



Written by [Joe Wolverton, II, J.D.](#) on March 18, 2013

Obama Wants to Draft Drone Guidelines for Other Countries to Follow

The Obama administration thinks its own use of drones to assassinate enemies — foreign or domestic — should be unrestricted and shrouded in secrecy. When it comes to other regimes pursuing a similar policy against their own enemies, however, President Obama wants to make sure they do it openly and that they follow the rules; rules he wants to help draft.



An [article in Reuters published on March 17](#) reports that in advance of China and other countries launching their own military drone programs, the Obama administration is “openly seeking to influence global guidelines” on the use of drones by other nations.

In an ironic and damning twist, according to Reuters, in 2011 China considered using a drone “to kill a suspect in the 2011 murder of 13 Chinese sailors, but authorities decided they wanted the man alive so they could put him on trial.” Four men (none of whom was Chinese) were [recently executed by Beijing](#) for these murders.

Meanwhile, the Obama administration, anxious to maintain its monopoly on summary execution and the denial of due process, regularly asserts its “right” to kill suspects without any effort to apprehend or try them in court. Would the reputation of the United States internationally not be buoyed if our own government were to capture and try alleged terrorists rather than sending a drone to fire a missile and kill them without recourse?

It is a sad day indeed when the president of the United States of America values due process less than a communist Chinese dictator.

Equally appalling to the principle of justice is the fact that President Obama wants to impose standards on the international use of drone strikes when he has worked so hard to conceal what guidelines (if any) he follows before ordering someone to be killed by remote control. Furthermore, he has been notoriously obdurate in his refusal to provide anything more than vague and obtuse legal justifications for the thousands of deaths caused by his death-by-drone program.

There is some debate about how many of those killed by the United States have been innocents. A more crucial and worthwhile question, however, is how do we know if any of those targeted have been guilty of anything, as not a single one of them has been afforded even the most threshold level of due process. As far as we know, everyone killed in an American drone strike has been innocent, as none of them has ever been proven otherwise.

The president’s movement toward drone transparency for other world leaders comes at a time when his own use of these deadly unmanned aerial vehicles is coming under closer scrutiny by local, state, and



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federal lawmakers.

Senator Rand Paul's marathon filibuster of the vote to confirm John Brennan as CIA chief was focused on the issue at the very center of the debate: Does the Obama administration claim the right to target Americans in the United States or elsewhere with drones?

The day following the filibuster, in [a tersely worded, one-line letter](#), Attorney General Eric Holder provided Paul with the following answer: "It has come to my attention that you have now asked an additional question: 'Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?' The answer to that question is no."

In [an interview with CNN](#), Paul said he was satisfied by Holder's response. "I'm disappointed it took a month and a half and a root canal to get it, but we did get the answer."

In a press release following the publication of the letter, Paul elaborated: "This is a major victory for American civil liberties and ensures the protection of our basic Constitutional rights. We have Separation of Powers to protect our rights. That's what government was organized to do and that's what the Constitution was put in place to do," Paul said. "I would like to congratulate my fellow colleagues in both the House and Senate and thank them for joining me in protecting the rights of due process."

Although it is arguably a victory, it is a small one. In fact, it may be little more than Pyrrhic, as the phrase that pays in the attorney general's memo to the senator appears to be "not engaged in combat."

If the past is any precursor of the future, the president (whether it be Barack Obama or his successor) will likely find plenty of clever ways to interpret that standard so as to justify the targeting and killing of enemies of the state no matter where they are found — at home or abroad. The "not engaged in combat" modifier is the loophole the neocons need to fire a deadly missile at anyone whose name ends up on the kill lists.

As the recent [discussion regarding the "imminent threat" standard](#) shows, words that seemingly have well-understood meanings are defined in the most extraordinary ways by those anxious to justify the denial of due process to those considered by the Obama administration to be enemies.

Will President Obama include the "not engaged in combat" proviso in the rules he writes for other world leaders? Will he specifically exclude Americans from being added to the kill lists kept by his colleagues around the world? Would he have a moral leg to stand on? That is to say, what principle of international law could President Obama use to demand that Americans in the United States or elsewhere not be targeted for assassination by foreign governments? More importantly, would he even make such a demand given his own refusal to unequivocally guarantee that the due process rights of Americans not be violated by his own administration? How, moreover, would the president respond to the death of American by a missile fired from a foreign drone? Would the president insist that only he has the "right" to track, target, and kill his enemies, denying that prerogative to others?

Other nations have asserted that the use of drones by the United States to kill alleged terrorists within their borders is a violation of their sovereignty. In a recent report by the United Nations, for example, the UN investigator concluded that the drone campaign in Pakistan was such a violation. The UN press release summarized the findings this way:

The United States' ongoing drone campaign in Pakistan is a violation of the South Asian nation's sovereignty, as it is being conducted without the consent of its elected representatives or that of



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the legitimate Government, a United Nations independent expert has warned.

In a [statement](#) issued yesterday at the end of a three-day visit to Pakistan, where he inspected the impact of drone warfare on the local civilian population, the Special Rapporteur on human rights and counterterrorism, Ben Emmerson, reiterated Islamabad's condemnation of the use of drones over its territory and urged an end to what he described as "forcible military interference."

"The position of the Government of Pakistan is quite clear. It does not consent to the use of drones by the United States on its territory and it considers this to be a violation of Pakistan's sovereignty and territorial integrity," Mr. Emmerson stated.

In light of this statement by the government of Pakistan, how could the Obama administration declare our own airspace off-limits when we habitually and haughtily disregard the attempts of other nations to demand adherence to their own right to regulate such activity?

Imagine a scenario, furthermore, where the current Syrian regime purchases an armed drone from Russia and uses that drone to target a leader of the Free Syrian Army suspected of ties to al-Qaeda who is hiding out in the United States.

The targeting of al-Qaeda and associated forces is the purported purpose behind the Obama administration's escalation of the drone war and indeed, it is the possibility that such a suspected "terrorist" could be found in the United States that prevents the president from absolutely declaring the United States off-limits for a domestic drone strike.

How would the president address this conundrum? That is to say, is it legal and justifiable for him to mark al-Qaeda for worldwide annihilation, but illegal for another president to do the same and attack the global terror network with the same military zeal?

Reuters quotes Caitlin Hayden, a spokesman for the White House National Security Council, saying that the White House is committed to "establishing standards other nations may follow."

That's fine. Now if we could only get the president to commit to informing the American people what standards he follows in the execution of his deadly drone program.

Photo of Predator drone landing on an airfield in Afghanistan: AP Images

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