

NO U.S. COURT HAS EVER RULED ON THE LEGALITY OF TARGETED KILLINGS BY DRONES

INTENTIONAL KILLING IS A WAR CRIME

“Targeted killing is the most coercive tactic employed in the war on terrorism. Unlike detention or interrogation, it is not designed to capture the [alleged] terrorist, monitor his or her actions, or extract information; simply put, it is designed to eliminate the [alleged] terrorist. . . . A targeted killing entails an entire military operation that is planned and executed against a particular, known person.” Harvard Journal, cited at: <http://www.harvardnsj.com/2010/06/law-and-policy-of-targeted-killing/>

Like the prohibitions against genocide, slavery, and torture, the prohibition against arbitrary killing, including extrajudicial killing, has the rare status of a *jus cogens norm*—a fundamental rule of international law accepted and recognized by the international community as a whole as permitting no derogation under any circumstances.

DRONE STRIKES BY U.S. AND COALITION FORCES KILL CIVILIANS

The United States is the world’s number one user of targeted killings by drones and the Obama administration has done more of them than the Bush administration. Drones kill not only the people who they target but also civilians in the area. Two reputable studies conclude that between 33% and 90% of the deaths from drones are civilians.

http://www.brookings.edu/opinions/2009/0714_targeted_killings_byman.aspx?p=1 and <http://counterterrorism.newamerica.net/drones>

PEOPLE HAVE THE RIGHT, MAYBE EVEN THE RESPONSIBILITY, TO STOP WAR CRIMES

United States courts have long recognized that international law, particularly the Nuremberg principles, create enforceable obligations. Similarly, a common law defense of others may be allowed as a justification for a crime.

INDIVIDUALS WERE FOUND (at Nuremberg) TO HAVE A DUTY TO DISOBEY DOMESTIC ORDERS THAT CAUSE CRIMES AGAINST HUMANITY

The most important principle of Nuremberg was that individuals have international duties which transcend national obligations of obedience imposed by the nation state... This means that in some cases individuals are required to substitute their own interpretation [of international obligations] for the interpretation given by the state. . . . [The world] has to rely on individuals to oppose the criminal commands of the government. B.V.A. Roling and Antonio Cassese, *The Tokyo Trial and Beyond* 107, 108 (1995).



Nevada Desert Experience NevadaDesertExperience.org
1420 W. Bartlett Ave. Info@NevadaDesertExperience.org
Las Vegas NV 89106 702.646.4814 (Twitter: NVDesertExp)
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