

By Glenn Greenwald

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If the Obama administration identifies suspects in the consulate attack, should they simply be killed without a trial?



Libyans walk on the grounds of the gutted US consulate in Benghazi, Libya, after an attack that killed four Americans, including Ambassador Chris Stevens. Photograph: Ibrahim Alaguri/AP

(updated below - Update II)

Ever since the attack on the US consulate in Benghazi, Obama officials, including the President himself, have been vowing that the perpetrators will be "brought to justice". That, of course, is typical American-speak for: "without any evidence presented or due process afforded, we will execute suspects by bombing them from the air, along with anyone who may have the misfortune of being in close proximity to them."

The Associated Press [this week reported](#) on the Obama administration's current plans for Benghazi, plans that were "provided by three current and one former administration official, as well as an analyst who was approached by the White House for help". The report described how the US "is readying strike forces and drones but first has to find a target"; in other words, the gun is metaphorically cocked and simply in search of someone to shoot [my emphasis]:

"U.S. investigators have only loosely linked 'one or two names' to the attack, and they lack proof that it was planned ahead of time or that the local fighters had any help from the larger al-Qaida affiliate, officials say.

"If that proof is found, the White House must decide whether to ask Libyan security forces to arrest the suspects with an eye to extraditing them to the U.S. for trial or to simply target the suspects with U.S. covert action.

"U.S. officials say covert action is more likely. The FBI couldn't gain access to the consulate until weeks after the attack, so it is unlikely it will be able to build a strong criminal case. The U.S. is also leery of trusting the arrest and questioning of the suspects to the fledgling Libyan security forces and legal system still building after the overthrow of Moammar Gadhafi in 2011.

"The burden of proof for U.S. covert action is far lower, but action by the CIA or special operations forces still requires a body of evidence that shows the suspect either took part in the violence or presents a 'continuing and persistent, imminent threat' to U.S. targets, current and former officials said."

That is a pure expression of the modern incarnation of US justice: *it would be difficult to prove anyone's guilt if we had to provide due process, so we likely won't bother with that; instead, we'll just decide ourselves, in secret, who is guilty and then execute them at will*

This is precisely the mentality which the Obama administration used to justify the

assassination of US citizen Anwar Awlaki in Yemen, and defenders of that due-process-free execution typically invoke exactly this same formulation. That's because US citizens have now largely and successfully been trained to view this type of "justice" as normal.

"Due process" is viewed as a quaint and obsolete relic of the pre-9/11 era. The US president simply kills whomever he wants - anywhere in the world, far away from a war zone or battlefield - without the slightest obligation to present evident of guilt, to afford the accused any opportunity to contest the accusations, or to have his execution-decrees reviewed by anyone or even known to the public. That is the normalized model of US justice, which is why these unveiled plans are hardly controversial and why Obama officials feel no compunction about announcing them: if anything, they're eager to boast of their hunger to mete out this due-process-free "justice".

Just how dubious is this whole process is highlighted by [a New York Times profile this morning](#) of Ahmed Abu Khattala, whom, says the Times, "witnesses and the authorities have called one of the ringleaders of the" consulate attack. The Times conveys that unnamed "witnesses have said they saw him directing other fighters that night" and that "Libyan officials have singled him out."

Abu Khattala, however, maintains that he is not a member of al-Qaida and "insisted that he had not been part of the aggression at the American compound." He acknowledges that he was present at the consulate that night but "had arrived just as the gunfire was beginning to crackle and had sought to break up a traffic jam around the demonstration." He also claims "that guards inside the compound - Libyan or American, he was not sure - had shot first at the demonstrators, provoking them," and that "the attackers had found weapons, including explosives and guns mounted with silencers, inside the American compound." As the Times put it, his "exact role remains unclear".

For nations adhering to the most basic precepts of justice, these are the types of conflicting claims which are routinely resolved in a judicial tribunal, with all the evidence subject to examination and the accused given a fair opportunity to contest the accusations. But that is not how the US government functions. Rather, it convenes in secret, unilaterally decrees guilt and then - to use the AP's euphemism - will "simply target the suspects with U.S. covert action": i.e., execute them without any due process.

The Times, apparently intended as a counter-balance to Abu Khattala's denials, noted that "he

expressed a notable absence of remorse over the assault", and then added:

"And he said that the United States had its own foreign policy to blame for the terrorist attacks of Sept. 11, 2001. 'Why is the United States always trying to impose its ideology on everyone else?' he asked. 'Why is it always trying to use force to implement its agendas?'"

Time and again, this is what one finds at the crux of these episodes. Professed animosity toward the US - and especially the belief that violence against the US is the result of its own decades-long aggression - is viewed as evidence of guilt, proof of one's status as a "militant", justification for imprisoning or killing (Obama placed Awlaki on his hit list when Awlaki's anti-US sermons began powerfully resonating among English-speaking Muslim youths; the still-unproven claim that the preacher had an "operational role" in terror plots was publicly made only long after Obama's assassination order was publicly revealed). The apparent premise of US policy in the region seems to be that the occupations, invasions, bombings and killings must continue until there is nobody left who harbors hatred of the US: as self-contradictory and self-destructive an approach as can be conceived.

The claimed power of the president to kill whomever he wants, anywhere in the world far from any war zone or battlefield, without a whiff of due process, oversight or transparency should be vehemently opposed first and foremost because it is the supreme expression of tyrannical power. If one is willing to grant *that* power to the president, then it is hard to see what powers one would find objectionable.

But on pragmatic grounds as well, it is difficult to imagine a more menacing policy: if the US president continues simply to execute anyone he decides should die with drones and bombs, then the only certain outcome is that there will be more and more people who view the US as a justifiable target for retaliation and vengeance. That the White House is *eager* to have it known that they are rejecting the option of arrest and due process in favor of secret assassination is a potent reflection of how degraded American political culture is regarding such matters, of how normalized the most extremist theories of power have become.

UPDATE

At the [farce currently taking place at Guantanamo](#) known as the "military commission" of the accused 9/11 defendants - a process designed exclusively (1) to ensure a guilty verdict and (2)

to [suppress any public evidence of the detainees' torture](#) - alleged 9/11
mastermind Khalid Sheikh Mohammed
[had this to say](#)
in response to American horror over the attack:

"The alleged mastermind of the Sept. 11 attacks told the Guantanamo courtroom on Wednesday that the U.S. government had killed many more people in the name of national security than he is accused of killing. . . .

"When the government feels sad for the death or the killing of 3,000 people who were killed on September 11, we also should feel sorry that the American government that was represented by (the chief prosecutor) and others have killed thousands of people, millions,' said Mohammed, who wore a military-style camouflage vest to the courtroom.

"He accused the United States of using an elastic definition of national security, comparable to the way dictators bend the law to justify their acts.

"Many can kill people under the name of national security, and to torture people under the name of national security, and to detain children under the name of national security, underage children,' he said in Arabic through an English interpreter.

"The president can take someone and throw him into the sea under the name of national security and so he can also legislate the assassinations under the name of national security for the American citizens,' he said in an apparent reference to the U.S. killing and burial at sea of al Qaeda leader Osama bin Laden and the U.S. use of drone strikes against U.S. citizens accused of conspiring with al Qaeda.

"He advised the court against 'getting affected by the crocodile tears' and said, 'Your blood is not made out of gold and ours is made out of water. We are all human beings.'"

This is what [virtually every Muslim accused of engaging in violence against the US says](#) whenever some US judge or official expresses bewilderment at how they could do such a thing: namely, why do you not express similar shock and outrage at the violence against civilians and other forms of repression continuously committed by your own government, and why are you not similarly affected by your government's killing and other abuse of innocent Muslims, including children? This highlights still another grave harm from conducting oneself in this manner: the inability to insist upon adherence to moral and ethical standards with any degree of credibility or consistency (at least outside of the US).