

SHORTER JEH JOHNSON: 16-YEAR OLD ABDULRAHMAN AL- AWLAKI LEGITIMATE MILITARY TARGET

I'll have more to say about this speech Jeh Johnson gave at Yale later. But for the moment I wanted to unpack the logic of his comments about targeted killing.

As part of his claim that drone strikes are just like past military killing, Johnson boasted of the precision of our current weapons.

I want to spend a moment on what some people refer to as "targeted killing." Here I will largely repeat Harold's much-quoted address to the American Society of International Law in March 2010. In an armed conflict, lethal force against known, individual members of the enemy is a long-standing and long-legal practice. What is new is that, with advances in technology, we are able to target military objectives with much more precision, to the point where we can identify, target and strike a single military objective from great distances.

Should the legal assessment of targeting a single identifiable military objective be any different in 2012 than it was in 1943, when the U.S. Navy targeted and shot down over the Pacific the aircraft flying Admiral Yamamoto, the commander of the Japanese navy during World War Two, with the specific intent of killing him? Should we take a dimmer view of the legality of lethal force directed against individual members of the enemy, because modern technology makes our

weapons more precise? As Harold stated two years ago, the rules that govern targeting do not turn on the type of weapon system used, and there is no prohibition under the law of war on the use of technologically advanced weapons systems in armed conflict, so long as they are employed in conformity with the law of war. Advanced technology can ensure both that the best intelligence is available for planning operations, and that civilian casualties are minimized in carrying out such operations.

He then goes on to argue that our targeted killing is not assassination because the targets are all legitimate military targets.

On occasion, I read or hear a commentator loosely refer to lethal force against a valid military objective with the pejorative term “assassination.” Like any American shaped by national events in 1963 and 1968, the term is to me one of the most repugnant in our vocabulary, and it should be rejected in this context. Under well-settled legal principles, lethal force against a valid *military* objective, in an armed conflict, is consistent with the law of war and does not, by definition, constitute an “assassination.”

Well then. If our weapons have that much precision—if the intelligence that goes into such strikes is so good we can strike individuals with precision—and we only hit military targets, it must follow that we knew 16-year old American citizen Abdulrahman al-Awlaki was present when we killed him with a drone strike. And we must have considered the teenager a legitimate military target.

Because of course the United States would never

assassinate its teenagers, would it?