



Written by [Joe Wolverton, II, J.D.](#) on February 14, 2013

Congress Considers Special Drone Court; UN Investigates Deadly Drone Strikes

During last week's confirmation hearing for CIA director nominee John Brennan, [senators discussed the establishment of a federal court](#) with jurisdiction over the president's death-by-drone program.

As proposed by lawmakers, the so-called "drone court" would be tasked with approving the targeting (and, by extension, the assassination) of people on President Obama's or the CIA's respective kill lists.



Senator Dianne Feinstein (D-Calif.), chairwoman of the Senate Intelligence Committee, said during Brennan's hearing that she was considering "legislation to ensure that drone strikes are carried out in a manner consistent with our values, and the proposal to create an analogue of the Foreign Intelligence Surveillance Court to review the conduct of such strikes."

The plan was seconded by Senator Angus King (I-Maine) who said at Brennan's hearing that he would support a drone court that would rule on requests by the executive branch. King posited that the drone court hearings would be carried out "in a confidential and top-secret way," giving the White House the opportunity to "make the case that this American citizen is an enemy combatant." He sees that process as "at least ... some check on the activities of the executive."

Although certainly not one to recognize checks on the executive, the White House indicated on Friday that it would entertain any legislative proposal for the establishment of such a tribunal.

[Reuters quotes](#) an Obama administration official as saying, "The White House has been discussing various ways there could be independent review of counterterrorism actions for more than a year."

In a [press release issued last Friday](#), Senator King announced that he had sent a letter to Senators Feinstein and Saxby Chambliss (R-Ga.), chairwoman and vice-chairman of the Intelligence Committee, to consider a bill creating the new court.

King writes:

As the Committee begins preparing the Intelligence Authorization Act for Fiscal Year 2014, I ask that you work with me to contemplate legislative solutions, such as the creation of an outside judicial process similar to the FISA court, that might provide an independent perspective in the distinctive case of a U.S. citizen who is a senior operational leader of al Qaeda.

According to comments made by "congressional aides" cited in Reuters, "discussions are at a preliminary stage." They also reportedly said that several similar proposals made by legal experts were being kicked around on Capitol Hill.

Although plans for the functioning of the court are at the sketch stage at best, much of what is being discussed sounds very similar to the Star Chamber, an English court of the 14th to 17th centuries that met in secret, with no record of indictments, no identification of witnesses, and no transcript of the proceedings.



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Eventually this court was used as a political weapon, a way for the king and the Parliament to persecute their enemies and keep the dirty details hidden from the public.

There may be another reason for the sudden urgency to erect some sort of judicial or bureaucratic process for approving the drone-delivered assassinations.

On January 22, the United Nations special rapporteur on human rights and counterterrorism, Ben Emmerson, [announced that he would open an inquiry into the civilian impact of the drone war](#), “focusing on the applicable legal framework.”

A report on the findings of the inquiry will be published next year, “making recommendations to the UN General Assembly concerning the duty of States to conduct effective independent and impartial investigations into the lawfulness and proportionality of such attacks.”

“The exponential rise in the use of drone technology in a variety of military and nonmilitary contexts represents a real challenge to the framework of established international law,” Emmerson said at a London press conference announcing the investigation.

Remarkably, Emmerson says he sees hope for a more humane and “democratic” process of approving assassinations by drone, including the unconscionable “double-tap” and “signature strike” attacks. In an interview with *Wired*, Emmerson said:

By putting Brennan in direct control of the CIA’s policy [of targeted killings], the president has placed this mediating legal presence in direct control of the positions that the CIA will adopt and advance, so as to bring the CIA much more closely under direct presidential and democratic control. It’s right to view this as a recognition of the repository of trust that Obama places in Brennan to put him in control of the organization that poses the greatest threat to international legal consensus and recognition of the lawfulness of the drone program.

Emmerson doesn’t go so far as to say he thinks Brennan will cut back on the controversial program, however.

“What I’m saying is, Brennan has been the driving force for the imposition of a single consistent and coherent analysis, both legal and operational, as to the way the administration will pursue this program,” he explained.

Legal and operational?

That optimistic perception of Brennan’s devotion to the rule of law doesn’t square with his recent record.

For example, although the Obama administration has kept a tight lid on the details of its “death by drone” program, in April of last year Brennan [admitted for the first time publicly](#) to the extent of the use of drones in America’s War on Terror. He said that the remote control killing of suspects on foreign soil who have been charged with no crime whatsoever is “in full accordance with the law.”

Then, without apparent awareness of the macabre irony of the statement, Brennan reminded the world that the United States “respects national sovereignty and international law.”

Moreover, it was Brennan’s patronage of the use of drones to track and kill terrorists that convinced President Obama to promote them to the weapon of choice in the War on Terror.

For example, just days after a deadly drone strike in Yemen was reported, Brennan took to the microphone once again to discuss the operation.



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[During a conversation last August with Margaret Sanger at the Council on Foreign Relations \(CFR\)](#), Brennan defended his boss's remote-control elimination of those suspected of posing a threat to the security of the homeland. "So long as AQAP [al-Qaeda in the Arabian Peninsula] seeks to implement its murderous agenda, we will be a close partner with Yemen in meeting this common threat," Brennan said.

When asked about the collateral deaths of innocent civilians during these attacks on "militants," Brennan said that the American "pilots" controlling the drones "make every effort" to avoid killing innocents. Said Brennan:

Today I'd simply say that all our CT [counterterrorism] efforts in Yemen are conducted in concert with the Yemeni government. When direct action is taken, every effort is made to avoid any civilian casualty. And contrary to conventional wisdom, we see little evidence that these actions are generating widespread anti-American sentiment or recruits for AQAP. In fact, we see the opposite, our Yemeni partners are more eager to work with us. Yemenese citizens who have been freed from the hellish grip of AQAP are more eager, not less, to work with the Yemeni government. In short, targeted strikes against the most senior and most dangerous AQAP terrorists are not the problem, they are part of the solution.

And was it Brennan's respect for the rule of law that allows for the United States to be involved in undeclared, unconstitutional wars, killing people — including American citizens — without due process?

Does it also allow the inference that Yemen might not be the only country "where the United States was not officially at war" where the president and the CIA are killing people in the name of the United States? It's very likely. After all, Brennan [did promote the covert drone war in Yemen](#) as a model for future interventions.

More than any devotion to due process and human rights, it is likely that the United Nations is more concerned with assuming authority over the foreign policy decisions of the United States. With President Obama in his lame-duck term, the globocrats probably know that the iron is red hot and it's a good time to strike.

And, with the establishment of a secret drone court, Congress appears all too happy to hold the tongs.

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