Guantanamo, tortured and detained under such extreme conditions their captors are liable for judgement under the laws of war and covenants for peace. Stripping a religiously defined enemy of human rights was a step toward this public call for murder by command. The order seems media-normal amidst a policy of war crimes against peoples who are Muslim.

Americans are aware that the "CIA hit list" has been there a long time. Usually the crimes of power are covert. Evidence of CIA sponsored or executed extra judicial killing was apparent in U.S. policy operations against Lumumba, Castro, Allende,(17) among others. The operations of death squads throughout the Americas, a mode of operation consistently traced to the US School of the Americas, simply covered military operations. The threat behind CIA gathering the thousands of names of radicals, leftists, communists, dissidents, union leaders and organizers in every country where U.S. has corporate interests surfaced in Indonesia of 1965, as one example, with the military murder of over half a million "Communists" from lists provided the Indonesian military by the CIA.(18)

Openly marking al-Aulaqi for death because he is an "inspirational" threat, clarifies the deaths of other religious or "inspirational" leaders who faulted U.S. policies. El Salvador's Archbishop

Oscar Romero ("I beseech you, I beg you, I order you, in the name of God, to stop the repression!") was murdered by an intelligence operation on March 24, 1980 while he was celebrating mass at a hospital. The murder is traced to Roberto D'Aubuisson, trained by the U.S. in security and intelligence (New York and Virginia 1971) and in communications (the School of the Americas, 1972). On December 2, 1980, two Maryknoll sisters and two Ursuline sisters, were raped and murdered by the Salvadoran military covered by U.S. officials. The Sisters were Americans working for the Catholic Relief Services. Their names were Dorothy Kazel, Ita Ford, Jean Donovan, Maura Clarke.(19) On Nov. 16, 1989, six Jesuit priests, a cook and her daughter, were murdered by a "death squad," a euphemism for regular operations of ANSESAL and the military. Ignacio Ellacuria was rector of the university, Ignacio Martin-Baró vice rector, Segundo Montes a professor, Arnando López a professor, Juan Ramón Moreno a program director, - all five born in Spain, and Joaquin López y López director of a humanitarian assistance program, Julia Elba Ramos a cook, her 15 year old daughter Cecilia Ramos were shot between two and three in the morning.(20) El Salvador's Truth Commission found responsibility lay with named upper level officers of El Salvador's U.S. supported military, and "businessmen."(21) The victims' inspirational crime was supporting the poor. The murders of those well known are moments in a sea of blood. From "death squad" and overt military rule in the Americas since the Sixties, the perpetrators of the crimes have been identified and in some cases prosecuted, often not, but the CIA programs remain unmentioned, the context of US policy and agenda protected. The US operatives, the diplomats, the conduits of funding to the death squads and client governments effecting the policy remain untouched even when names and responsibility are known.(22)

The covert claim to absolute power over citizens of other countries, is now familiar enough for the CIA to allow surfacing of its hit list, not a new policy but the overt continuation of an old policy. It is publicly claiming the right of the American government to murder anyone.

## **U.S. Military Law**

The words "capture or killing" puts the crime in the language of war, although military law is in fact particularly careful about who can be targeted.(23)

Military law is also entirely aware of Nuremberg and the uselessness of "I was just obeying orders" defense. Military law is codified in the Uniform Code of Military Justice which is federal U.S. law for those in the service or working with the military.

The US Military Uniform Code of Justice states it is the soldier's duty to obey a lawful order. Refusal in wartime can mean the death penalty.(24) But repeatedly the UCMJ reads, a "lawful order" must be obeyed. Which means to a rational mind that an unlawful order does not. The UCMJ itself offers little guidance about where to draw the line between an unlawful order and a lawful one, other than the obvious. Because the obvious is not spelled out it is no less obvious. Recent military law attempts to place determination of the lawfulness of the order, with a military court judge.(25) It is not likely to end there. The military court is increasingly responsible to the Law of War, and the War Crimes Act of 1996 allows military personnel to be charged in federal (civilian) court for "grave breaches of the Geneva Conventions" among other crimes.(26) And in areas under its domain the International Criminal Court doesn't require accession to the ICC court, to prosecute.

Because the U.S. military now serves in regions which involve crimes of command such as aggression, the judicial arm of the military is increasingly concerned with international law. Current Department of Defense manuals on the law of war, advise judge advocates of not only the Geneva Conventions signed by the U.S. but the Optional Protocols, unsigned but which have become customary law, and applicable.(27) While disobeying an unlawful order is a dangerous decision, it is a recognized alternative, there because it is necessary.

The Uniform Code of Military Justice steers questions of right and wrong to its Punative Articles dealing with crimes against the military system, including crimes one finds in civilian courts - drunken driving, rape, manslaughter, etc.. The UCMJ avoids direct interface from within with the Geneva Conventions and the Laws of War / Laws of Armed Conflict (LOW & LOAC), except notably in Article 18 which gives court martial the right to try war crimes. This would include breaches of the Geneva Conventions and other Laws of War.(28) By application of Geneva Conventions and the other instruments of international law which military courts must consider, a war crime (or "crime against humanity" if part of an agenda or series of war crimes), is prosecutable. Anyone ordering a war crime is issuing a "patently unlawful order".

Ordering extra-judicial killing of possibly eight or nine Muslim men, and in particular the cleric Al-Aulaqi, the U.S. finds itself using a mechanism of the German Nazis in preparing Germany's home front for war: the dehumanization of a religious and ethnic group. Extreme deprivations of human rights is dehumanization. Dehumanization is always a requisite for mass murder and genocide, and reveals its pre-meditated intention.(29)

What is unacceptable about ordering the killing or capture of al-Aulaqi is not simply that he is an American citizen but that he is a Muslim of a group suffering a series of war crimes. More profoundly he's an innocent human being until proven guilty. The repetitiveness of war crimes against so many Muslim people moves the entire area of individual crimes against Muslims into a crime against humanity. It continues a progression depriving people of their rights and getting away with it because they are Muslims, even when they are Americans, and as such bear some responsibility for the crime. Psychologically this drives a targeted group to opposition.

The engineering of sides in this "war" of corporate military acquisition is attempting genocide.(30) The targeted victim group among others, has a moral right to resist. Survival is its human right. U.S. policy and media perception management have dehumanized large groups of Muslims by illegal mass slaughters in the wars on Iraq and Afghanistan, the denial of long standing human rights to prisoners / suspects, so the legal rights of Muslims in vulnerable areas are removed. Al-Aulaqi's rights have been removed because of his beliefs.

Increasingly human rights form the matrix of a functioning society. International laws and the laws of progressive countries reflect this. In the U.S. the new Law of War Documentary Supplement to the Law of War Handbook (2008) intended for judge advocates, begins to write into U.S. military judicial code international law far in advance of U.S. domestic law. Customary laws accepted by many nations are becoming conventional (codified) law. There is at least a practical understanding that where military decisions exclude humanity they lose the good faith necessary to laws of war that protect both sides.



The interface of Public International Law (law of armed conflict and international covenants, conventions and treaties binding on every nation) with the U.S. military justice system suggests eventual radical change. The interface is also in place within Canadian Law, but at this point rarely active. In both instances, application of international law within a domestic context limits capitalism by limiting the ugliest means of imposing power. Possibly for this reason corporately controlled politicians criminalize the U.S. military with wars of aggression.

## **Refusal**

There is a history of men and women trying to explain to power that you can't kill faith, or ideas, a sense of justice, a hunger for the good. The ancient cultures from Indo-Europe and Persia are highly civilized. Resistance survives. It isn't simply the resistance of Islam, or an interpretation of the Koran, or a sect. The need is for freedom to follow one's way. It is the survival of faith, of the early Christians in Rome, of Toussaint L'Overture, of Louis Riel, the refusals of the Warsaw ghetto, of Ho Chi Min, of Jean Moulin, John Brown and Thoreau, of Beauregard as well, of Simon Bolivar, Fidel, of a revolution America has dreamed of. Among the thousands on thousand moments in history when the arrogance of oppression overwhelms its respect for life, there is resistance.

By placing a Muslim American within its realm of slaughter, simply for stating his beliefs and suggesting they are worth dying for, this U.S. Policy breaks faith with humanity. Americans have already lived through the murders of so many of our own religious leaders. Dr. Martin Luther King Jr.(31) was only an American. His freedom of thought and faith became a threat to government waging war in Vietnam. An "inspirational" threat. Malcolm X was only an American, an inspirational threat and visionary. There were so many unexplained unjustified deaths of Americans through the Sixties, men and women of good name or nameless, who believed in humanity. Some wore the uniform. The crime proposed against Anwar al-Aulaqi is part of a much larger American crime that remains unacceptable and leaves no family untouched.

The concern isn't only the order to kill Anwar al-Aulaqi, which I believe is a patently illegal order. (32) A U.S. policy of "war" has created a norm of unjustified killings. The victims are often innocent and unforgettable. The policy places those in the military and related services, the CIA, the contractors, people who are "just following orders," outside a human community and beyond the protections of law. With any concern for human life the order should be cancelled.

## **Notes**

1 Philip Gerardi, "Deep Background: Assassinating Americans"(March 28, 2010), Global Research News. Gerardi indicates the name of another American on the hit list, Adam Perlman (Adam Yahye Gadahn). A Jewish Christian from the West coast, convert to Islam at 17, he is considered an aide to Bin Laden, a "propagandist" encouraging Pakistani fundamentalists.

2 United States Constitution. Article VI (2). "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land..."

3 Andrew Buncombe, "Bush gives CIA 'hit list' of senior terrorists" (Dec. 16, 2002),

Independent.

- 4 Greg Miller, "Muslim cleric Aulaqi is 1st U.S. citizen on list of those CIA is allowed to kill" (April 7, 2010), Washington Post.
- 5 "International Covenant on Civil and Political Rights" (Dec. 16, 1966), United Nations Treaty Collection on the Internet. This is currently included in Law of War Documentary Supplement (2009), International and Operational Law Department, The Judge Advocate General's Legal Center and School.
- 6 Laws of War Handbook 2005, International and Operational Law Department, The Judge Advocate General's Legal Center and School [access:< <http://www.jagcnet.army.mil> >].
- 7 Elizabeth Bazan, "Assassination Ban and E.O. 12333: a Brief summary" (Jan. 4, 2002), CRS Report for Congress.
- 8 The Black Book: the Nazi Crime Against the Jewish People ( New York, Nexus Press, 1981),. pp. 89-110.
- 9 "The Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized, and, unless otherwise directed by competent authorities, the US Armed Forces will comply with the principles and spirit of the law of war during all other operations." Chairman of the Joint Chiefs of Staff Instruction, CJCSI 5810.01B (25 March 2002).
- 10 Andy Soltis, "'Fort Hood' Imam blown up: Yemen" (Dec. 25, 2009), New York Post. In fact, Al-Aulaqi survived. A previous AP report notes Aulaqi's wife and 5 children were with him at an unknown location: Ahmed al-Haj & Donna Abu-Nasr, "US imam who communicated with Fort Hood suspect wanted in Yemen on terror suspicions" (Nov. 11, 2009), San Francisco Examiner.
- 11 Chapter 7, "Means and Methods of Warfare," Section 3, B, 2, C,c., Laws of War Handbook 2005.
- 12 Section 3, B, 2, a, Ibid..
- 13 "Obama Administration Approves Killing Americans Abroad" (April 5, 2010), allgov.com.
- 14 Section 3, B, 2, Laws of War Handbook 2005.
- 15 J.B.Gerald, "suppressed news," Night's Lantern [access:< <http://www.nightslantern.ca/bulletin.htm#namouh> >].
- 16 Site Intelligence Group [access:< <http://www.siteintelgroup.org/> >].
- 17 David Pallister, "Leaders on the CIA's hit list" (March 21, 2010), The Guardian.
- 18 David Ransom, "Ford Country: Building an Elite for Indonesia," The Trojan Horse: A Radical Look at Foreign Aid (Palo Alto, Ca: Ramparts Press, 1975 revised edition), pp. 93-116 [access:< <http://www.cia-on-campus.org/internat/indo.html> >]. See also my "Essay on State Terrorism" (1991) Night's Lantern [access:< <http://nightslantern.ca/essay.htm> >].
- 19 "Dorothy Kazel," Wikipedia.
- 20 Lee Hockstader and Douglas Farah , "6 Priests, 2 others slain in San Salvador" (Nov. 17, 1989), Washington Post Foreign Service.
- 21 "Illustrative case: the Murders of the Jesuit Priests," Report of the UN Truth Commission on El Salvador (March 15, 1993), pp. 45-54.
- 22 Leads for verification: Ralph McGehee, "CIA Support of Death Squads," serendipity.li. Serendipity carries an extensive CIA research database.
- 23 See Chapter 7, "Means and Methods of Warfare," Laws of War Handbook 2005, passim.
- 24 Article 90. 2, and Article 92, Uniform Code of Military Justice [access:< <http://www.au.af.mil/au/awc/awcgate/ucmj.htm> >].
- 25 18 U.S.C.5 2441 and amended 1997.Laws of War Handbook 2005, p.223.



- 26 A recent clarification: "Preface," Manual for Courts-Martial United States (2008 edition), Joint Service Committee for Military Justice. USAPD, Unclassified PIN 030567-000.
- 27 Ibid..
- 28 Ibid..
- 29 U.S. ratification of the Convention on Genocide and its subsequent policy stress the necessity of "intention" for its definition of genocide to be committed. Realistically, the definition of "intent" remains subject to the interpretation of an international court.
- 30 See J.B.Gerald, "When the 'War on Terror' Becomes Genocide"(2010) [access:< <http://nightslantern.ca/gw.htm> >].
- 31 To consider the murder of Dr. Martin Luther King Jr. (and others) within context of a U.S. covert (military related) operation, see J.B.Gerald, "Essay on State Terrorism" (1991) [access:< <http://nightslantern.ca/essay.htm> >].
- 32 Article 90, "Explanation," 2, a, i, UCMY, Manual for Court Martial United States (2008 edition) [access:< <http://www.jag.navy.mil/documents/mcm2008.pdf> >]. See also Article 89 "Explanation" (5) and Article 92, *ibid.*.