

United States of America, The Death of Osama bin Laden

A. Obama's address to the Nation

[Source: White House, "Remarks by the President on Osama Bin Laden", 2 May 2011, available at <https://www.whitehouse.gov/blog/2011/05/02/osama-bin-laden-dead>]

Tonight, President Obama addressed the Nation to announce that the United States has killed Osama bin Laden, the leader of al Qaeda. [...]

"Tonight, I can report to the American people and to the world that the United States has conducted an operation that killed Osama bin Laden, the leader of al Qaeda, and a terrorist who's responsible for the murder of thousands of innocent men, women, and children.

It was nearly 10 years ago that a bright September day was darkened by the worst attack on the American people in our history. The images of 9/11 are seared into our national memory -- hijacked planes cutting through a cloudless September sky; the Twin Towers collapsing to the ground; black smoke billowing up from the Pentagon; the wreckage of Flight 93 in Shanksville, Pennsylvania, where the actions of heroic citizens saved even more heartbreak and destruction.

[...]

On September 11, 2001,[...] [w]e were also united in our resolve to protect our nation and to bring those who committed this vicious attack to justice. We quickly learned that the 9/11 attacks were carried out by al Qaeda -- an organization headed by Osama bin Laden, which had openly declared war on the United States and was committed to killing innocents in our country and around the globe. And so we went to war against al Qaeda to protect our citizens, our friends, and our allies.

[...]

Yet Osama bin Laden avoided capture and escaped across the Afghan border into Pakistan. Meanwhile, al Qaeda continued to operate from along that border and operate through its affiliates across the world.

And so shortly after taking office [in January 2009, editor's note], I directed Leon Panetta, the director of the CIA, to make the killing or capture of bin Laden the top priority of our war against al Qaeda, even as we continued our broader efforts to disrupt, dismantle, and defeat his network.

Then, last August, after years of painstaking work by our intelligence community, I was briefed on a possible lead to bin Laden.

[...]

And finally, last week, I determined that we had enough intelligence to take action, and authorized an operation to get Osama bin Laden and bring him to justice.

B. New York Times, Background on the Death of Osama bin Laden

[Source: The New York Times, The Death of Osama bin Laden, http://topics.nytimes.com/top/reference/timestopics/people/b/osama_bin_laden/index.html?scp=1-spot&sq=osama%20bin%20laden&st=cse]

Osama bin Laden was a son of the Saudi elite whose radical violent campaign to recreate a seventh-century Muslim empire redefined the threat of terrorism for the 21st century.

[...]

He was killed on May 2, 2011, by American military and C.I.A. operatives who tracked him to a compound in Pakistan.

President Obama announced the death in a televised address to the nation from Washington, where it was still late on the night of May 1. "Justice has been done," he declared.

The United States had been trying to kill or capture Bin Laden since it launched an invasion of Afghanistan in November 2001. The next month, he escaped from American and Afghan troops at an Afghan mountain redoubt called Tora Bora, near the border with Pakistan. For more than nine years afterward, he remained an elusive, shadowy figure frustratingly beyond the grasp of his pursuers and thought to be hiding somewhere in Pakistan's remote tribal areas and plotting new attacks.

When he was hunted down, Bin Laden was killed not in the wilderness but rather in the city of Abbottabad, about an hour's drive north of the capital of Islamabad, raising anew questions about whether the Pakistani intelligence services had played a role in harboring him.

Anatomy of a Successful Raid

Behind the raid that killed Bin Laden lay years of intelligence work. The turning point came in July 2010, when Pakistanis working for the Central Intelligence Agency drove up behind a white Suzuki navigating the bustling streets near Peshawar and wrote down the car's license plate.

The man in the car was Bin Laden's most trusted courier, and over the next month C.I.A. operatives would track him throughout central Pakistan. Ultimately he led them to a sprawling compound at the end of a long dirt road and surrounded by tall security fences in the wealthy hamlet 35 miles from Islamabad.

On a moonless night eight months later, 79 American commandos in four helicopters descended on the compound. Shots rang out. A helicopter stalled and would not take off. Pakistani authorities, kept in the dark by their allies in Washington, scrambled forces as the American commandos rushed to finish their mission and leave before a confrontation. Of the five dead, one was a tall, bearded man with a bloodied face and a bullet in his head. A member of the Navy Seals snapped his picture with a camera and uploaded it to analysts who fed it into a facial recognition program.

In its initial account, the American government said that Bin Laden had been armed while taking part in the fierce firefight that broke out after a team of Navy Seals launched its assault. That was later revised to say that Bin Laden had been unarmed.

According to the later account, when the Seals reached the compound, they were immediately fired upon by Bin Laden's trusted courier, Abu Ahmed al-Kuwaiti. The commandos killed him and a woman with him. When the Seals moved into the main house, they saw the courier's brother, who they believed was preparing to fire a weapon. They shot and killed him. Then, as they made their way up the stairs of the house, officials said they killed Bin Laden's son Khalid as he lunged toward the Seal team.

When the commandos reached the top floor, they entered a room and saw Osama bin Laden with an AK-47 and a Makarov pistol in arm's reach. They shot and killed him, as well as wounding a woman with him.

And just like that, history's most expansive, expensive and exasperating manhunt was over. The inert frame of Bin Laden, America's enemy No. 1, was placed in a helicopter for burial at sea, never to be seen or feared again.

Background

Elusive for Nearly a Decade

Long before the Sept. 11th attacks, Bin Laden had become a hero in much of the Islamic world, as much a myth as a man — what a longtime C.I.A. officer called “the North Star” of global terrorism. He had united

disparate militant groups, from Egypt to Chechnya, from Yemen to the Philippines, under the banner of Al Qaeda and his ideal of a borderless brotherhood of radical Islam.

After the attacks, the name of Al Qaeda and the fame of Bin Laden spread like a 21st-century political plague. Groups calling themselves Al Qaeda, or acting in the name of its cause, attacked American troops in Iraq, bombed tourist spots in Bali and blew up passenger trains in Spain.

To the day of his death, the precise reach of his power remained unknown: how many members Al Qaeda could truly count on; how many countries its cells had penetrated; and whether, as Bin Laden boasted, he sought to arm Al Qaeda with chemical, biological and nuclear weapons. (His age also was unclear — either 53 or 54.)

[...]

A Terror Network

Through the '90s, Al Qaeda evolved into a far-flung and loosely connected network of symbiotic relationships: Bin Laden gave affiliated terrorist groups money, training and expertise; they gave him operational cover and a furthering of his cause. Perhaps the most important of those alliances was with the Taliban, who rose to power in Afghanistan largely on the strength of Bin Laden's aid, and in turn provided him refuge and a launching pad for holy war.

Long before Sept. 11, though the evidentiary trails were often thin, American officials considered Bin Laden at least in part responsible for the killing of American soldiers in Somalia and in Saudi Arabia; the first attack on the World Trade Center, in 1993; the bombing of the Khobar Towers in Saudi Arabia; and a foiled plot to hijack a dozen jets, crash a plane into the C.I.A. headquarters and kill President Bill Clinton.

[...]

[...]

In February 1998, he declared it the duty of every Muslim to "kill Americans wherever they are found." After the bombings of two American Embassies in East Africa in August 1998, President Clinton declared Bin Laden "Public Enemy No. 1." The C.I.A. spent much of the next three years hunting Bin Laden.

The goal was to capture him with recruited Afghan agents or to kill him with a precision-guided missile, according to the 2004 report of the 9/11 Commission and the memoirs of George J. Tenet, director of central intelligence from July 1997 to July 2004.

[...]

The Aftermath of 9/11

[See also Case United States, The September 11 2001 Attacks]

[...]

Bin Laden had never before claimed or accepted responsibility for terrorist attacks. In a videotape found in the southern Afghan city of Kandahar weeks after the attacks, he firmly took responsibility for — and revealed in — the horror of Sept. 11.

[...]

Continued Operational Role

After reviewing computer files and documents seized at the compound where he was killed, American intelligence analysts have concluded that the chief of Al Qaeda played a direct role for years in plotting terror attacks from his hide-out. The documents taken at the Abbottabad compound, according to American officials, show that Bin Laden was in touch regularly with the terror network he created. With his whereabouts and activities a mystery in recent years, many intelligence analysts and terrorism experts had concluded that he had been relegated to an inspirational figure with little role in current and future Qaeda operations.

The documents include a handwritten notebook from February 2010 that discusses tampering with tracks to derail a train on a bridge, possibly on Christmas, New Year's Day, the day of the State of the Union address or the 10th anniversary of the Sept. 11, 2001, attacks, officials said.

The world's most wanted terrorist lived his last five years imprisoned behind the barbed wire and high walls of his home in Abbottabad, Pakistan, his days consumed by dark arts and domesticity. American officials believe that he spent many hours on the computer, relying on couriers to bring him thumb drives packed with information from the outside world.

[...]

C. The New York Times, How Osama bin Laden was Located and Killed

[Source: The New York Times, How Osama bin Laden was Located and Killed,
<http://www.nytimes.com/interactive/2011/05/02/world/asia/abbottabad-map-of-where-osama-bin-laden-was-killed.html?scp=11&sq=osama%20bin%20laden&st=cse>]

After nearly a decade of hunting Osama bin Laden, a breakthrough came in August of 2010 when Bin Laden's most trusted courier was located and identified. What followed was eight months of painstaking intelligence work, culminating in a helicopter assault in Abbottabad, Pakistan by American military and intelligence operatives that ended in the death of Bin Laden.

[...]

How the Raid Unfolded In the days after the raid, officials gave some conflicting details of the operation. Here is a sequence of events compiled from the most current accounts given by American officials.

1 Operation Begins Four helicopters carrying 79 Americans leave from Jalalabad, Afghanistan.

2 Crash Around 1 a.m. Pakistan time, high walls and high temperatures cause the first helicopter to descend faster than expected. Its tail hits a wall and snaps off, but no one is hurt.

3 Change of Plans A second helicopter was supposed to hover over the main building while Seal members rappelled down to the roof, but it lands on the ground as well.

4 Firefight Abu Ahmed al-Kuwaiti, Osama bin Laden's courier, opens fire from behind a door of the guesthouse. Commandos kill the courier. His wife is caught in the cross-fire and killed.

5 In the Main Building The commandos blow open the front door of the main house as well as a brick wall behind it. On the first floor, they see the courier's brother, who they believe is preparing to fire a weapon. They shoot and kill him.

6 On the Way Up As they make their way up the stairs, they kill Bin Laden's son Khalid as he lunges toward the Seal team.

7 Bin Laden Killed When the commandos reach Bin Laden's room on the third floor, an AK-47 and a Makarov pistol are seen in arm's reach of Bin Laden. A commando shoots Bin Laden in the left eye and chest, killing him. Bin Laden's wife lunges at a commando and is shot in the leg but not killed.

Mission Time The Seal team is on the ground for an estimated 38 minutes. Bin Laden is killed about 20 minutes into the raid.

Verification The Seal team takes a photograph of Bin Laden's face and transmits it to American officials. Bin Laden's remains are flown first to Afghanistan, then to the aircraft carrier Carl Vinson in the North Arabian Sea. He is buried at sea within 12 hours of his death.

Others in the Compound Three women and nine children are taken away from the compound by the Pakistani military, who arrive after the raid.

Items Seized The Seal team removes about 100 thumb drives, DVDs, computer disks, 10 computer hard drives, five computers and piles of paper documents from the house.

D. The Daily Mail, Guantanamo torture was the key: Detainees led the CIA to Bin Laden's hideout

[Source: The Daily Mail, Guantanamo torture was the key: Detainees led the CIA to Bin Laden's hideout, <http://www.dailymail.co.uk/news/article-1382893/Osama-Bin-Laden-dead-CIA-led-hideout-Guantanamo-detainees.html>]

Detainees at Guantanamo Bay provided the crucial breakthrough in hunting down Osama Bin Laden, American officials said last night.

Senior officials in the Obama administration said intelligence gained from interrogations at the U.S. base was directly responsible for helping security forces track down and kill Bin Laden. The claim will fuel the international row about the Guantanamo camp – one of the most controversial legacies of the 9/11 attacks on the U.S. – and whether torture can ever be justified.

Hundreds of suspects rounded up in Afghanistan and Pakistan were subjected to techniques such as waterboarding, sleep deprivation, white noise and stress positions at the U.S. Naval base in Cuba. Human rights groups claim the techniques amounted to torture, and that many of the detainees had no link to terrorism.

But U.S. officials said interrogations had produced crucial information about a trusted courier who provided support to Bin Laden after he fled Afghanistan. A senior source said detainees had provided the courier's nickname and indicated he could be living with Bin Laden – although it took years to track down his true identity and location. The official said: 'Detainees flagged for us individuals who may have been providing direct support to Bin Laden and his deputy after their escape from Afghanistan. One courier in particular had our constant attention.'

Documents released by the Wikileaks organisation appear to confirm that detainees provided information about a courier operating out of the Pakistani city of Abbottabad, where Bin Laden was eventually tracked down – although it is unclear whether the individual involved is the one who eventually led U.S. intelligence to the lair of the terrorist mastermind. Mike Blakemore, of the human rights group Amnesty International, last night said torture could not be justified in any circumstances.

'Torture is repugnant, immoral and illegal,' he said. 'It's never justifiable and no one should be trying to use tracking down Osama Bin Laden or anything else to try to say torture is acceptable. Whatever is claimed, it is

also hopelessly unreliable as a source of information – someone being tortured will say anything to try to make their suffering stop.’

E. Washington Post, CIA Myth that Torture Led to Bin Laden Is Finally Dead

[Source: The Washington Post, “CIA Myth that Torture Led to Bin Laden Is Finally Dead”, 12 May 2015, available at <http://www.washingtonsblog.com/2015/05/cia-myth-that-torture-led-to-bin-laden-is-finally-dead.html>]

Pulitzer-prize winning reporter Seymour Hersh’s new report shreds the CIA’s claim that torture led the U.S. getting bin Laden.

Specifically, Hersh reports – and NBC news confirms – that it was not information gained through torture which pinpointed Bin Laden’s location. Rather, it was a voluntary tip from Pakistani intelligence.

[...]

A spokesman for the National Security Council (Tommy Vietor) said in 2011: “The bottom line is this: If we had some kind of smoking-gun intelligence from waterboarding in 2003, we would have taken out Osama bin Laden in 2003.”

We’ve previously documented that former CIA director Leon Panetta, current CIA director John Brennan (when he was White House deputy national security advisor), former SecDef Donald Rumsfeld, Senator Lindsey Graham, Senator John McCain and many others say that torture did NOT help get Bin Laden.

F. Seymour Hersh, The Killing of Osama bin Laden

[Source: Seymour Hersh, “The Killing of Osama bin Laden”, London Review of Books, Vol. 37, No. 10, 21 May 2015, available at <http://www.lrb.co.uk/v37/n10/seymour-m-hersh/the-killing-of-osama-bin-laden>]

It’s been four years since a group of US Navy Seals assassinated Osama bin Laden in a night raid on a high-walled compound in Abbottabad, Pakistan. [...] The White House still maintains that the mission was an all-American affair, and that the senior generals of Pakistan’s army and Inter-Services Intelligence agency (ISI) were not told of the raid in advance. This is false, as are many other elements of the Obama administration’s account. [...]

The most blatant lie was that Pakistan’s two most senior military leaders – General Ashfaq Parvez Kayani, chief of the army staff, and General Ahmed Shuja Pasha, director general of the ISI – were never informed of the US mission. [...]

The major US source for the account that follows is a retired senior intelligence official who was knowledgeable about the initial intelligence about bin Laden's presence in Abbottabad. He also was privy to many aspects of the Seals' training for the raid, and to the various after-action reports. [...]

It began with a walk-in. In August 2010 a former senior Pakistani intelligence officer approached Jonathan Bank, then the CIA's station chief at the US embassy in Islamabad. He offered to tell the CIA where to find bin Laden in return for the reward that Washington had offered in 2001. [...]

The US initially kept what it knew from the Pakistanis. 'The fear was that if the existence of the source was made known, the Pakistanis themselves would move bin Laden to another location. So only a very small number of people were read into the source and his story,' [a] retired official said. 'The CIA's first goal was to check out the quality of the informant's information.' The compound was put under satellite surveillance. The CIA rented a house in Abbottabad to use as a forward observation base and staffed it with Pakistani employees and foreign nationals. Later on, the base would serve as a contact point with the ISI; it attracted little attention because Abbottabad is a holiday spot full of houses rented on short leases. A psychological profile of the informant was prepared. (The informant and his family were smuggled out of Pakistan and relocated in the Washington area. He is now a consultant for the CIA.)

[...]

In October, Obama was briefed on the intelligence. His response was cautious, the retired official said. 'It just made no sense that bin Laden was living in Abbottabad. It was just too crazy. The president's position was emphatic: "Don't talk to me about this any more unless you have proof that it really is bin Laden."' The immediate goal of the CIA leadership and the Joint Special Operations Command was to get Obama's support. They believed they would get this if they got DNA evidence, and if they could assure him that a night assault of the compound would carry no risk. The only way to accomplish both things, the retired official said, 'was to get the Pakistanis on board'.

During the late autumn of 2010, the US continued to keep quiet about the walk-in, and Kayani and Pasha continued to insist to their American counterparts that they had no information about bin Laden's whereabouts. 'The next step was to figure out how to ease Kayani and Pasha into it – to tell them that we've got intelligence showing that there is a high-value target in the compound, and to ask them what they know about the target,' the retired official said. [...] Bank was also told by the walk-in that bin Laden was very ill, and that early on in his confinement at Abbottabad, the ISI had ordered Amir Aziz, a doctor and a major in the Pakistani army, to move nearby to provide treatment. [...]

'It didn't take long to get the co-operation we needed, because the Pakistanis wanted to ensure the continued release of American military aid [...]' the retired official said.

The bin Laden compound was less than two miles from the Pakistan Military Academy, and a Pakistani army combat battalion headquarters was another mile or so away. Abbottabad is less than 15 minutes by helicopter from Tarbela Ghazi, an important base for ISI covert operations and the facility where those who guard Pakistan's nuclear weapons arsenal are trained. 'Ghazi is why the ISI put bin Laden in Abbottabad in the first place,' the retired official said, 'to keep him under constant supervision.'

[...]

Obama was anxious for reassurance that the US was going to get the right man. The proof was to come in the form of bin Laden's DNA. The planners turned for help to Kayani and Pasha, who asked Aziz to obtain the specimens. [...] [T]he retired official told me that Aziz had been rewarded with a share of the \$25 million reward the US had put up because the DNA sample had showed conclusively that it was bin Laden in Abbottabad. [...]

Bargaining continued over the way the mission would be executed. 'Kayani eventually tells us yes, but he says you can't have a big strike force. You have to come in lean and mean. And you have to kill him, or there is no deal,' the retired official said. The agreement was struck by the end of January 2011, and Joint Special Operations Command prepared a list of questions to be answered by the Pakistanis: 'How can we be assured of no outside intervention? What are the defences inside the compound and its exact dimensions? Where are bin Laden's rooms and exactly how big are they? How many steps in the stairway? Where are the doors to his rooms, and are they reinforced with steel? How thick?' The Pakistanis agreed to permit a four-man American cell – a Navy Seal, a CIA case officer and two communications specialists – to set up a liaison office at Tarbela Ghazi for the coming assault. By then, the military had constructed a mock-up of the compound in Abbottabad at a secret former nuclear test site in Nevada, and an elite Seal team had begun rehearsing for the attack.

[...]

Pasha and Kayani were responsible for ensuring that Pakistan's army and air defence command would not track or engage with the US helicopters used on the mission. The American cell at Tarbela Ghazi was charged with co-ordinating communications between the ISI, the senior US officers at their command post in Afghanistan, and the two Black Hawk helicopters; the goal was to ensure that no stray Pakistani fighter plane on border patrol spotted the intruders and took action to stop them. [...]

It was clear to all by this point, the retired official said, that bin Laden would not survive [...].

At the Abbottabad compound ISI guards were posted around the clock to keep watch over bin Laden and his wives and children. They were under orders to leave as soon as they heard the rotors of the US helicopters. The town was dark: the electricity supply had been cut off on the orders of the ISI hours before the raid

began. One of the Black Hawks crashed inside the walls of the compound, injuring many on board. 'The guys knew the TOT [time on target] had to be tight because they would wake up the whole town going in,' the retired official said. The cockpit of the crashed Black Hawk, with its communication and navigational gear, had to be destroyed by concussion grenades, and this would create a series of explosions and a fire visible for miles. Two Chinook helicopters had flown from Afghanistan to a nearby Pakistani intelligence base to provide logistical support, and one of them was immediately dispatched to Abbottabad. But because the helicopter had been equipped with a bladder loaded with extra fuel for the two Black Hawks, it first had to be reconfigured as a troop carrier. The crash of the Black Hawk and the need to fly in a replacement were nerve-wracking and time-consuming setbacks, but the Seals continued with their mission. There was no firefight as they moved into the compound; the ISI guards had gone. 'Everyone in Pakistan has a gun and high-profile, wealthy folks like those who live in Abbottabad have armed bodyguards, and yet there were no weapons in the compound,' the retired official pointed out. Had there been any opposition, the team would have been highly vulnerable. Instead, the retired official said, an ISI liaison officer flying with the Seals guided them into the darkened house and up a staircase to bin Laden's quarters. The Seals had been warned by the Pakistanis that heavy steel doors blocked the stairwell on the first and second-floor landings; bin Laden's rooms were on the third floor. The Seal squad used explosives to blow the doors open, without injuring anyone. One of bin Laden's wives was screaming hysterically and a bullet – perhaps a stray round – struck her knee.

[...]

They knew where the target was – third floor, second door on the right,' the retired official said. 'Go straight there. Osama was cowering and retreated into the bedroom. Two shooters followed him and opened up. Very simple, very straightforward, very professional hit.' Some of the Seals were appalled later at the White House's initial insistence that they had shot bin Laden in self-defence, the retired official said. 'Six of the Seals' finest, most experienced NCOs, faced with an unarmed elderly civilian, had to kill him in self-defence? The house was shabby and bin Laden was living in a cell with bars on the window and barbed wire on the roof. The rules of engagement were that if bin Laden put up any opposition they were authorised to take lethal action. But if they suspected he might have some means of opposition, like an explosive vest under his robe, they could also kill him. So here's this guy in a mystery robe and they shot him. It's not because he was reaching for a weapon. The rules gave them absolute authority to kill the guy.' [...] Bin Laden's wives and children were left for the ISI to interrogate and relocate.

After they killed bin Laden, 'the Seals were just there, some with physical injuries from the crash, waiting for the relief chopper,' the retired official said. 'Twenty tense minutes. The Black Hawk is still burning. There are no city lights. No electricity. No police. No fire trucks. They have no prisoners.' Bin Laden's wives and children were left for the ISI to interrogate and relocate. 'Despite all the talk,' the retired official continued, there were 'no garbage bags full of computers and storage devices. The guys just stuffed some books and papers they found in his room in their backpacks. The Seals weren't there because they thought bin Laden

was running a command centre for al-Qaida operations, as the White House would later tell the media. And they were not intelligence experts gathering information inside that house.'

[...]

Five days after the raid the Pentagon press corps was provided with a series of videotapes that were said by US officials to have been taken from a large collection the Seals had removed from the compound, along with as many as 15 computers. Snippets from one of the videos showed a solitary bin Laden looking wan and wrapped in a blanket, watching what appeared to be a video of himself on television. An unnamed official told reporters that the raid produced a 'treasure trove ... the single largest collection of senior terrorist materials ever', which would provide vital insights into al-Qaida's plans. The official said the material showed that bin Laden 'remained an active leader in al-Qaida, providing strategic, operational and tactical instructions to the group ... He was far from a figurehead [and] continued to direct even tactical details of the group's management and to encourage plotting' from what was described as a command-and-control centre in Abbottabad. 'He was an active player, making the recent operation even more essential for our nation's security,' the official said. The information was so vital, he added, that the administration was setting up an inter-agency task force to process it: 'He was not simply someone who was penning al-Qaida strategy. He was throwing operational ideas out there and he was also specifically directing other al-Qaida members.'

These claims were fabrications: there wasn't much activity for bin Laden to exercise command and control over. The retired intelligence official said that the CIA's internal reporting shows that since bin Laden moved to Abbottabad in 2006 only a handful of terrorist attacks could be linked to the remnants of bin Laden's al-Qaida. 'We were told at first,' the retired official said, 'that the Seals produced garbage bags of stuff and that the community is generating daily intelligence reports out of this stuff. And then we were told that the community is gathering everything together and needs to translate it. But nothing has come of it. Every single thing they have created turns out not to be true. [...] The ISI took responsibility for the wives and children of bin Laden, none of whom was made available to the US for questioning.

'Why create the treasure trove story?' the retired official said. 'The White House had to give the impression that bin Laden was still operationally important. Otherwise, why kill him? A cover story was created – that there was a network of couriers coming and going with memory sticks and instructions. All to show that bin Laden remained important.'

In July 2011, the Washington Post published what purported to be a summary of some of these materials. The story's contradictions were glaring. It said the documents had resulted in more than four hundred intelligence reports within six weeks; it warned of unspecified al-Qaida plots; and it mentioned arrests of suspects 'who are named or described in emails that bin Laden received'. The Post didn't identify the suspects or reconcile that detail with the administration's previous assertions that the Abbottabad compound had no internet connection. Despite their claims that the documents had produced hundreds of reports, the Post also quoted officials saying that their main value wasn't the actionable intelligence they contained, but

that they enabled 'analysts to construct a more comprehensive portrait of al-Qaida'.

[...]

In his address announcing the raid, Obama said that after killing bin Laden the Seals 'took custody of his body'. [...] [R]eporters were told that bin Laden's body had been flown by the Seals to an American military airfield in Jalalabad, Afghanistan, and then straight to the USS Carl Vinson, a supercarrier on routine patrol in the North Arabian Sea. Bin Laden had then been buried at sea, just hours after his death. [...]

'We thought the best way to ensure that his body was given an appropriate Islamic burial,' Brennan said, 'was to take those actions that would allow us to do that burial at sea.' He said 'appropriate specialists and experts' were consulted, and that the US military was fully capable of carrying out the burial 'consistent with Islamic law'. Brennan didn't mention that Muslim law calls for the burial service to be conducted in the presence of an imam, and there was no suggestion that one happened to be on board the Carl Vinson.

In a reconstruction of the bin Laden operation for Vanity Fair, Mark Bowden, who spoke to many senior administration officials, wrote that bin Laden's body was cleaned and photographed at Jalalabad. Further procedures necessary for a Muslim burial were performed on the carrier, he wrote, 'with bin Laden's body being washed again and wrapped in a white shroud. [...]'

[...]

The Senate Intelligence Committee's long-delayed report on CIA torture, released last December, documented repeated instances of official lying, and suggested that the CIA's knowledge of bin Laden's courier was sketchy at best and predated its use of waterboarding and other forms of torture. [...] Its major finding – that the use of torture didn't lead to discovering the truth – had already been the subject of public debate for more than a decade. Another key finding – that the torture conducted was more brutal than Congress had been told – was risible, given the extent of public reporting and published exposés by former interrogators and retired CIA officers. The report depicted tortures that were obviously contrary to international law as violations of rules or 'inappropriate activities' or, in some cases, 'management failures'. Whether the actions described constitute war crimes was not discussed, and the report did not suggest that any of the CIA interrogators or their superiors should be investigated for criminal activity. The agency faced no meaningful consequences as a result of the report.

[...] The main theme of the committee's 499-page executive summary is that the CIA lied systematically about the effectiveness of its torture programme in gaining intelligence that would stop future terrorist attacks in the US. The lies included some vital details about the uncovering of an al-Qaida operative called Abu Ahmed al-Kuwaiti, who was said to be the key al-Qaida courier, and the subsequent tracking of him to Abbottabad in early 2011. [...]

In 2005 an internal CIA report on the hunt for bin Laden noted that ‘detainees provide few actionable leads, and we have to consider the possibility that they are creating fictitious characters to distract us or to absolve themselves of direct knowledge about bin Laden [sic].’ A CIA cable a year later stated that ‘we have had no success in eliciting actionable intelligence on bin Laden’s location from any detainees.’ The report also highlighted several instances of CIA officers, including Panetta, making false statements to Congress and the public about the value of ‘enhanced interrogation techniques’ in the search for bin Laden’s couriers.

[...]

G. Osama bin Laden: statement by the UN Special Rapporteurs on summary executions and on human rights and counter-terrorism

[Source: United Nations, Office of the High Commissioner for Human Rights, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10987&LangID=E>]

GENEVA (6 May 2011) – The Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, have issued the following statement:

Acts of terrorism are the antithesis of human rights, in particular the right to life. In certain exceptional cases, use of deadly force may be permissible as a measure of last resort in accordance with international standards on the use of force, in order to protect life, including in operations against terrorists. However, the norm should be that terrorists be dealt with as criminals, through legal processes of arrest, trial and judicially decided punishment.

Actions taken by States in combating terrorism, especially in high profile cases, set precedents for the way in which the right to life will be treated in future instances.

In respect of the recent use of deadly force against Osama bin Laden, the United States of America should disclose the supporting facts to allow an assessment in terms of international human rights law standards. For instance it will be particularly important to know if the planning of the mission allowed an effort to capture Bin Laden.

It may well be that the questions that are being asked about the operation could be answered, but it is important to get this into the open.” (...)

H. Harold Koh, Legal Adviser, United States Department of State

[Source: Harold Koh, “The Lawfulness of the U.S. Operation Against Osama bin Laden”, *Opinio juris*, 19 May 2011, available at <http://opiniojuris.org/2011/05/19/the-lawfulness-of-the-us-operation-against-osama-bin-laden/>]

[...] Given bin Laden’s unquestioned leadership position within al Qaeda and his clear continuing operational role, there can be no question that he was the leader of an enemy force and a legitimate target in our armed conflict with al Qaeda. In addition, bin Laden continued to pose an imminent threat to the United States that engaged our right to use force, a threat that materials seized during the raid have only further documented. Under these circumstances, there is no question that he presented a lawful target for the use of lethal force. By enacting the AUMF, Congress expressly authorized the President to use military force “against ... persons [such as bin Laden, whom the President] determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001 ... in order to prevent any future acts of international terrorism against the United States by such ... persons” (emphasis added). Moreover, the manner in which the U.S. operation was conducted—taking great pains both to distinguish between legitimate military objectives and civilians and to avoid excessive incidental injury to the latter—followed the principles of distinction and proportionality described above, and was designed specifically to preserve those principles, even if it meant putting U.S. forces in harm’s way. Finally, consistent with the laws of armed conflict and U.S. military doctrine, the U.S. forces were prepared to capture bin Laden if he had surrendered in a way that they could safely accept. The laws of armed conflict require acceptance of a genuine offer of surrender that is clearly communicated by the surrendering party and received by the opposing force, under circumstances where it is feasible for the opposing force to accept that offer of surrender. But where that is not the case, those laws authorize use of lethal force against an enemy belligerent, under the circumstances presented here.

In sum, the United States acted lawfully in carrying out its mission against Osama bin Laden.

Discussion

1.
 - a. Was the operation that led to the death of Osama bin Laden part of an armed conflict? If it was, what was the nature of that conflict?
 - b. (Document G) Do the United Nations Special Rapporteurs consider international humanitarian law (IHL) to be applicable to that operation? What pointers can you find?
 - c. (Document H) Does the United States consider IHL to be applicable to that operation? What pointers can you find?
2.
 - a. (Document F) Bearing in mind the fact that the operation took place in Pakistani territory, can it be a question of an international armed conflict? If confirmed, would the existence of a possible agreement between the United States and Pakistan as described by Seymour Hersh affect the classification of the situation? If Pakistan had not consented to the operation, was IHL regarding international armed conflict applicable, even if the operation was not directed against Pakistan?

- b. (Documents C and F) With regard to how the situation is defined, does it make a difference whether the helicopters took off from Jalalabad (in Afghanistan) or from Ghazi (in Pakistan)?
3.
 - a. (Document B) Does the “war on terrorism” or the conflict between the United States and al-Qaida constitute an international armed conflict? A non-international armed conflict? What criteria need to be fulfilled in the latter case?
 - b. If the conflict between the United States and al-Qaida is covered by the IHL of non-international armed conflict in Afghanistan, does that law also apply between the United States and al-Qaida in Pakistan? Is the mere fact that in Afghanistan there is a non-international armed conflict between the Afghan government and the United States forces on the one hand and the Taliban on the other sufficient to render the IHL of non-international armed conflict applicable to the Abbottabad operation? Is the mere fact that there might have been a non-international armed conflict in Pakistan between the government forces and Pakistani armed groups sufficient to render international humanitarian law governing non-international armed conflicts applicable to the Abbottabad operation? What connection needs to exist between those conflicts for IHL to be applicable to the Abbottabad operation?
 - c. If IHL were applicable to Abbottabad, is it necessarily also applicable to drone attacks by the United States on al-Qaida members in Yemen or in Somalia?
4. If IHL is not applicable, what rules are applicable to that operation? Is the United States required to comply with international human rights law in Pakistan?
5. (Documents D, E and F) Explain, on the basis of international law, the controversy over the statements to the effect that the questioning in Guantanamo, during which water-boarding was used, made it possible to identify Osama bin Laden’s location. Could the treatment described be justified if it had made it possible to locate, arrest or kill Osama bin Laden?
6.
 - a. If that operation was part of an armed conflict, was Osama bin Laden necessarily a legitimate target of attack? On what conditions? Can or must the IHL of non-international armed conflicts be applied to that matter even if there were an international armed conflict between the United States and Pakistan?
 - b. (Documents B and C) What was the status of the three people shot dead by the SEALs on the first floor (the courier, his brother and a woman)? Were they legitimate targets? Could the US special forces kill them? Can the courier, who “opened fire” upon the commando when it arrived, be considered a “combatant” within the meaning of international humanitarian law? Can he be considered to have been participating directly in the hostilities? What about the other two people?
 - c. (Documents B, F and H) For Osama bin Laden to have been the legitimate target of an attack, was it sufficient to consider that he was still the al-Qaida leader? Was it necessary for him to be participating directly in the hostilities at the time of the attack? Was it sufficient for him to have retained an ongoing combatant function in al-Qaida? Did the fact that he had directed al-Qaida operations in the past and that he had never disassociated himself from that organization imply that he was still a legitimate target in 2011? What about the claim that “there wasn’t much activity for bin Laden to exercise command and control over”? Is the fact that there was no internet connection in Osama bin Laden’s residence significant in that regard? (P I, Art. 51(3); P II, Art. 13(3); See Document ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities

[Recommendations I, II, IV, V])

- d. (Document H) If Osama bin Laden was a legitimate target, should the American commando have tried to arrest him instead of killing him? Is the fact that he did not surrender sufficient justification for killing him? Does the fact that he was unarmed make him “incapacitated”, and hence hors de combat? In IHL, does a person’s surrender have to be accepted only when that surrender can be safely accepted by the attacking forces (Document H)? Can a person who surrenders ever be killed? (P I, Art. 41; Document ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities [Recommendations IX])
 - e. (Document G) If Osama bin Laden was a legitimate target under IHL, are the questions asked by the UN Special Rapporteurs relevant? Does a military operation conducted against a legitimate target always have to be planned with a view to arresting rather than killing that target?
 - f. (Documents B and G) If Osama bin Laden was not a legitimate target, what status did he have under IHL, to the extent that IHL was applicable? What law governed the operation? In that case, was killing him necessarily prohibited? Should the US commando have tried to arrest him? Does a police operation against a criminal always have to be planned with a view to arresting rather than killing that criminal? Was the fact that Osama bin Laden was said to have weapons with his reach a sufficient argument to kill him? What do you think of the statement that “the rules gave them absolute authority to kill the guy”? (P I, Arts 50-51; P II, Art. 13; See Document ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities [Recommendations I and II])
 - g. (Document C) Was Osama bin Laden's wife a legitimate target? Was the commando within its rights to wound her? What if she “lunged at” the commando ? Even if she was not armed? What is she was merely “screaming hysterically”?
7. If those wounded during the raid were not taken care of by the SEAL team and were left inside the villa when the team left, would that be a violation of the US obligations? Should they have gathered up and taken care of those wounded people at that time? From a tactical point of view, was that feasible?
- 8.
- a. (Document F) What do you think of the statement that “the electricity supply had been cut off on the orders of the ISI hours before the raid began”? If this was meant in order to ensure that the local population would stay home, what IHL principle would this relate to?
 - b. From the fact at hand, do you think that all feasible precautionary measures were taken? What were the feasible measures the US could have taken?
9. If Osama bin Laden had been taken alive, which court could have tried him? For what?
10. (Document F) From the perspective of IHL, what do you think of burying Osama bin Laden’s body on the high seas? If Islam allowed a burial of that kind? Isn’t burial at sea provided for by the IHL of maritime warfare? Will it then be possible to return the dead body to the family? To give the family access to the burial place? (GC I, Art. 17; GC II, Art. 20; P I, Art. 34; CIHL, Rules 114-116)
11. (Document F)
- a. Can Pakistan have allowed the United States to question the women and children taken in by Pakistani forces after the raid?
 - b. Is Pakistan obliged to allow the ICRC to visit the women and children taken in in the complex after the operation? What would the aim of an ICRC visit be?
 - c. Could Pakistan send them to Saudi Arabia or Yemen (their respective countries of origin)? On what conditions?

