

President Obama's 'Dirty Hands'

Assessing the Morality of the Targeted Killing of Anwar Al-Awlaki

Sebastian Lenze

Research assistant, Centre for Terrorism and Counterterrorism (CTC) Leiden
University, The Hague

Edwin Bakker

Head, Centre for Terrorism and Counterterrorism (CTC) Leiden University, The
Hague

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Abstract

Targeted killings in the fight against terrorism are controversially discussed from a political and legal angle. In this article we assess the moral dimension of the targeted killing of Islamist cleric Anwar al-Awlaki in 2011. An analysis of the case concludes that the episode was based on a *Dirty Hands* judgement by President Obama. The 'Problem of *Dirty Hands*' entails that, for a political actor, sometimes it is right to do what is wrong. Established by Michael Walzer in 1973, the problem was applied to the policy of the targeted killing of terrorist associates by political philosopher Stephen de Wijze. It is believed to provide a viable agent-centric framework to assess intractable moral conflicts while neither allowing for ruthless amoralism nor ignoring the nature of the political office. The conditions outlined by de Wijze are holistically fulfilled and, thus, it is concluded that, from a *Dirty Hands*' perspective, the targeted killing of al-Awlaki was a justified breach of important moral standards.

Keywords

Dirty Hands – targeted killing – drones – al-Awlaki – al-Aulaqi

Introduction

While targeted killing (TK) is not a novel phenomenon,¹ the employment of Unmanned Aerial Vehicles (UAVs/drones) to gather intelligence and to execute individuals without judicial review clearly is. Besides this technological advancement, the policy of TK remains highly controversial. For human rights advocates and international lawyers, who tend to be deontologists, targeted killing is illegal because of a lack of (legal) accountability under humanitarian law (during an international or non-international armed conflict) or human rights law (especially in peacetime).² International lawyers argue that it is an illegitimate and inefficient means of state-imposed extra-judicial execution,³ while others see it as an appropriate act of cost-efficient modern warfare.⁴ The policy is officially enacted and in use, but the moral predicament surrounding this course of action has not been lifted. Legal aspects are frequently examined in connection with the subject matter, but a discussion about the moral justifiability of TK through drones remains inconclusive.

This article contributes to the ongoing debate on targeted killings by focussing on the moral predicament of the TK of the American-Yemeni imam and Islamist militant Anwar al-Awlaki. In particular it reviews the issue from the perspective of the 'Problem of *Dirty Hands*' based on Michael Walzer's theory.⁵ Walzer, a prominent American political philosopher, argues that, especially for policy-makers, a choice can be paradoxically right and wrong at the same time: "For sometimes it is right to try to succeed, and then it must also be right to get one's hands dirty. But one's hands get dirty from doing what it is wrong to do."⁶ Accordingly, an individual's initial intention to do 'good' can result in entering

1 A. Radsan and R. Murphy 'Due process and targeted killing of terrorists', in *Cardozo law review*, 2009, no. 2, pp. 405–450.

2 N. Melzer, *Targeted Killing in International Law*. Oxford, 2009.

3 See e.g. International Human Rights and Conflict Resolution Clinic at Stanford Law School (IHRCRC) and Global Justice Clinic at NYU School of Law (GJC), *Living under drones: Death, injury, and trauma to civilians from US drone practices in Pakistan*, Stanford/New York, 2012. Retrieved 5 April 2013, <http://www.livingunderdrones.org/wp-content/uploads/2013/10/Stanford-NYU-Living-Under-Drones.pdf>.

4 D. Kretzmer, 'Targeted killing of suspected terrorists: Extra-judicial executions or legitimate means of defence?', in *European journal of international law*, 2005, no. 2, pp. 171–212; S. Clark, 'Targeted killings: Justified acts of war or too much power for one government?', in *Policy*, 2012, no. 3, pp. 15–33.

5 M. Walzer, 'Political action: The problem of dirty hands', in *Philosophy & public affairs*, 1973, no. 2, pp. 160–180.

6 *Ibid.*, p. 164.

politics and thus, in order to succeed, to wrongdoing,^{7,8} The scenario of *DirtyHands* (DH) can fruitfully be applied to the policy of TK, employed by the USA in the 'global war on terrorism' (GWOT).

From a deontological⁹ perspective it could be argued that the act of killing is inherently wrong and thus reprehensible, while a consequentialist¹⁰ notion could contain the conviction that it is fundamentally right to assassinate one individual who plots to attack a number of people. In reality, however, the moral lines between decisions that involve the TK of an individual are not so clear-cut. The political philosopher Stephen de Wijze has developed a framework to analyse the moral dimension of the targeted killing of terrorist associates in terms of *Dirty Hands*. He argues that an "[...] either/or approach does an injustice to our moral reality and the complexity of such cases and others like it."¹¹ As for TK, he continues, the blurred lines between moral and immoral actions indicate that while the targeting of an individual involved in terrorist activities could be legitimate and the right thing to do for a threatened liberal democracy, the action should be deeply regretted and reflected with remorse. This provides a viable framework for the analysis of the policy of TK on a case to case basis.

There are two main limitations to this research concept. First and foremost, general limitations to terrorism research are a major obstacle. The clandestine nature of terrorist organisations, the secrecy of intelligence services, the opacity of military actions and the fortunate infrequency of terrorist attacks (in Western societies) are only a few of the general limitations to research on terrorism. Especially in this case, to draw a coherent picture of the killing of Anwar al-Awlaki means making use of a variety of different sources, whose authors have the capability and resources to conduct first-hand research on the topic – NGOs are but one example of this. Thus, the problem of a lack of primary data is approached by using different kinds of secondary sources. This leads to the second limitation.

When using secondary sources, one has to be aware of possible bias and/or (hidden) normative approaches towards the topic. Therefore, every source has to be closely scrutinized and checked for its validity and predisposition. For organisational sources, this could mean balancing the content against the (possible) goals of that specific group.

Dirty Hands

The theory of *Dirty Hands* suggests that a moral agent faces a *situational* necessity to overrule his moral standards. Following the necessity makes it right, but violating the agent's moral code makes it wrong. In the DH situation the least evil, namely the least morally reprehensible choice, in combination with the necessary outcome, is chosen, rather than solely the greatest good or solely the lesser evil. Thus, the means and ends differ significantly from consequentialist reasoning. For a *Dirty Hands* theorist, morality, and an embedded absolutist set of ethics, cannot lightly or without difficulty be overruled. The overruling always has to be unavoidable. The agent, then, overrides his adherence to moral standards and makes a decision that he believes is right (for the community)

7 Ibid.

8 Walzer submits that it is most unlikely that one can become a successful politician without committing wrong. He claims: "[People who join politics] can do no good themselves unless they win the struggle, which they are unlikely to do unless they are willing and able to use the necessary means. [...] No one succeeds in politics without getting his hands dirty." (see footnote 8)

9 Deontological ethics hold that some choices are always morally prohibited. For more information see <http://plato.stanford.edu/entries/ethics-deontological/>.

10 Consequentialist ethics contain the notion that the morality of an action has to be assessed by its (possible) outcomes. For more information see: <http://plato.stanford.edu/entries/consequentialism/>.

11 S. de Wijze, "Targeted killing: A 'dirty hands' analysis", in *Contemporary Politics*, 2009, no.3, pp. 305–320, p.313.

and wrong (for the agent) at the same time.¹²

The connected predicament – being forced to do wrong in order to do what is right – arises for the moral person due to the immoral acts of others.¹³ “[...] [When] forced to act so that a much cherished moral principle will be violated, moral persons find that they are stained or polluted by having so to act.”¹⁴ Despite the well-intended moral decision to participate in wrongdoing, the moral actor finds himself with his hands dirtied, that is, with his moral innocence lost, due to the furthering of evil projects by committing an evil act himself.¹⁵ His act becomes the outset of evil in another causality chain. Thus, the decision to overrule the agent’s moral standards inspires regret, or ‘tragic remorse’,¹⁶ in spite of the certainty that the overruling was required.

De Wijze is concerned with the assessment of TK through an analytical framework based on *Dirty Hands*.¹⁷ He concludes that the act of TK is sometimes a matter of obligatory immorality: Morally reprehensible, but at the same time the right thing to do.¹⁸ *Dirty Hands* analysis then “[...] seeks to find a sensible alternative to the errors of adopting ethical positions that amount to either moral naivety or ruthless amorality.”¹⁹ Furthermore, he emphasises that each act of TK is different and needs to be evaluated using a coherent analytical framework.²⁰ This approach is employed to analyse the controversial TK of Anwar al-Awlaki, ordered by President Obama.²¹

Al-Awlaki

On September 30, 2011, the US Central Intelligence Agency and the Joint Special Operations Command (JSOC) successfully targeted the New Mexico-born Islamist cleric and member of Al-Qaida in the Arabian Peninsula (AQAP), killing him and three others in a UAV strike about 140 kilometres east of Yemen’s capital Sana’a.²² Al-Awlaki, dubbed “chief of external operations for AQAP”,²³ was listed as a target by the Obama administration in 2010.²⁴ He allegedly posed a significant threat to US citizens, as he was believed to be actively engaged in the war between the US and Al-Qaida and affiliated forces. Rather than carrying out acts of terrorism himself, he was the

12 At this point one commentator maintained that the decision to overrule moral standards may lead to short-term benefits for the community, but has long-term disadvantages. We agree. Continually making moral exceptions does eventually disrupt a society’s norms. The scenario of DH, as it is employed in this paper, is conceptually restricted to a situational moral dilemma or a threat that is imminent for a short period of time. It does not necessarily take long-term consequences into account.

13 S. de Wijze, ‘Defining evil: Insights from the problem of ‘dirty hands’’, in *The Monist*, 2002, no. 2, pp. 210–238.

14 Ibid., p. 216

15 Ibid.

16 S. de Wijze, ‘Tragic-remorse – the anguish of dirty hands’, in *Ethical theory and moral practice*, 2004, no. 5, pp. 453–471.

17 De Wijze 2009.

18 Ibid.

19 Ibid., p. 317

20 Ibid.

21 C. Savage, ‘Secret U.S. Memo Made Legal Case to Kill a Citizen’, *The New York Times*, 2011. Retrieved 16 January 2014, <http://www.nytimes.com/2011/10/09/world/middleeast/secret-US-memo-made-legal-case-to-kill-a-citizen.html>.

22 The Bureau of Investigative Journalism (TBIJ), *Yemen: Reported US covert actions 2001–2011*, London, 2012. Retrieved 22 July 2013, <http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-US-covert-actions-since-2001/>; J. Scahill, ‘Inside America’s dirty wars’, *The Nation*, 2013. Retrieved 22 July 2013, <http://www.thenation.com/article/173980/inside-americas-dirty-wars#>.

23 The White House, Remarks by the president at the national defense university, Washington, 2013a. Retrieved 22 July 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>, p. 5.

24 S. Shane, ‘U.S. approves targeted killing of American cleric’, *The New York Times*, 2010. Retrieved 16 January 2014, <http://www.nytimes.com/2010/04/07/world/middleeast/07yemen.html>.

organizer and instigator of violent extremism, especially focussing on a mainly English-speaking audience.²⁵ He also gave ideological and spiritual guidance to (potential) radicals. As part of this agenda his initially moderate and later uncompromising lectures were distributed through the internet.²⁶ In 2010, he and Samir Khan launched the English version of the internet-based propaganda magazine *Inspire*, which gives practical and ideological guidance to prospective extremists.²⁷

Definition of Targeted Killing and a Distinction Between Similar acts

In order to establish a coherent framework of analysis, the term ‘targeted killing’ has to be defined and distinguished from similar acts such as ‘extrajudicial killing’ (EK) or ‘political assassination’ (PA). The consequence of using De Wijze’s *Dirty Hands* outline for the analysis is that his definition of TK is employed. The option of considering other classifications was taken into account yet dismissed for reasons of practicality: Even if others were displayed here, the final choice would have been De Wijze’s definition, so that a similar methodological basis for the research could be established. ‘Targeted killing’ shares certain features with both PA and other types of EK: “It involves killing people without recourse to an open legal process and, in the same way as political assassination, it targets a named or specific individual for elimination.”²⁸

Three main characteristics form the definition of TK and distinguish it from PA and EK. Firstly, “the motive behind a policy of TK and the reasons for targeting a particular individual differ from those historically associated with political assassination.”²⁹ Acts of TK do not primarily focus on political figures to pursue political ends, such as regime change or political gain for the executing party.³⁰ Instead, they are employed in situations where active, proven self-affirmed terrorists with past, present and future aspirations are impossible to bring to justice via other means.³¹ TKs “are carried out only as a last resort and when there is no practical way of bringing specific terrorists to trial in the criminal justice system.”³² Finally, a TK is executed openly and with the “explicit approval of government in order to save lives and prevent further terrorist attacks.”³³ These features are summarised in a comprehensive definition, where TK is seen as:

“**[1]** [A] state-sanctioned policy, **[2]** which is used only in extraordinary circumstances to eliminate an individual, or group of individuals, **[3]** where the individuals targeted are an imminent threat with a proven record of actively planning and/or executing terrorist attacks against civilians, **[4]** the individuals targeted intend (and have so professed) to continue acts of terrorism, and **[5]** there is no realistic possibility of preventing such attacks by non-lethal methods and bringing the perpetrators before a proper court of law.”³⁴

25 S. Shane, ‘Born in U.S., a radical cleric inspires terror’, *The New York Times*, 2009. Retrieved 7 January 2014. <http://www.nytimes.com/2009/11/19/US/19Awlaki.html>.

26 S. Shane and S. Mekhennet, ‘Imam’s path from condemning terror to preaching jihad’, *The New York Times*, 2010. Retrieved 5 January 2014, <http://www.nytimes.com/2010/05/09/world/09Awlaki.html?pagewanted=all&r=0>.

27 R. Delahunty and C. Motz, ‘Killing al-Awlaki: The domestic legal issues’, in *Idaho journal of law & public policy*, 2012, no. 1, pp. 1–45.

28 De Wijze 2009, p.307

29 Ibid.

30 Ibid.

31 Ibid.

32 Ibid.

33 De Wijze 2009, p. 308

34 Ibid.

Analytical Framework

The following four conditions must invariably be met for an action to be identified as the result of a *Dirty Hands* judgement:

“An action or policy emanates from an unavoidable moral conflict/ dilemma and must involve a justified betrayal of a person or an important value or principle. [...]

An agent must be motivated by moral considerations to commit such amoral violation. [...]

The action chosen in order to bring about the lesser evil was made necessary under ‘a complex of immorality’ forced upon the agent by the immoral/evil projects of individuals or organizations. [...]

All DH actions must: (i) be reasonably expected to succeed in bringing about the lesser evil (typically reducing the deleterious consequences of the immoral/evil project); and (ii) be proportional to the harm they will reduce or prevent. [...]³⁵

In order to streamline the conditions’ applicability and comprehensively explore the circumstances of the case, eight questions were designed that are related to the individual criteria. Each of these questions will be addressed in the analysis section of this paper.

Case

Background

On the day of his demise, al-Awlaki was struck by two Hellfire missiles just after leaving his safe house in northern Yemen.³⁶ It was not the first strike targeted at the cleric, as Scahill indicates.³⁷ After an initial attempt failed in 2010 involving the Yemeni army,³⁸ al-Awlaki evaded yet another JSOC-led attempt. On May 5, 2010 a Hellfire missile closely missed its target allowing al-Awlaki to escape.³⁹ Capturing Somali Al-Shabab operative Ahmed Abdulkadir Warsame, who maintained links to al-Awlaki, in April 2011, provided the necessary information to help Yemeni and US intelligence to draw closer to the cleric.⁴⁰ Subsequently, “[a] tip from a Yemeni source and a fatal lapse in operational security by the cleric eventually did him in.”⁴¹ Overall, the TK of al-Awlaki was the result of a two-year manhunt.⁴²

Despite his denomination as ‘chief of external operations for AQAP’ by the Obama administration and his undeniable intention to motivate individuals to ‘home-grown’ terrorism, al-Awlaki’s influence within AQAP has been challenged. While Koehler-Derrick states that “[b]oth *Inspire* and Anwar al-Awlaki call for aspiring jihadists in the United States and United Kingdom to practice the type of leaderless jihad made famous by a mix of strategists of jihad

35 De Wijze 2009, p. 310

36 D. Klaidman, ‘Drones: How Obama learned to kill’, *Newsweek*, 2012. Retrieved 29 September 2013, <http://www.newsweek.com/drones-silent-killers-64909>.

37 Scahill 2013

38 M. Mazzetti, E. Schmitt and R. F. Worth, ‘Two-year manhunt led to killing of Awlaki in Yemen’, *The New York Times*, 2011. Retrieved 14 January 2014, http://www.nytimes.com/2011/10/01/world/middleeast/anwar-al-Awlaki-is-killed-in-yemen.html?pagewanted=all&_r=0.

39 Scahill 2013.

40 Ibid.

41 Klaidman 2012, p. 7.

42 Mazzetti et al. 2011.

and scholars of terrorism”,⁴³ he concludes that, in the long-run, the targeting of al-Awlaki will have little impact on AQAP’s resilience or organisational structure. While others pulled the strings, he seems to have been at the centre of attention for (US) media and the secret services: “The emergence of Americans, including Anwar al-Awlaqi and Samir Khan, has raised the profile of the group among English-speaking audiences [...]. Yet these foreigners remain almost entirely dependent on the assistance and support of Yemeni AQAP members to conduct attacks, maintain operational security and persist in such a complex operating environment. [...] AQAP’s foreign ambition and careful brand management began well before [...] Inspire’s inaugural release in summer 2010. [...]”⁴⁴

Life & Radicalisation

Al-Awlaki was born in the United States in 1971 and lived there until he was seven years old before moving back to Yemen.⁴⁵ After graduating from high school, he returned to the US to pursue a degree in civil engineering at the University of Colorado and later obtained an MA in education from San Diego State University.⁴⁶ In 1996 he became Imam at the Masjid Ar-Ribat al-Islam mosque in San Diego, where his sermons were frequented by future 9/11 hijackers Khalid al-Midhar and Nawaf al-Hazmi.⁴⁷ In early 2001, he relocated and became Imam at a mosque in Falls Church, Virginia, where he was again followed by al-Hazmi⁴⁸ and Hani Hanjour, yet another 9/11 hijacker.⁴⁹ When questioned by the Federal Bureau of Investigation (FBI) after 9/11, al-Awlaki “[...] admitted meeting with Hazmi several times, [but] he claimed not to remember any specifics of what they discussed.”⁵⁰

After initially condemning the 9/11 attacks, al-Awlaki gradually radicalised. Accordingly, “[t]here are two conventional narratives of Mr. Awlaki’s path to jihad.”⁵¹ Firstly, he himself claimed that his moderate views on Islam changed when the US started a war against Muslims on three different levels: “[...] openly in Afghanistan and Iraq, covertly in Pakistan and Yemen, and even at home [the US], by making targets of Muslims for raids and arrests.”⁵² The second account contends that al-Awlaki was an agent of al-Qaida all along, whose task from the very beginning was to help the 9/11 hijackers and later merely started showing his ‘true face’.⁵³ This account is endorsed, although it could not be verified, by the 9/11 Commission.⁵⁴ It may have been fuelled, among other incidents, by the fact that from 1998 to 1999 al-Awlaki was active as the vice president of an organisation that was later identified as a channel to fund AQ operations.⁵⁵

After staying in the UK for a period of about two years, al-Awlaki moved back to Yemen in 2004 where he started

43 G. Koehler-Derrick (ed.), ‘A false foundation? AQAP, Tribes and ungoverned Spaces in Yemen’, West Point, 2011, pp. 2–176, p. 52, emphasis in original.

44 Koehler-Derrick 2011, p. 146.

45 Delahunty and Motz 2011.

46 Shane 2009.

47 A. Meleagrou-Hitchens, ‘As American as apple pie: How Anwar al-Awlaki became the face of Western jihad’, London, 2011, pp. 1–90.

48 9/11 Commission, Final report of the national commission on terrorist attacks upon the United States (9/11 report), Washington, DC, 2004. Retrieved 5 September 2013, <http://www.9-11commission.gov/report/911Report.pdf>, p. 221.

49 Meleagrou-Hitchens 2011.

50 9/11 Commission 2004, p. 221.

51 Shane and Mekhennet 2010, p. 2.

52 Ibid.

53 Ibid.

54 9/11 Commission 2004, p. 230.

55 Delahunty and Motz 2011.

teaching at the al-Imam University.⁵⁶ In 2006 he was detained by Yemeni officials due to alleged involvement in a kidnapping plot. He remained imprisoned for 18 months and during this period was interviewed by the FBI.⁵⁷ It later turned out that the US did not reject al-Awlaki's stay in prison, until some "[...] American officials [...] [who] were disturbed at the imprisonment without charges of a United States citizen, signalled that they no longer insisted on Mr. Awlaki's incarceration, and he was released."⁵⁸ This stay seems to have furthered his radicalisation, as after he was released, "[...] his internet messages turned overtly hostile, advocating violent jihad against America as a duty of all able-bodied Muslims."⁵⁹

Terrorist Activities

Besides evident meetings with some of the 9/11 hijackers, and although the FBI could not prove his involvement in the 9/11 plot,⁶⁰ al-Awlaki stood accused of instigating others, directly or through his online lectures, to commit terrorist acts. To provide an exhaustive list of all the violent extremists who have consumed and were inspired by al-Awlaki's (online) propaganda would exceed the limits of this paper. Ostensibly, the sole consumption of his material does not necessarily and/or immediately lead to terrorist activities; it should just be seen as one factor in a complex, multi-layered jigsaw, as Klaidman maintains in the case of the Boston marathon bombing.⁶¹ Al-Awlaki's direct involvement in other plots, however, has to be evaluated differently. In order to establish an overview of the extent of al-Awlaki's influence – also posthumously – a selected few cases are displayed here.

The following cases demonstrate evidence that al-Awlaki's propaganda, at least partially, influenced the actors' decisions to commit to terrorism:

Time Square Bomb, 2010. It is unclear whether Faisal Shahzad and al-Awlaki ever communicated with each other. However, the Pakistani American, who attempted to detonate a crude home-made car bomb on Times Square in 2010, claimed to have drawn inspiration from al-Awlaki's online lectures on violent jihad.⁶² The then 30-year old seems to have radicalised on the internet and received training from the Pakistani Taliban in Waziristan in 2009.⁶³ Two days after the bombing attempt he was taken into custody. Shahzad, now serving a life sentence, claimed that further attacks were planned in New York City.⁶⁴

Federal Reserve Bank Plot, 2012. Quazi Mohammad Rezwanul Ahsan Nafis, a 21-year old Bangladeshi, was arrested in October 2012 by US authorities while scheming to detonate a bomb at the Federal Reserve Bank in New York. Although al-Awlaki was not directly involved in the planning of this attack, his online sermons seemed

56 Ibid.

57 Shane and Mekhennet 2010.

58 Ibid., p. 11–12.

59 Delahunty and Motz, 2011, p. 8.

60 P. Bergen and D. Sterman, 'Falling under the spell of a slain terrorist', CNN, 2013. Retrieved 20 December 2013, <http://www.cnn.com/2013/06/28/opinion/bergen-Awlaki-influence/>.

61 D. Klaidman, 'Exclusive: The Awlaki/Tsarnaev connection', The Daily Beast, 2013. Retrieved 8 January 2014, <http://www.thedailybeast.com/articles/2013/04/26/the-Awlaki-connection.html>.

62 S. Shane and M. Mazzetti, 'Times sq. bomb suspect is linked to militant cleric', The New York Times, 2010. Retrieved 1 January 2014, http://www.nytimes.com/2010/05/07/world/middleeast/07Awlaki-.html?_r=0.

63 Ibid.

64 J. Bray, 'Times square plotter gets life term', The Wall Street Journal, 2010. Retrieved 20 March 2014, <http://online.wsj.com/news/articles/SB10001424052748704469004575533902050370826?mod=djemalertNYnews&mg=reno64-wsj&url=http%3A%2F%2Fonl>.

to have helped in forming Nafis' jihadist world-view.⁶⁵

Boston Marathon Bomb, 2013. Tamerlan and Dzhokhar Tsarnaev, the Chechen brothers who detonated two pressure-cooker bombs at the Boston Marathon in 2013 killing three and injuring 264,⁶⁶ were supposedly instigated by video sermons from al-Awlaki.⁶⁷ They seem to have had “[...] no connection to overseas Islamist terrorist groups and were radicalized through the Internet.”⁶⁸ Accordingly, the devices used in the attack showed similarities with those displayed in an instruction manual published in the first issue of *Inspire*.⁶⁹ Again, it should be mentioned that the online sermons were most certainly not the only reason for them to engage in terrorism.⁷⁰

Evidently, al-Awlaki also participated in the planning of terrorist acts or was in close contact with the perpetrators. Most commonly known for his direct involvement are the following cases:

Fort Hood shooting, 2009. On November 5, 2009, Major Nidal Malik Hasan, an Army psychiatrist, killed 13 and injured more than 30 people at the Fort Hood military base in Texas. Hasan attended some of al-Awlaki's sermons in Falls Church and later, in 2008, consulted him via e-mail for religious guidance.⁷¹ He was mainly interested in the legitimacy of killing American Muslim soldiers if they turned against Muslim martyrs.⁷²

Christmas Day / Underwear Bomber, 2009. Umar Farouk Abdulmutallab required guidance in 2009 and sought after al-Awlaki in Yemen, where he “tested the Nigerian's commitment to jihad, arranged for him to meet a bomb-maker, and told him to get on a U.S. airliner and detonate his explosives over the United States.”⁷³ After three days of spiritual talks about jihad and martyrdom, and an extensive stay in an AQAP training facility, Abdulmutallab was given a bomb device that would be undetectable by airport security and sent *en route* from Yemen to Amsterdam where he boarded a plane to Detroit that he intended to blow up over US soil.⁷⁴ The bomb did not detonate due to a malfunction and Abdulmutallab was detained.

Cargo Plane Bombs, 2010. In October 2010, two improvised bombs were found in different cargo planes bound from Yemen to Chicago. The devices, intercepted in Dubai and the UK respectively, were probably intended to

65 S. Candiotti, 'Man arrested after plotting Federal Reserve bomb, authorities say', CNN, 2012. Retrieved 27 December 2013, <http://edition.cnn.com/2012/10/17/justice/new-york-federal-reserve-terror-plot>.

66 D. Kotz, 'Injury toll from marathon bombs reduced to 264', Boston Globe, 2013. Retrieved 14 January 2014, <http://www.bostonglobe.com/lifestyle/health-wellness/2013/04/23/>

67 P. Cruickshank and T. Lister, 'From the grave, the cleric inspiring a new generation of terrorists', CNN, 2013. Retrieved 13 January 2014, <http://www.cnn.com/2013/04/24/US/boston-Awlaki-influence>; P. Bergen and D. Sterman, 'Falling under the spell of a slain terrorist', CNN, 2013. Retrieved 20 December 2013, <http://www.cnn.com/2013/06/28/opinion/bergen-Awlaki-influence/>.

68 Cruickshank and Lister 2013, p1.

69 Ibid.

70 See Klaidman 2013.

71 Cruickshank and Lister 2013.

72 Ibid.

73 P. Finn, 'Awlaki directed Christmas 'underwear bomber' plot, justice department memosays', The Washington Post, 2012. Retrieved 14 January 2014, http://www.washingtonpost.com/world/national-security/al-Awlaki-directed-christmas-underwear-bomber-plot-justice-department-memo-says/2012/02/10/gIQArdOt4Q_story.html, p. 1.

74 Ibid.

detonate over American soil. Al-Awlaki is believed to have masterminded the act as part of AQAP.⁷⁵

*Reactions to the Targeted Killing of al-Awlaki*⁷⁶

The reactions to the killing of al-Awlaki were twofold with one strand of argumentation condemning the policy of targeted killing (Ross et al. 2012) and another fraction justifying the TK.⁷⁷ Attorney General Eric H. Holder stated in a letter to Members of Congress that “[t]he decision to target Anwar al-Aulaqi was lawful, it was considered, and it was just.”⁷⁸ Also, shortly after al-Awlaki’s death, President Obama claimed: “The death of al-Awlaki marks another significant milestone in the broader effort to defeat al Qaeda and its affiliates. Furthermore, this success is a tribute to our intelligence community, and to the efforts of Yemen and its security forces, who have worked closely with the United States over the course of several years.”⁷⁹ The US government’s point of view is generally supportive, as the TK was ordered by the Obama administration. However, in 2013, after much criticism had been expressed, it reacted with extensive transparency measures. The *U.S. policy standards and procedures for the use of force in counterterrorism operations outside the United States and areas of active hostilities*⁸⁰ in combination with the declassification of much of the intelligence on al-Awlaki⁸¹ and Obama’s *remarks at the National Defense University*⁸² are part of this agenda.

Most prominent for their attempt to legally challenge the targeting of al-Awlaki (twice, before and after the TK) were the American Civil Liberties Union (ACLU) and the Center for Constitutional Rights (CCR) in cooperation with the cleric’s father, Nasser al-Awlaki: “In 2010, following press reports that the U.S. government had put Anwar Al-Aulaqi on a ‘kill list,’ the ACLU and CCR filed a previous lawsuit representing his father challenging the government’s authority to do so. The court dismissed that suit on the grounds that the elder Al-Aulaqi did not have legal standing to challenge the targeting of his son, and that the request for before-the-fact judicial review raised non-justiciable ‘political questions.’”⁸³ Accordingly, the government’s transparency measures were a reaction to the second lawsuit and “[a]n important public debate about the program has gained steam, as have bipartisan calls for the government to release more information about the legal standards on which it relies when it kills people far from

75 S. Rayment, P. Hennessy and D. Barret, ‘Yemen cargo bomb plot may have been targeted at Britain’, The Daily Telegraph, 2010. Retrieved, 6 January 2014, <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/8099345/Yemen-cargo-bomb-plot-may-have-been-targeted-at-Britain.html>; Klaidman 2013.

76 It has been suggested that the TK of al-Awlaki’s son Abdulrahman should be implied, a killing which occurred shortly after the death of his father. While this was abominable, unnecessary and most certainly immoral from every perspective, it remains an individual case and does not need to be assessed here.

77 See The White House 2013a; M. Ramsden, ‘targeted killings and international human rights law: The case of Anwar al-Awlaki’, in Journal of conflict and security law, 2011, no. 2, pp. 385–406.

78 E. H. Holder, ‘Letter to the honourable Patrick J. Leahy’, Washington, 2013. Retrieved 13 June 2013, <http://www.justice.gov/slideshow/AG-letter-5-22-13.pdf>, p. 4.

79 The White House, Remarks by the president at the ‘change of office’ chairman of the joint chiefs of staff ceremony, Washington, 2011. Retrieved 22 July 2013, <http://www.whitehouse.gov/the-press-office/2011/09/30/remarks-president-change-office-chairman-joint-chiefs-staff-ceremony>, p. 1.

80 See The White House, Fact sheet: U.S. policy standards and procedures for the use of force in counterterrorism operations outside the United States and areas of active hostilities, 2013b. Retrieved 3 January 2014, <http://www.whitehouse.gov/the-press-office/2013/05/23/fact-sheet-US-policy-standards-and-procedures-use-force-counterterrorism>.

81 See Federal Bureau of Investigation (FBI), Declassified FBI records on al-Awlaki, Washington, 2013. Retrieved 23 July 2013, <http://de.scribd.com/doc/149699460/1488-05312013>.

82 The White House 2013a.

83 J. Bell, ‘In court today: Challenging the drone killings of three Americans’, American Civil Liberties Union, 2013. Retrieved 20 March 2014, <https://www.aclu.org/blog/national-security/court-today-challenging-drone-killings-three-americans>, p. 2.

any battlefield.”⁸⁴ While in 2014 the cleric’s family eventually decided to withdraw their appeal⁸⁵ in the recent lawsuit, the US government has agreed to release a secret memo unveiling the (legal) reasoning for the decision to kill al-Awlaki.⁸⁶ The memo⁸⁷ was re-released in June of this year and was heavily criticised by ACLU for omitting significant information on the threat that al-Awlaki allegedly posed to the US.⁸⁸ Furthermore, the memo issued not to provide a definition of the often cited ‘imminence’ that led to the TK and “[...] does not address the circumstances that would make ‘capture infeasible,’ and killing therefore permissible.”⁸⁹ Thus, as for the moral assessment on the basis of DH, the memo does not provide any further information. The following analysis must be seen as an *agent-centric* assessment of the *situational* decision that Obama took and the (im)moral residue it invoked.

Analysis

1 An Unavoidable Moral Conflict?

The US government’s deliberation to use drones and target al-Awlaki emanates from an unavoidable moral dispute. The core conflict arises between the upholding of a moral standard, namely not to kill a citizen without due process – an option that could potentially have led to the deaths of (American) civilians – and breaking with it to quickly disable the propagandist and save lives. As de Wijze aptly formulates for another case, “[n]either option is without moral problems, as by following the less efficient means, the Government would be responsible for attacks they could have prevented had they eliminated [him].”⁹⁰ The same can be said about al-Awlaki and the Obama administration.

A *Dirty Hands* situation emerges for the moral agent (the decision-maker) when such a moral conflict is unavoidable. In this case, two conditions render the conflict unavoidable. Firstly, al-Awlaki had participated in past terrorist activities and intended to devote himself to further plotting in the future. He was a dedicated instigator and planner, and submitted himself to the cause of AQAP. Thus, he posed a considerable threat to the US and, through his immoral deeds, forced Obama to react accordingly. The second condition is the inaccessibility that al-Awlaki used to his advantage. Without the remoteness of his hideouts, other means of prosecution could have been employed to curtail the cleric’s activities. Attorney General Eric H. Holder claims: “Before carrying out the operation that killed al-Aulaqi, senior officials also determined, based on a careful evaluation of the circumstances at the time, that it was not feasible to capture al-Aulaqi.”⁹¹

In combination, the two aspects left the US President with the options of targeting al-Awlaki or phlegmatically enduring the threats. Considering the cleric’s proven past involvement, his long-term utterance

84 N. Yachot, ‘A year in targeted killing: Small steps forward on transparency, still no accountability’, American Civil Liberties Union, 2013. Retrieved 20 March 2014, <https://www.aclu.org/blog/national-security-human-rights/year-targeted-killing-small-steps-forward-transparency-still-no>, p. 1.

85 H. Shamsi, ‘Relative of Americans Killed by Drone Strikes: No Justice in U.S. Courts’, American Civil Liberties Union, 2014. Retrieved 18 June 2014, <https://www.aclu.org/blog/tag/anwar-al-Awlaki>.

86 See A. Parker, ‘Memo approving targeted killing of U.S. citizen to be released’, The New York Times, 2014. Retrieved 21 May 2014, <http://www.nytimes.com/2014/05/21/US/politics/memo-approving-targeted-killing-of-US-citizen-to-be-released.html?hp&r=1>.

87 D. J. Barron, ‘Memorandum for the Attorney General’, Washington, 2010. Retrieved 29 August 2014, https://www.aclu.org/sites/default/files/assets/2014-06-23_barron-memorandum.pdf.

88 B. M. Kaufman, ‘Five Takeaways from the Newly Released Drone Memo’, American Civil Liberties Union, 2014. Retrieved 29 August 2014, <https://www.aclu.org/blog/national-security/five-takeaways-newly-released-drone-memo>, p. 1.

89 Ibid., p. 1.

90 De Wijze 2009, p. 313.

91 Holder 2013, p. 3.

of threats and his self-expressed future aspirations, not acting was a rather unlikely choice to make.

Who or What Value/Principle is Betrayed?

According to US law, conspiring to murder is, at most, punishable by imprisonment for life.⁹² Next, the Fifth Amendment of the United States Constitution (the Bill of Rights) establishes that citizens may not be subject to prosecution and punishment without due process. The Fourteenth Amendment (Section 1) holds that “[...] [n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”⁹³ Furthermore, the International Covenant on Civil and Political Rights states that “[a]nyone sentenced to death shall have the right to seek pardon or commutation of the sentence.”⁹⁴

These legal rules are established on the basis of, or from – the sequence is insignificant – certain moral standards that declare ‘thou shalt not kill’ for the individual. For the state it establishes that (especially) capital punishment is only legitimate with due process: “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, [...] nor be deprived of life, liberty, or property, without due process of law; [...]”⁹⁵ and again: “[...] [N]or shall any State deprive any person of life, liberty, or property, without due process of law; [...]”⁹⁶

At stake, thus, were the constitutional (and human) right of a US citizen to be eligible for due process before the judgment of capital punishment is delivered and the principle of the rule of law. Al-Awlaki, who allegedly ‘merely’ conspired to murder and instigated rather than killed others himself, was an American citizen and eligible for due process in the US. The maximum sentence in Federal law for conspiring to murder is a life sentence.⁹⁷ The information available about the case indicates that the crimes al-Awlaki committed were instigating to and the planning (or conspiring) of terrorist attacks. Thus, the general principle of the rule of law was betrayed and, more precisely, the fifth and the fourteenth amendments of the US Constitution were violated. If killing is generally impermissible, the TK of al-Awlaki by the US government also broke this moral standard.

Was the Betrayal Justified?

It has been established that al-Awlaki openly instigated attacks against the United States. From the viewpoint of the US government this leads to a moral conflict. On the one hand, it is the duty of a government to protect its citizens against physical harm, but certain moral standards must be upheld to ensure stability and the rule of law. Al-Awlaki was evidently planning further attacks and instigating especially American Muslims to radicalise and take action. For the US government he was an imminent threat and endangered the lives of civilians. In combination with the secrecy, security and remoteness of his hideouts in Yemen, the betrayal of the above-mentioned values in that particular situation was justified. Holder claims: “[...] [I]t was not al-Aulaqi’s words that led the United States

92 18 U.S. Code §1117.

93 U.S. Const. am. XIV, sec. 1.

94 International Covenant on Civil and Political Rights, art. 6, sec. 4.

95 U.S. Const. am. V.

96 U.S. Const. am. XIV, sec. 1.

97 18 U.S. Code §1117.

to act against him: they only served to demonstrate his intentions and state of mind, that he ‘pray[ed] that Allah [would] destro[y] America and all its allies.’ Rather, it was al-Aulaqi’s actions and, in particular, his direct personal involvement in the continued planning and execution of terrorist attacks against the U.S. homeland that made him a lawful target and led the United States to take action.”⁹⁸

2 The Agent’s Moral Considerations

What are the Moral Considerations of the Agent Involved?

The second criterion is concerned with an agent’s incentive to commit a moral violation. De Wijze claims that “purely pragmatic reasons for acting”⁹⁹ do not justify breaking moral standards. Furthermore, it is argued that “TKs may not be acts of revenge or punishment or (worse still) attempts to achieve political ends such as the scuppering of possible peace agreements [...], but rather a reluctant and regrettable response to a deadly imminent threat.”¹⁰⁰ It appears difficult to acquire data about the variables involved in this criterion as the internalities of a moral agent are problematic to assess. For the purpose of this article, it will be assumed that public statements about the events, the connected moral considerations and feelings of guilt are genuine. Thus, this section should be seen as an attempt to objectively evaluate Obama’s subjective statements and explanations.

Barack Obama stated the following about his motivations to act in the al-Awlaki case: “[W]hen a U.S. citizen goes abroad to wage war against America and is actively plotting to kill U.S. citizens, and when neither the United States, nor our partners are in a position to capture him before he carries out a plot, his citizenship should no more serve as a shield than a sniper shooting down on an innocent crowd should be protected from a swat team. [...]”¹⁰¹ This statement indicates why the moral standards were broken and Obama betrayed the values/principles mentioned above. It suggests a dilemma between upholding moral norms and saving the lives of US citizens. Furthermore, it indicates that there was no alternative way of confronting al-Awlaki due to the remoteness and inaccessibility of his hideouts in Yemen – under these circumstances the moral conflict became unavoidable.

“I would have detained and prosecuted Awlaki if we captured him before he carried out a plot, but we couldn’t. And as President, I would have been derelict in my duty had I not authorized the strike that took him out [...]”¹⁰² This quote, again, emphasises that al-Awlaki was inaccessible by means other than drones; a claim that is supported by Holder, but cannot be verified for the purpose of this research, as neither the declassified FBI documents nor the released memo shed light on the circumstances. It seems reasonable to suspect certain activity, be it instigation or planning, from al-Awlaki, considering his past involvement. Accordingly, “[...] information that remains classified to protect sensitive sources and methods evidences al-Aulaqi’s involvement in the planning of numerous other plots against U.S. and Western interests and makes clear he was continuing to plot attacks when he was killed.”¹⁰³ Both accounts entail urgency due to a threat. It appears that al-Awlaki was planning to extend his attacks on the United States. These had to be stopped, and could, based on the two statements, only be avoided by means of TK. One could argue that in the past al-Awlaki’s plots were otherwise impeded – this entails a reactive, rather than a proactive approach towards the problem. Furthermore, the President claims that it was his duty to decide on the

⁹⁸ Holder 2013, p. 3.

⁹⁹ De Wijze 2009, p. 310.

¹⁰⁰ De Wijze 2009, p. 314.

¹⁰¹ The White House 2013a, p. 5.

¹⁰² The White House 2013a, p. 6.

¹⁰³ Holder 2013, p. 3.

killing of al-Awlaki, which indicates moral reasoning connected to the office he occupies.

“Alongside the decision to put our men and women in uniform in harm’s way, the decision to use force against individuals or groups -even against a sworn enemy of the United States -is the hardest thing I do as President. But these decisions must be made, given my responsibility to protect the American people.”¹⁰⁴ Finally, the last part shows that the decision to target al-Awlaki was not unproblematic for Obama, as he subsequently faced a moral conflict. Indeed, this part again emphasizes the utilitarian consideration he made to decide on the TK. He speaks of his ‘responsibility to protect the American people’, which hints at the moral conflict between upholding norms as opposed to the protection of US citizens. Conversely, Klaidman¹⁰⁵ displays a different picture; he claims that the President had ‘no qualms’ about targeting al-Awlaki – an argument endorsed by Scahill.¹⁰⁶ If, however, solely pragmatic reasons and those of revenge, etc., can be ruled out, and additionally it was a difficult decision for the President to make – which indicates moral reasoning and guilt – as an unavoidable moral conflict was shackling him to the immoral behaviour of AQAP, then it can be concluded that condition two is fulfilled. The decision to act, and to violate moral rules, was based on an agent’s moral considerations – the potential death of civilians vs. the upholding of a cherished moral value/principle.

3 A Complex of Immorality

What is the ‘Complex of Immorality’ Faced by the Agent/S? What are the Immoral/Evil Projects of Which Individual/S or Organisation/S that Require the Agent’s Attention?

Al-Awlaki was seen as an instigator of violent jihad and an executive planner for AQAP. Al-Qaida in the Arabian Peninsula, according to the Obama administration, is considered to be the most imminent terrorist threat to the American homeland.¹⁰⁷ The multiplicity of ‘evil projects’ of al-Awlaki personally and AQAP as an organisation¹⁰⁸ and, subsequently, the attacks and schemes of these two intertwined entities to cause harm, create a complex of immorality. The necessity to react to these ‘evil projects’ dragged President Obama into the complex of immorality. Neither an inactive stance, due to a possibly increased casualty rate, nor an efficient reaction, due to the violation of the rule of law, is without moral pollution. Thus, the Obama administration is not only drawn into the ‘complex of immorality’, but also furthered it by reacting to AQAP’s ‘evil projects’. Choosing the lesser evil is still an evil and not without moral costs. The third criterion, therefore, can be considered to have been fulfilled.

4 The Lesser Evil and Proportionality

Can The Act of TK in This Case Succeed In Bringing About the Lesser Evil and Reduce the Deleterious Consequences of the Immoral/Evil Project?

Is the act of TK in this Case Proportional to the Harm it Will Reduce or Prevent?

The last criterion is concerned with questions about lesser evil and proportionality. An analysis of either of these

104 The White House 2013a, p. 6.

105 Klaidman 2012.

106 Scahill 2013.

107 Koehler-Derrick 2011; The White House 2013a.

108 E.g. see F. J. Cilluffo, ‘Understanding the threat to the homeland from AQAP’, Washington, 2013, pp. 1–9; L. B. O’Brien, ‘The evolution of terrorism since 9/11’, Washington, 2011. Retrieved 16 January 2014, <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/september-2011/the-evolution-of-terrorism-since-9-11>.

concepts is connected with some difficulty: “[...] [W]hen deciding to engage in an act of TK, the judgment about whether to carry out this act must fulfil the reasonable expectations and proportionality tests given the information available at the time of the decision. A policy of TK must be carried out in a disciplined, rational and constrained manner that only employs the minimum necessary moral violation.”¹⁰⁹

In order to appropriately examine the lesser evil, knowledge about the information available to the decision-maker at the time of deciding is required. It also implies considering the outcome of the intended action from that point in time. Secondly, the principle of proportionality is challenging to analyse. Despite the advantage of hindsight, the sheer lack of openly available information about the intelligence gathered on the case and the missing access to the inner moral dialogue of the actors is a hindrance to this evaluation. Again: “Unless we have access to the intelligence reports and other vital information, assessing compliance with this condition is very difficult because it relies on piecing together clues from official reports, leaked memos, etc. in order to ascertain the reasonableness of the judgments made.”¹¹⁰

If the execution of the TK of al-Awlaki is considered, it can be maintained that the avoidance of collateral damage was central to the US authorities. The TK was conducted outside of urban areas with only terrorist affiliates being affected. In order to assess whether the deleterious consequences of the evil project were reduced, one would have to know what al-Awlaki was exactly planning. According to Holder¹¹¹ and Obama,¹¹² al-Awlaki posed an imminent threat to the US and was planning further attacks at the time of deciding on the TK. This is in line with one of the Obama administration’s conditions for the use of lethal force in counterterrorist activities: “Lethal force will not be proposed or pursued as punishment or as a substitute for prosecuting a terrorist suspect in a civilian court or a military commission. Lethal force will be used only to prevent or stop attacks against U.S. persons, and even then, only when capture is not feasible and no other reasonable alternatives exist to address the threat effectively.”¹¹³

Thus, according to this self-imposed condition, the use of force in counterterrorist actions is not admissible for retaliatory action. In addition to the statements, the logical consequence from assuming that this principle was taken into account and adhered to is that al-Awlaki was planning major attacks against the United States, which had to be prevented. Following this argumentation, given the lack of data on such possible future activities of the cleric and assuming that he was planning further, more adverse attacks, it can be submitted that disabling al-Awlaki was the lesser evil.

The second point is that of proportionality. In the al-Awlaki case, all of the group members killed were AQAP affiliates. Compared to other cases of TK, the collateral damage was limited, and under the premise of the first point, that a major attack was prevented by targeting al-Awlaki, it is reasonable to submit that the act was proportional and was the lesser evil. However, given the cleric’s main activities as an instigator, (in)directly convincing individuals to participate in violent jihad, in combination with the generally challenged efficacy of TK, this point may have to be reconsidered. In more detail, one could claim that al-Awlaki’s main purpose and means were his sermons and his spiritual guidance, much of which can still be found online, written or as video/audio files. Killing al-Awlaki, one may claim, could have led to an increased interest in his teachings, to his alleviation to a state

109 De Wijze 2009, p. 316.

110 De Wijze 2009, p. 315.

111 Holder 2013.

112 The White House 2013a.

113 The White House 2013b, p. 1.

of martyrdom and, subsequently, to more terrorist activity. If this is the case, and some terrorist attacks like the *Boston Bombs* indicate that it is, then it could be argued that the killing of al-Awlaki has not decreased but increased the general harm done.


In order to solve this predicament and escape this one-way road, it is fruitful to consider to whom the proportionality principle is applicable. Arguably, in this case, the harm done to the individual/s needs to be proportional to the immediate harm prevented from others. That is, the harm done to al-Awlaki and, likewise, to people close to him, for example his family, in sum has to be less than the harm his potential future activities as an 'operational leader of AQAP' might have caused. From this point of view, under the premise of considering the possibility of a TK from the Obama administration at the moment of deciding, the principle of proportionality was upheld: Killing three under expectation of preventing the death of hundreds seems proportional. Thus, the last criterion can be considered to have been fulfilled.

Conclusion

This assessment of the targeted killing of Anwar al-Awlaki concluded that the decision to execute the cleric was based on a *Dirty Hands* judgement. President Obama has *Dirty Hands*, as he made a decision that was wrong yet necessary and did not come without moral pollution. The act is thus deemed to be justified from a moral perspective based on the theory of *Dirty Hands*. It has been argued that the conditions outlined by De Wijze¹¹⁴ have been holistically fulfilled. The unavoidable moral conflict between upholding the moral norms and the potential death of US citizens has led President Obama to betray two major values/principles: The due process clause and the rule of law. Under these particular circumstances and on the basis of the *Dirty Hands* theory, the betrayal was deemed to be justified. President Obama's moral considerations were based on his 'responsibility to protect the American people' and were his 'duty.' The complex of immorality imposed upon President Obama was the conglomerate of actions that al-Awlaki executed in association with Al-Qaida in the Arabian Peninsula, wherein the cleric's past participation in immoral projects is evident. Finally, despite the challenges of acquiring data, the targeted killing was deemed proportional and the lesser evil. The analysis brings US to the conclusion that, in accordance with the conditions de Wijze outlines, the TK of al-Awlaki was the result of a *Dirty Hands* judgement: It was wrong yet probably necessary.

Dirty Hands has the potential to provide a viable *agent-centric* framework to assess intractable moral conflicts while neither allowing for ruthless amorality nor ignoring the nature of the political office. The complexity of the issue makes *Dirty Hands* especially suitable to assess the moral dimension of targeted killings, because even though from an international legal perspective it is highly questionable, in some cases it could be argued that it is neither right nor wrong to extra-judicially execute an alleged terrorist. As every case of targeted killing is different, the controversy about the policy in general can only be lifted if future research is conducted on a case-to-case basis. Thus, a multiplicity of cases has to be evaluated using the *Dirty Hands* framework in order to establish a more nuanced debate on the question of whether or when it is right, wrong or both to employ the highly controversial practice of the targeted killing of alleged terrorists using drones or other means.

114 "[1] An action or policy emanates from an unavoidable moral conflict/dilemma and must involve a justified betrayal of a person or an important value or principle. [...] [2] An agent must be motivated by moral considerations to commit such a moral violation. [...] [3] The action chosen in order to bring about the lesser evil was made necessary under 'a complex of immorality' forced upon the agent by the immoral/evil projects of individuals or organizations. [...] [4] All DH actions must: (i) be reasonably expected to succeed in bringing about the lesser evil (typically reducing the deleterious consequences of the immoral/evil project); and (ii) be proportional to the harm they will reduce or prevent. [...]" see footnote 34.



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Netherlands Helsinki Committee
Het Nutshuis
Riviermarkt 4
2513 AM The Hague
The Netherlands

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