

Assassinations Are Wrong, But Targeted Killings Are Okay?!

TV and radio talk shows have been abuzz with speculation about a classified CIA program which may or may not have involved assassination, and former Vice President Cheney's alleged directive to keep its existence secret from Congress. Impending congressional hearings may reveal details about that mysterious program that was abruptly cancelled by CIA Director Leon Panetta.

But according to Dr. David Perry, professor of applied ethics and director of the new Vann Center for Ethics at Davidson College, the current debate concerning assassination has unfortunately shed more heat than light. Perry, who served from 2003 to 2009 as professor of ethics at the U.S. Army War College, addresses the ethics and legality of assassination and targeted killing in his recent book, *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation*.

Assassinations of foreign officials by American government personnel have been prohibited overtly by presidential executive orders since the Ford Administration in the 1970s, in the wake of intensive congressional hearings on earlier plots against Fidel Castro and others. This has persuaded some commentators today to conclude that assassination must be illegal, that Dick Cheney was therefore trying to hide an illegal CIA program from Congress, etc.

But Perry points out that the legal status of assassination is murkier than it appears. For one thing, Congress has never passed a law against it, apparently worrying that we might one day face another Hitler who might be stopped through an assassination rather than by going to war against his whole country. So the legal prohibition on assassination depends entirely on the wording of whatever executive order is current. Moreover, Perry notes that executive orders can be *classified*. In other words, a secret executive order might rescind or render obsolete an overt one, so theoretically any president (including Obama) might issue both a public order prohibiting assassination and then a secret one permitting it.

But, Perry continues, assume that assassination is indeed prohibited by a current executive order. Does that rule out targeted killings of the leaders of Al Qaeda or other terrorist groups? Perry says "No." They are not protected by the assassination ban. That has been the accepted interpretation of law and policy ever since the bombings of our embassy and Marine compound in Beirut during the Reagan Administration. So whether our military or intelligence personnel take out a terrorist with a knife or gun at close range, or with a Predator missile fired remotely from Tampa, Fla., the action is not forbidden by the executive order on assassination.

On the other hand, Perry agrees with former "Nightline" host Ted Koppel (quoted recently on National Public Radio) that trying to draw a bright line between assassination and targeted killing amounts to "quibbling." Perry contends that whenever someone sets out to kill a particular identified individual, whether a high

government official OR an obscure terrorist--in contrast to a nameless foe on the battlefield--the act could credibly be termed an "assassination."

But apart from issues concerning the legal status of such killings, Perry thinks it's also worthwhile to weigh a number of relevant ethical perspectives:

First, assassination often resembles capital punishment, in that the targeted individual is usually thought to have plotted or committed horrendous crimes like mass murder. Perry argues that in clear-cut cases the target can credibly be said to have forfeited his otherwise equal right not to be killed, so that assassinating him would not necessarily *wrong* him.

But of course capital punishment is itself controversial, even against convicted murderers. Perhaps a tyrant could be induced to end his injustice through nonviolent means of persuasion, instead of killing him. After all, Perry notes, we managed to capture, arrest, prosecute and imprison former Panamanian dictator Manuel Noriega.

In addition, where the target is not a high official or an otherwise famous terrorist or gangster, can we be so sure that our intelligence about that person is accurate enough to warrant his execution without due process of law?

Also, assassination or targeted killing often poses risks to innocent bystanders. Police officers sometimes face similar dilemmas in weighing what to do about armed kidnappers holding innocent hostages.

Finally, although it would seem very tempting to remove a tyrannical leader like Hitler, Saddam, or Kim Jong Il, assassination by itself would be extremely unlikely to lead to a more humane regime. Indeed, it might well induce new regime leaders to attack the U.S. Perry asks Americans to imagine their reaction if President John Kennedy, for instance, had been killed by a Soviet KGB agent.

Perry shares the puzzlement of some commentators today that Americans seem squeamish regarding CIA or military assassins potentially killing at close range, yet sanguine about Predator strikes that are much less discriminating in their destruction.

But Perry is reticent to prohibit targeted killings, noting that some countries are either unable or unwilling to arrest and extradite known terrorists. Assassination, he argues, should remain as a regrettable last resort, like its huskier cousin, war.

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Perry is available for comment at daperry@davidson.edu or 704-894-2285.