



Written by [Joe Wolverton, II, J.D.](#) on October 8, 2013

Do the Libyan and Somali Raids Signal a Drone Drawdown?

On October 5, two teams of U.S. special forces units [carried out separate operations in Africa](#), one in Libya and the other in Somalia.

In the Libyan raid, the Army's Delta Force commandos [captured Nazih Abdul-Hamed al-Rugai](#), known by his alias Anas al-Libi. The purported al-Qaeda leader is suspected of participating in the bombings of the U.S. embassies in Dar es Salaam, Tanzania, and Nairobi, Kenya, on August 7, 1998.



About the same time, about 4,300 miles to the southeast, the famed [SEAL Team Six stormed a Somali coastal location](#) believed to be the hideout of an al-Qaeda "senior commander" known by the name Ikrimah.

That mission, however, was not so successful after the team was spotted approaching land, losing the stealth advantage they rely so heavily upon.

After the SEALs were detected by suspected comrades of Ikrimah, a firefight broke out. While the U.S. team reportedly suffered no casualties, [reports claim](#) that "one or two of Ikrimah's men are believed to have been killed or wounded." Ikrimah was neither killed nor captured and is reportedly still at large.

While the two missions have much in common — both were carried out by highly skilled, highly secretive, U.S. special ops teams targeting alleged al-Qaeda agents — they have another, less obvious similarity, too.

Notably, neither of these high-risk raids featured drone attacks. While the unmanned aerial vehicles may have played a surveillance role in the operations, the deadly aspect of the assaults was carried out by humans carrying conventional weapons.

Is this indicative of a tactical shift on the part of President Obama? Has he decided to take the tack he proposed in [May's foreign policy speech](#) at the National Defense University?

"I think this goes along with this policy that they are trying to move counter-terrorism operations from CIA to Defense, and trying to operate less with drones," an unnamed "senior congressional aide" [told the Los Angeles Times](#).

As if this approach to waging the "War on Terror" is nothing new, a Pentagon spokesman said, as [quoted in The Atlantic](#), "Wherever possible, our first priority is and always has been to apprehend terrorist suspects, and to preserve the opportunity to elicit valuable intelligence that can help us protect the American people."

Problem is, that description is demonstrably untrue.

As he sat enjoying a roadside picnic in Yemen with a few second cousins and their friends — most of whom the young Colorado native had never met before that day — the teenager and all his companions



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were killed by two Hellfire missiles fired from a Predator drone.

The finger that pressed the button launching the lethal ordnance was American, and so was 16-year-old Abdulrahman al-Awlaki, the target of the strike.

A question that has never been answered by President Barack Obama — the man who authorizes such assassinations — is what law authorized the murder of 16-year-old Abdulrahman al-Awlaki, son of the American cleric Anwar al-Awlaki, who was also killed by Hellfire missiles fired by a Predator drone. Both men were U.S. citizens, and neither was ever charged with a crime.

Some in the Obama administration, including the president, have argued that such sudden strikes are justified in the face of a credible threat posed by the victim. No such claim has been made in the case of the younger al-Awlaki. He posed no threat to the national security of the United States, but he was killed without opportunity to defend himself before an impartial judge in a court of law.

Abdulrahman al-Awlaki was killed in October 2011, and to date the Obama administration has never informed the country of any wrongdoing by this teenager, other than being related to a man (his father) who posted on the Internet anti-American videos that allegedly influenced others to commit crimes. A government-sanctioned assassination of such an individual is repugnant to all those who cherish life, liberty, and the due process that protects them.

And, despite the administration's attempt to throw this discomfiting story down the memory hole, no known attempt was ever made to capture this young man and take him into U.S. custody.

Of course, that could be because he might actually have ended up in a court of law if he had been apprehended; and President Obama, a former lawyer, knows that trials can be long, messy, and unpredictable. It is much quicker and cleaner just to launch a missile and kill someone without going through the hassle of due process.

In fairness, it would be another matter if those targeted and executed by the president were armed enemy combatants. They were not. Were these suspected "militants" enemy soldiers captured during wartime, they would necessarily be afforded certain rights granted to POWs.

Those slated for assassination are not allowed any rights — neither the due process rights given to those accused of crimes nor the rights of fair treatment given to enemies captured on the battlefield. The White House has assumed all power over life and death and created ex nihilo a new category of individual — one deprived of all rights altogether.

Putting aside the Defense Department's demonstrable attempt to revise history, the fact remains that there is still a significant question of legal authority to send the SEALs into a sovereign nation to kill or capture a citizen of that nation. As Connor Simpson [wrote in *The Atlantic*](#):

But, weirdly, [some national security experts suggest](#) the raids are relying on the same legal justification the administration uses for drone strikes. "Assuming [al-Libi] has not since abandoned his role in al Qaeda, then, he is almost certainly covered by the AUMF," [Just Security's Marty Lederman](#), a former Justice Department official, wrote Sunday. "Moreover, even if he weren't, the FBI likely had the statutory authority ... to capture him overseas in order to bring him back to the U.S. for trial..." Others see the raid in Libya as a sign the administration is simply following Al-Qaeda to where ever the top commanders are located. Now that operations in Afghanistan and Pakistan have been broken down by military strikes over the last decade, the U.S. will follow the group wherever it sprouts up next until it's gone. "The invocation of the 'law of war' rationale



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overtly extends the battlefield for the war on Al Qaeda, such as it is, to Libya,” [national security lawyer Phillip Carter told *Foreign Policy*](#). “That’s significant at a time when we are drawing down in Afghanistan, after successfully dismantling Al Qaeda there and in Pakistan. The threat is metastasizing, and we are following it.”

Regardless of the supposed spread of the cancer of al-Qaeda, the tumor that is presidential disregard for constitutional restraints on executive power is growing larger every day and is most certainly malignant.

In fact, in the larger scheme of things, it doesn’t matter if the president chooses drones, militarized intelligence operatives, the FBI, or special forces commandos to winnow his kill list. The relevant point is that the summary execution of alleged enemies of the United States violates applicable domestic law prohibiting assassination and is an affront to international norms controlling armed combat in other countries.

Speaking of the mission in Libya, Caitlin Hayden, a spokeswoman for the National Security Council, was quoted in the *LA Times* story saying, “This operation should be a clear reminder that the United States will seek justice against those who would attack Americans, and never forgets those who are victims of terrorism.”

The relevant and revealing question going forward is whether the threats will be eliminated by remote control or by raids. Either way, the Constitution will be counted among the collateral damage.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He is the host of The New American Review radio show that is simulcast on YouTube every Monday. Follow him Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com



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