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*Neck Deep* by Robert, Sam and Nat Parry takes this remarkable story of the Bush Family's rise forward to George W. Bush seizing the highest office in land with the help of the Right's powerful propaganda machinery, the systemic failure of the mainstream U.S. news media, and the *coup d'état* of Republican political cronies on the U.S. Supreme Court handing Bush the White House.

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Thanks so much for your help.

Robert Parry

**Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. He founded Consortiumnews.com in 1995 as the Internet's first investigative magazine. He saw it as a way to combine modern technology and old-fashioned journalism to counter the increasing triviality of the mainstream U.S. news media.**

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## From Boston with the "99 Percent"

The "99 Percent" movement arising across the United States represents the first major public manifestation of disgust and fury at the rampant greed that has concentrated the nation's wealth with the top "One Percent." Economic journalist Mark Provost reports on his experience at one front in Boston.

By Mark Provost

The \$64 trillion dollar question, "When will Americans hit the streets like people in other countries?" has been answered. In the last several days, occupations have spread from Wall Street to more than 70 cities across America.

The "99 Percent" are rising to voice their grievances against an economic and political system which has disenfranchised them for too long. We share painful stories and common concerns, and seek profound changes to how this nation is governed, and for whom it is governed.

I drove from New Hampshire on Friday afternoon and arrived in Beantown to kickoff Occupy Boston. Dewey Square, the site of the occupation in the heart of the financial district, was easy to find thanks to police and media helicopters hovering overhead.

But rush hour traffic and Boston's circuitous one-way streets channeled me far from the site, and into an expensive garage.

I asked a well-dressed young man exiting work for directions to the park. He didn't know the location, and I didn't tell him why I was going (fearing he may intentionally misdirect me). Unfortunately, my cover was blown when "Brian" innocently asked a coworker for the whereabouts.

The coworker smiled and pointed me in the right direction, but not before he offered his opinion about the protest, "I am a capitalist. I work for an investment bank but I don't agree with American-style capitalism." Without pause, he refined his thoughts, "I am a socialist."

I was running late, so I simply nodded. He repeated this heresy, and wished me luck.

Earlier on Friday, a huge demonstration organized by "Right the City" protested in front of Bank of America and demanded a moratorium on foreclosures. The march ended at Dewey Square, where many stayed around to help launch the occupation.

Gatherers mostly engaged in small groups without direction, waiting for something to happen. I met three young men from Stoneham, one of whom just lost his job as an eyeglass technician. Luckily, his friend, a marine biologist who owes \$60,000 in student loans, just landed a job.

"We switched places," they realized, and gave each other a high five.

After an hour, the confusion subsided when the group began using the famed "peoples' microphone.'" When anyone calls for a "mic check," the whole group repeats their words in short sentences.

For large meetings like a General Assembly, the peoples' mic is supplemented with a six-point hand signal system which allows one to visibly express their position on a speaker's opinion or vote, without disturbing the group's discussion.

We organized into seven separate teams: tactical, direct action, legal aid, food and medical, media, local outreach, and creative artists. Dewey Square was transformed into a rain-soaked and muddy experiment in direct democracy.

Despite the bad weather, our ranks swelled to nearly 1,000 people. Ages ranged from seven to 77, men and women, middle-class mothers and homeless recovering alcoholics, carpenters and Ivy League attorneys, gay and straight, Christians and Muslims, bisexual and transgender, anti-war activists and Marine Corps

veterans, African Americans and immigrants, Arabs and Jews, Asians and Latinos, unemployed and overworked.

The group fosters an inclusive, transparent, innovative, and democratic process, a testament of their vision. The late Howard Zinn believed successful social movements cultivate both democratic means *and* democratic objectives. One reinforces the other.

This is a leaderless movement without a central ideology. We are bound only by the understanding that we are part of the 99 percent of Americans getting shafted by the wealthiest 1 percent.

Around 11:00 p.m., after a hot meal and General Assembly, roughly 400 occupants hit the streets and chanted our galvanizing message: "We are the 99 Percent! We are the 99 Percent! You are the 99 Percent!"

Countless cars honked in support, and faces lit up even more as passersby cheered (and a couple jeered). Some joined the march, while others grabbed smart phones and cameras to record the rebirth of America, in the city that started it all more than 200 years ago.

The 99 Percent movement has been ignored and derided in the mainstream press, yet the overwhelming response from the people of Boston is revitalizing. If you join the movement or want to march with us, you will not be stigmatized. On the contrary, your dedication will be praised, honored, and thanked by fellow citizens.

The march returned to Dewey Square significantly larger than when it departed, we did not pick up stragglers, we invited curious citizens and fellow patriots. Political truth exerts a gravitational pull on the body.

Suddenly, and without any prior debate or plan, we sprinted across State Street and charged the Federal Reserve Bank of Boston. "We are the 99 Percent, You are the 99 Percent" (pointing to the phalanx of police officers lining the building).

The echoes rumbled off the thick glass walls and stone firmament. The scene was tense, but officers remained disciplined while demonstrators played music, sang and danced.

Unlike other cities such as New York and San Francisco, the BPD has made no attempt to corral us, has not tried to block or channel our marches, has not tried to disperse us, and has entered the encampment once due to medical emergency.

So far, hats off to the BPD. By respecting our right to protest, it makes it easier for us to protect their right to collectively bargain.

By 1:00 a.m., it was pouring rain and I told my new friend Murph that I would drive him home to Watertown in exchange for his help finding my vehicle. I returned to New Hampshire, caught five hours of sleep, filled my car with supplies, and headed back to the occupation.

Thus far, the media have ignored the scale and scope of the 99 Percent movement. A spontaneous, continental uprising against extreme economic and political inequity is apparently not newsworthy.

Many pundits claim the protests lack coherence or demands, asking themselves (rather than asking us), "Why are they protesting?"

Each one of us knows why we are here; we share stories and listen to new ideas and strategies. We are a multitude, already planning actions in 46 states, for a multitude of reasons. One by one, we will shatter the silence which has devoured this nation.

The relevant question: Will you join and contribute to the awakening?

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## Why Palestine Already Is a State

Palestinian officials have appealed for membership at the United Nations, prompting angry retorts from Israel and a veto threat from the Obama administration. But the UN issue is membership, not statehood, which Joe Lauria writes is already a de facto reality.

By Joe Lauria

A combination of mistakes, whether through ignorance or design, and significant omissions of fact have left the American public misinformed about why the Palestinians have gone to the United Nations and what they are trying to achieve.

The biggest error repeated across the media in hundreds of headlines and stories is that the Palestinians are seeking statehood at the U.N. In fact, Palestine

is *already* legally a sovereign state and is seeking *membership* of the United Nations, not statehood.

The United Nations does not grant or recognize statehood. Only states can recognize other states bilaterally. The U.N. can only confer membership or non-member observer state status to already existing states. The U.N. Charter is clear. Article 4 says that only existing states may apply for U.N. membership.

Secretary-General Ban Ki-moon accepted an application for U.N. membership from PLO Chairman and Palestinian Authority President Mahmoud Abbas on Sept. 23. Ban sent the application to the Security Council, which began deliberating last week.

The very act of the Secretary General accepting the membership application is an acknowledgement from the U.N. that Palestine is already a state, since only states can apply.

The Montevideo Convention of 1933 lays out the requirements for statehood: a population living on a defined territory with a government that can enter into relations with other governments. The Palestinians have all three.

Though its borders with Israel are not set, other countries with border disputes have been admitted as U.N. members, such as Pakistan and India. Trygve Lie, the first U.N. Secretary-General, also wrote a 1950 memo that states do not need universal recognition to apply.

Palestine declared its independence on Nov. 15, 1988, a fact found nowhere in the American mainstream reporting of the past week. A Palestinian walked out of the Al Asqa Mosque that day in Al Quds/Jerusalem and read the declaration aloud, much as someone read the American Declaration of Independence to a crowd in the courtyard of the Philadelphia State House on July 4, 1776.

Almost immediately one hundred nations recognized an independent Palestinian state. Since then 30 more nations have recognized Palestine, some having opened Palestinian embassies in their capitals. This crucial fact too was not reported in the U.S. media. For Palestinians and those countries that recognize them, Israeli troops are occupying a sovereign nation.

It was the same as when Morocco and then France and other nations recognized an independent United States years before the war against Britain was won. For Americans and those nations recognizing America, British troops became an occupation force, not an army defending British territory.

The problem for the Americans then and for the Palestinians now is that the occupying nation and the world's biggest power are not among the 130 who've

recognized them.

If there were a United Nations in 1777 the Americans could have applied for membership. And if Britain had a veto on the Security Council then as it does now, it would have blocked that membership.

Today neither the occupying power, Israel, nor the world's biggest power, the U.S., recognizes Palestinian statehood. Thus the U.S. has vowed to veto the Palestinians' membership resolution in the Security Council.

The U.S. had furiously lobbied to prevent the Palestinians from coming to the U.N. at all, including Congress threatening to cut off all aid. Having failed, Washington is now trying to delay a vote as long as possible while lobbying the several non-permanent members of the Security Council to abstain, or vote against.

But the Palestinians knew from the start the U.N. process would take weeks and have so far not backtracked on their plan one inch.

Membership in the U.N. requires a recommendation from the 15-member Security Council, secured with nine votes in favor and no vetoes. If the recommendation passes, the 193-seat General Assembly must approve with a two-thirds majority. Eight votes in favor or less would kill the Security Council membership resolution, sparing the U.S. from a veto that would cost them dearly on the Arab street.

Brazil, Russia, India, China, South Africa and Lebanon are among the Security Council members who have formally recognized Palestine and are firm about voting in favor. The U.S. isn't bothering with them. But Nigeria, Bosnia-Herzegovina, Colombia and Gabon have also recognized Palestine and are under extreme American, and in the case of Gabon, French pressure to at least abstain.

Falling short of eight votes would be an embarrassment for the Palestinians, but the Security Council route is only the first step. After a sure defeat in the Security Council (since the United States has vowed to use its veto if necessary), two options in the General Assembly remain.

President Abbas told reporters on his plane back home from New York that the Palestinians are willing to wait two weeks for the Security Council to act before going to the next step for membership. That step is to try to circumvent either a U.S. veto or less than nine votes in the Security Council in the General Assembly, employing a Cold War-era resolution known as Uniting for Peace.

It was introduced by the U.S. in 1950 to get around repeated Soviet vetoes on

the Korean War. Francis Boyle, a legal adviser to Abbas, told me he has advised the Palestinian president to take this step.

But the Palestinians would have to convince two-thirds of voting Assembly members that Palestinian membership would be a response to a "threat to peace, breach of the peace or an act of aggression" from Israel.

The U.S. and Israel would fight to keep this off the General Assembly agenda. But Boyle, who cautioned that he does not speak for the Palestinians, told me he thinks the Palestinians have the votes to overcome this.

Nevertheless, there seems to be a split in the PLO leadership on whether to use Uniting for Peace. Hanan Ashrawi, a PLO executive committee member, says it is still a viable option. But the Palestinians' U.N. observer, Riyadh Mansour, believes any membership bid must legally go through the Security Council first and there's no getting around it.

Abbas' position on this is not clear. It will be interesting to see if the Palestinians try to use Uniting for Peace and what happens if they do.

If they decide against it or fail, their third option is to try to become a non-member observer state, which needs only a simple majority of 97 votes in the General Assembly which the Palestinians clearly have.

Becoming an observer state would be more than symbolic. It could reshape the balance of power between Israel and the Palestinians. As an observer state, Palestine could participate in Assembly debates, but could not vote, sponsor resolutions or field candidates for Assembly committees.

But more importantly, it would allow Palestine to accede to treaties and join specialized U.N. agencies, such as the International Civil Aviation Organization (ICAO), the Law of the Sea Treaty, the Nuclear Non-Proliferation Treaty (NPT) and the International Criminal Court (ICC), officials said.

Switzerland joined the ICAO in 1947 when it was still an observer state before becoming a U.N. member in 2002. Denis Changnon, an ICAO spokesman in Montreal, told me the treaty gives members full sovereign rights over air space, a contentious issue with Israel, which currently controls the airspace above the West Bank and Gaza.

The Palestinians could bring claims of violation of its air space to the International Court of Justice.

If Palestine joins the Law of the Sea Treaty it would gain control of its national waters off Gaza, a highly contentious move as those waters are

currently under an Israeli naval blockade. Boyle said he has advised Abbas to accede to treaties, including the Law of the Sea. If they do, the Palestinians could challenge the Israeli blockade at the ICJ as well as claim a gas field off Gaza, currently claimed by Israel.

Even more troubling for Israel and the U.S. would be Palestine joining the International Criminal Court.

Ambassador Christian Wenaweser, president of ICC Assembly of State Parties, said in an interview a Palestine observer state could join the ICC and ask the court to investigate any alleged war crimes and other charges against Israel committed on Palestinian territory after July 2002, including Israel's 2008-2009 Operation Cast Lead war against Gaza that killed 1,400 Palestinian civilians.

Ashrawi says Israeli settlements in Palestine can be challenged as war crimes in the court as a violation of the Fourth Geneva Convention.

The Palestinians know they must still negotiate borders, refugees, settlements, the occupation and Jerusalem. Abbas said pushing for U.N. membership did not mean he no longer wants to negotiate. Rather gaining membership or observer state status would give the Palestinians more leverage in those talks, he said.

In an effort to upstage and derail the Palestinians' membership drive, just minutes after Abbas and Israeli Prime Minister Benjamin Netanyahu had finished addressing the General Assembly last Friday the so-called Quartet, the U.S., U.K., Russia and the U.N., announced its vision of a one-year plan for a comprehensive settlement.

The Quartet dropped its repeated call for a settlement freeze and called for no preconditions for talks. The Palestinians, who are demanding a freeze before negotiations based on the pre-occupation 1967 borders, rejected the Quartet's plan. Israel then announced 1,100 new settlements in occupied East Jerusalem.

The Quartet has failed again. Westerners cannot solve this problem. Maybe it's time to make it the Quintet by adding the Arab League, to give voice to the Palestinians. How to get the U.S. media to become interested in more accurately reporting the Palestinian's side of the story is another matter.

**Joe Lauria has been a freelance journalist based at the U.N. since 1990, writing for the Boston Globe, the London Daily Telegraph, the Johannesburg Star, the Montreal Gazette and other newspapers. This article originally appeared on Sibel Edmond's [BoilingFrogsPost.com](http://BoilingFrogsPost.com).**

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# 'Sarah's Key': Enforcing Injustice

As the Occupy Wall Street and other populist protests grow, the role of police in either allowing dissent or crushing it will be at center stage. In that regard, Gary G. Kohls sees valuable lessons from the Holocaust drama, "Sarah's Key."

By Gary G. Kohls

Recently I saw "Sarah's Key," a powerful movie that was made from the novel by the same name, written by French novelist Tatiana de Rosnay. My opinion is that it deserves an Academy Award nomination for Best Foreign Film of 2011.

The movie fictionalizes the horrifying true story of the June 1942 Paris roundups of thousands of Jewish families, who were then held for days in appalling conditions at the Vélodrome d'Hiver outside Paris. These victims were soon to be on their way to the extermination camps on the other side of Germany, specifically Auschwitz, in Poland.



The World War II portion of the story is about the experiences of just one innocent family, the Starzinskis, including 10-year old Sarah and her little brother, as they were brutalized by the murderous police-state repression of Nazi-occupied France and Hitler's emerging "Final Solution of the Jewish Problem."

The latter part of the well-told story (60 years after World War II) is about the experiences of Julia Jarmond, who, as a young American-born woman who had moved to Paris 20 years earlier, was working as a journalist for a French magazine.

Julia's editor assigns her to cover the 60th anniversary of the infamous Vélodrome d'Hiv' roundups of around 10,000 Jews.

While doing the research for the article, she learns that the apartment she and her French architect husband were planning to move into was the very apartment that had been acquired in 1942 by her in-law's family immediately after the

Starzinski family had been deported to Poland via cattle car.

The family's belongings were confiscated by the Nazis and their French collaborators, of course and sold to help finance Germany's military apparatus. Julia is haunted by the story and, even though her magazine article had already been published, she resolves to find out what actually happened to Sarah.

### **The Knock on the Door**

The film starts with the proverbial "knock on the door at midnight" by French plain-clothes security officials and uniformed French policemen who, as Nazi-collaborators, obediently arrested Sarah's family, except for the four-year-old Michel, whom Sarah had hidden away in a concealed closet.

The rest of the story concerns what ultimately happened to Sarah and Michel.

Using good investigative journalism, Julia eventually uncovers the hidden history of the family. She finds out that Sarah and Michel were the only family members known to have not arrived at Auschwitz with the hope that they could have somehow survived the Holocaust. Julie is driven to persist in her search and finally succeeds in piecing together the whole dramatic story.

One of the disturbing aspects of the story, and a humiliating one for historically anti-German France, was the willingness of the Vichy government and its French policemen to fully cooperate with the Nazis in the roundups, the deportations, the thefts of property and the torturing of the Jewish minority population (in 1942 French Jews only represented a tenth of 1 percent of the population).

This emotional and consciousness-raising film about an important piece of hidden World War II history left me pondering a number of questions, including the classic, "could it (fascism) ever happen here?"

Why couldn't what happened in Paris in 1942 also happen in our militarized America, which some observers also call a quasi-police state? Was there anything unusual about the willingness of 1942 French policemen to obey orders from their superior officers?

Why not our modern police force who are trained to reflexively follow orders in chain-of-command, authoritarian systems?

Many of the Nazis who were convicted of war crimes and crimes against humanity following World War II denied responsibility for their participation in the atrocities because they were merely following orders.

They had taken solemn oaths of allegiance to Hitler and, because they thought of

themselves as being moral men, they would have considered going back on their oaths as an act of treason.

I think it would be worthwhile if those of us who are potential victims of state-sanctioned police brutality (and that could possibly represent a considerable number of us) start asking ourselves what would prevent our modern-day law-enforcers, our soldiers, policemen and security service members, (as well as our elected officials, politicians and judges, all of whom have taken similar oaths of allegiance) from denying the human and civil rights of dissidents, protestors, conscientious objectors to war, killing, capital punishment and the corporate raping of the earth?

Likewise, what would prevent these armed oath-takers from persecuting outsider minority groups, such as non-white foreigners or non-Christians, and guiltlessly enforce the many unjust, unethical or illegal American laws that are on the books?

### **Wall Street Protesters**

I think many would agree that there is cause for concern, considering the current examples of police brutality and arrests of the "Occupy Wall Street" activists in New York City who are protesting Wall Street predators, Junk Bond brokers, Big Finance and other assorted white-collar crooks who caused the stock market crash, the debt crisis, the housing crisis, the bankrupting bail-out fiasco and the recession.

In modern times, many American cops and FBI agents have been guilty of persecution, mistreatment, harassment and abuse of nonviolent American protesters against corporate corruption, starting with the protests against the atrocity-producing Vietnam War through the harsh treatment and arrests of protestors at the infamous Chicago Democratic National Convention in 1968; the anti-NAFTA, anti-World Bank, anti-IMF activists in Seattle and Toronto and all around the world; the protesters at the Republican National Convention in St. Paul in 2008; the antinuclear weapons activists at Oak Ridge, Kansas City, Minneapolis and elsewhere; the anti-Keystone-Excel/Tar Sands pipeline activists in front of the non-responsive White House; and etc, etc.

This list could be considerably lengthened if I included examples from the century-long history of the labor movement in the U.S., where there are countless numbers of examples of brutal police repression of striking workers, poor people, suffragettes and racial or religious minorities who were protesting against injustice.

Doesn't it seem curious that the police are always on the side of the ruling

elite, the obscenely wealthy, the corporations and the crony capitalists, none of whom ever have felt police nightstick hitting skull?

Given the evidence cited above, I have to wonder if there is an actual stated ethic in American law enforcement that would empower some discerning, ethical and courageous "good cops," "good" FBI and CIA agents, soldiers and judges to disobey unethical and unjust laws that defy the spirit of the Constitution, the Bill of Rights, the International Criminal Court and the Geneva and Nuremberg Conventions (or the Christian Just War principles, for that matter).

Does anybody see any indication from those in positions of authority and power in our legal system where the oaths that civil servants have to take are still considered sacred oaths (including the promise to defend and uphold the Constitution of the United States, presumably including the First Amendment – the right to free speech)?

Is there any sign that any oath-takers out there might be courageous enough to disobey orders when that is the right thing to do?

I hope so. I hope that our elected civilian officials, who are supposed to have ultimate control of the policies and actions of law enforcement and the military, begin a dialogue about that important question that is critically important to real democracy.

### **The American Experiment**

America's fragile two-century-plus democratic experiment is dangerously close to being drowned in the metaphorical bathtub first promised by the neoconservative, anti-tax guru Grover Norquist and endorsed by the radical right-wing Tea Partiers (funded by cunning billionaires like the Koch brothers), the right-wing think tanks (like the Heritage Foundation and the American Enterprise Institute – among about 400 others) and the right-wing Christian theocrats (like Sarah Palin, Michele Bachman, Rick Perry, etc. and their supporters and paymasters).

At one time in America's anti-fascist, pro-democracy past (or was that only a pipedream?), most Americans thought (perhaps falsely) that law enforcement and the legal system was on the side of the little guy, the laborers, the poor, the abused, the "huddled (immigrant) masses yearning to be free" and the marginalized ones whom Jesus called "the least of these my brothers."

But now law enforcement and the courts seem to pointedly avoid prosecuting the criminal activities of predatory lenders (with their high interest rates that force poverty, bankruptcies and foreclosures), the war profiteers (and their ill-gotten gains from selling weapons that are designed for human slaughter), BigPharma (and their toxic, dementia-causing, sickening synthetic drugs) and the

various Ponzi scheme operators and junk bond “investment” crooks on Wall Street.

The motto that used to be printed on patrol cars was supposed to articulate the mission of law enforcement, but the “To Protect and To Serve” insignia is now regarded as a joke in way too many cities.

Certainly that ideal of law enforcement may have existed in simpler times, but in times of crisis, ideals often go out the window. The reality that is too often perceived is “To Harass and Abuse.”

It is the observation of many peace and justice activists colleagues of mine that most police personnel prefer obeying orders that are given to enforce petty laws that may result in the arrest or ticketing of nonviolent offenders that put the policeman at no substantial risk to health or life.

I totally understand not wanting to get hurt on the job – any job. Most of us will try to avoid unnecessary risks at work, preferring the less dangerous tasks.

Arresting unarmed Jews in Paris 1942 was that kind of low-risk assignment. Also qualifying for preferential assignments would be the harassing, hand-cuffing, arrest, pepper-spraying or tasing of nonviolent protestors for trespassing at Wall Street, the School of the Americas, the White House, the Pentagon and military recruiting offices.

Raiding homes for the possession of pot, arresting farmers for selling unpasteurized milk, ticketing drivers for parking violations or “speeders” for going 35 mph in a 30 mph zone; etc, etc are other examples of preferred assignments.

### **Disobeying Unjust Laws**

Wealthy crooks, drug kingpins and other violent offenders tend to have guns, live in gated communities or have armed bodyguards. Career criminals may shoot back if they are threatened with arrest (and white-collar criminals may have expensive lawyers who can turn the tables on law enforcement). So these are not on the preferred list of assignments for average policemen.

But what about justice for the powerless victims of unjust laws like in a war-torn nation such as France in 1942? That type of atrocity can only happen if obedient, oath-taking law enforcers forget their humanity and are willing to be the accomplices of a crime that is being perpetrated by someone higher up the chain of command.

Questioning and disobeying unjust laws is always the moral thing to do, but it

takes unusual courage. Refusing to obey the orders of the rulers in fascist-leaning or totalitarian societies can get you fired or black-balled or worse.

Not the Nazi Holocaust nor the Vietnam War nor the illegal war in Iraq could have happened if agents of the state whether soldiers or policemen or other cogs in the system had been courageous enough to disobey unjust orders.

**Gary G. Kohls is a physician from Duluth, Minnesota, who, prior to his retirement, practiced holistic (non-drug) mental health care. He writes a weekly column for the Reader Weekly of Duluth that deals with topics such as politics, religion, medicine, health, psychiatry, nutrition, war, peace and justice.**

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## The Slippery Slope of Assassinations

With the assassination of Anwar al-Awlaki, a U.S. citizen and al-Qaeda associate based in Yemen, the Obama administration has stepped onto a slippery slope where loosening standards for extrajudicial killings could slide into a terrifying use of government power, the Independent Institute's Ivan Eland writes.

By Ivan Eland

The execution of a potentially innocent Troy Davis last month justifiably horrified many in the United States and around the world. Most of the non-police eyewitnesses had recanted or contradicted their testimony that he killed an off-duty police officer; they alleged that they had been pressured or coerced by the police to implicate Davis.

The case has led to important questions about whether the state should or is competent to kill its own citizens, no matter what heinous crime they are accused of committing. Yet at least Troy Davis got due process (however flawed), as the Fifth Amendment to the Constitution requires, before being executed.

In contrast, there has been no similar outrage that Anwar al-Awlaki, also a U.S. citizen, has been put on a U.S. government assassination list with no due process.

That's because the word "terrorist" has been applied to al-Awlaki, meaning that hysteria reigns at the expense of any constitutional due process. The Fifth Amendment guarantees that a person (you don't even have to be a U.S. citizen to get this protection) cannot be "deprived of life, liberty, or property, without due process of law."

Of course, the proponents of a “war on terror” argue that in wars, the government doesn’t try every enemy soldier in a court of law before it attempts to kill them. However, since no war has been declared, even against the perpetrators of 9/11, that excuse shouldn’t apply.

“War on terror” advocates will then argue that that is only a technicality, because Congress did pass a resolution authorizing military action against the perpetrators of the 9/11 attacks and those who harbored them.

But although al-Awlaki may be part of the group al-Qaeda in the Arab Peninsula (a franchise of the main al-Qaeda group), has publicly called for the killing of Americans, and may even be linked to certain specific terrorist attacks in the United States, it has not been alleged by Obama administration officials that he planned, authorized, committed, or in any way assisted the 9/11 attacks or harbored those who perpetrated them.

Thus, killing him is not authorized by the congressional resolution.

His case merely highlights the fact that the administration has secret criteria for putting people, including U.S. citizens, on a hit list. Thus, al-Awlaki wouldn’t even have to be informed of how he ran afoul of the U.S. government before he gets whacked.

But why should Americans care about the rights of some guy who hates America and may even be a terrorist? Because if an American president can just declare anyone anywhere, including U.S. citizens, a danger to national security and kill him without any due process or oversight from the other branches of government, the rights of all Americans (and other persons) are in danger.

Even the District Court judge who dismissed a suit by Anwar’s father, Nasser al-Awlaki, who tried to argue against the Obama administration’s unconstrained authority to kill any American without due process, wondered why the administration required a judge’s warrant to target a U.S. citizen overseas using electronic surveillance but not to target that same citizen for death.

The judge dismissed the suit because he said the courts weren’t competent to make decisions concerning the “composition, training, equipping, and control of a military force” and that such issues should be left to the branches of government that are periodically subject to electoral accountability.

Perhaps so, but that is not the issue. The issue is whether Congress approved of a war against al-Qaeda in the Arabian Peninsula or al-Awlaki. It has not. Therefore, al-Awlaki should be treated as an alleged criminal and be given due process rights under the Constitution.

The courts clearly have a right to comment on this issue. They should prohibit the administration from having a secret kill list and require it to bring suspected terrorists to trial.

Although the death penalty at home is probably constitutional (the Fifth Amendment does speak of "capital" crimes), the fact that since the mid-1970s, 138 death row inmates were later exonerated does raise important questions about the government's ability to competently and justly impose the ultimate sanction.

Given the government's spotty record at identifying murderers, can we be confident that our president can competently identify terrorists and kill them, all the while in violation of the constitutional requirements of due process and checks and balances by other branches of government?

Since many of the prisoners at Guantanamo weren't guilty of any crime, let alone terrorism, the answer to the last question is a resounding "no." Thus, letting the president identify terrorists, using secret criteria, and whack them is dangerous to the Republic.

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