

Opinion

## Interrogate or kill? It's up to Obama

Saturday, February 27, 2010

By Nat Hentoff, columnist

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On Sept. 14 in Somalia, Saleh Ali Saleh Nabhan, a long-sought link between al-Qaida and its East African allies, was in a vehicle bombed by a helicopter flying from an American ship off the Somali coast. As Karen DeYoung and Joby Warrick reported in a front-page Washington Post story — "Under Obama, more targeted killings than captures in counterterrorism efforts" (Feb. 13) — another U.S. helicopter "set down long enough for troops to scoop up enough of (Nabhan's) remains for DNA verification."

That news story offered a telling consequence: "the opportunity to interrogate one of the most wanted U.S. terrorism targets was gone forever." And a senior military officer, careful not to give his name, lamented: "We wanted to take a prisoner. It was not a decision that we made."

That decision came from Obama, our commander in chief, who, as I've previously reported, has authorized in his first year more such assassinations than Bush and Cheney in their last years. The result, as the Washington Post noted, "has been dozens of targeted killings and no reports of high-value detentions."

After all, there can be no fierce arguments about whether a charred corpse should be tried in a federal civilian court or by a military commission. Some American citizens, believed to be highly connected to al-Qaida or its affiliates, are also on these "hit" lists. In Pakistan and Afghanistan, pilotless U.S. drone planes have perpetrated these assassinations.

These are highly classified operations, but thanks to the First Amendment, an increasing number of these summary executions have been revealed in the Washington Post and on the Internet. There have already been probing, through unanswered questions, from the ACLU, human rights groups and other constitutionalists about this corollary damage to such an anchor of our rule of law as the separation of powers when the executive branch alone decides who shall die instantly rather than having been permitted time-consuming and costly due process of law. And there are no defense attorneys to raise objections, even when an American citizen is marked for oblivion.

Resistance to these terminal operations — which often inadvertently but effectively end the lives of innocent civilians — intensified in February when a high-ranking American official at last confirmed that targeted assassination is a legitimate American way of self-defense.

During a Feb. 3 hearing before the House Intelligence Committee, Director of National Intelligence Dennis Blair testified that the U.S. intelligence community, when dealing with direct terrorist threats to the United States, does "take direct action against terrorists" (Washington Post, Feb. 4).

And "if we think that direct action will involve killing an American, we get specific permission to do that." Blair — sensitive to the Obama administration's delicate use of language in these matters — did not use the word "assassinations," but the message was lethal enough.

Glenn Greenwald, a former constitutional lawyer turned news analyst, avoids euphemisms. "Special permissions" without judicial authorization, says Greenwald, amounts to "basically giving the president the power to impose death sentences on his own citizens without any charges or trial" (Salon.com, Feb. 4).

Focusing on American targets, Ben Wizner, a staff attorney of the ACLU National Security Project, in a Feb. 4 press release emphasizes: "It is alarming to hear that the Obama administration is asserting that the president can authorize the assassination of Americans abroad, even if they are far from any battlefield and may have never taken up arms against the U.S., but have only been deemed to constitute an unspecified 'threat.'"

I would add that if the threat has indeed been specified, the deceased target will have had no chance to test its accuracy. Is this America?

Wizner continues with an especially pertinent point. On what basis in our rule of law or by congressional statute do Obama — or George W. Bush before him — justify these killings? Wizner explains:

"This is the most recent consequence of a troublingly overbroad interpretation of Congress's 2001 Authorization for the Use of Military Force. This sweeping interpretation envisions a war that knows no borders or definable time limits and targets an enemy that the government has refused to define in public. This policy is particularly troubling since it targets U.S. citizens, who retain their constitutional right to due process even when abroad."

Adds Jonathan Manes, legal fellow with the ACLU National Security Project: "While there is little doubt that a U.S. citizen fighting for an enemy army could lawfully be killed on the battlefield in the course of fighting, this policy goes far beyond the ordinary parameters of battlefield combat."

Does President Obama agree with George W. Bush's first attorney general, John Ashcroft, that America, along with the rest of the world, is the battlefield for extra-judicial action against terrorism suspects, including Americans? And the silent Obama avoids any responsibility for the growing number of innocent civilians killed by the insistently growing number of strikes by our pilotless drones.

Next week: Penetrating questions to the Obama administration in an ACLU Freedom of Information Act Request filed on Jan. 13. When will members of Congress also ask these questions? And how about we, the people, getting involved in finding out whether some of these killings committed in our name are -- by our own laws and international treaties -- actual war crimes? Where is our chief law enforcement officer, Attorney General Eric Holder, Republican leaders and the Tea Party legions opposed to boundless big government?

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