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Obama's Betrayals **by Sheldon Richman**

After President Obama announced he would fight the release of photographs showing American soldiers abusing “war on terror” detainees, Richard Haass, president of the quintessentially mainstream Council on Foreign Relations, said that Obama had learned the difference between campaigning and governing. He wasn't being sarcastic.

It was said during the presidential campaign that one of the candidates was running for George W. Bush's third term. Did you think it was Obama?

Obama has been doing a lot of “growing” in office. That's the term the establishment uses when a candidate who apparently holds maverick views gets into office and abandons those views in favor of views more congenial to the permanent ruling elite.

The president campaigned against using military tribunals as a substitute for regular criminal proceedings for terrorist suspects — a “legal black hole,” he called them. Now he embraces them. His promise of increased protections for defendants fails to impress even the military people charged with defending the suspects. The tribunals are regarded as kangaroo courts. Although Obama says evidence obtained by torture will not be admissible in the tribunals, he won't let tortured detainees have their day in a real court.

Obama has adopted Bush's position on state secrecy and more to stop lawsuits over torture and eavesdropping. Translation: people who were wronged by the government may not sue to bring abusive officials to justice.

Consistent with that, Obama appears to have no interest in prosecuting the Bush officials who illegally authorized and carried out torture. Even a “truth commission” seems unlikely. In the name of looking to the future, we are being asked to forget the past.

Obama still says he wants to close the Guantánamo prison, but the one at the Bagram air base in Afghanistan — where detainees have zero rights — is still in operation. And Obama's pledge on Guantánamo must be judged against the fact that he favors indefinite and even *preventive* detention of terrorist suspects his administration is afraid to bring before even a military tribunal.

Indefinite preventive detention

The significance of this development cannot be overstated. No advanced country permits indefinite preventive detention. Britain has a 28-day limit — and that is barbaric. But Obama wants *indefinite preventive* detention. Closing Guantánamo is sheer symbolism if Bagram continues in operation and if suspects can be held *preventively and indefinitely* in U.S. supermax prisons. And the mere propaganda value of shutting down Guantánamo would be dissipated by those facts. Whom does Obama think he is kidding?

Obama said in his speech at the National Archives,

We're going to exhaust every avenue that we have to prosecute those at Guantánamo who pose a danger to our country. But even when this process is complete, there may be a number of people *who cannot be prosecuted for past crimes*, in some cases because evidence may be tainted, but who nonetheless pose a threat to the security of the United States. Examples of that threat include people who've received extensive explosives training at al- Qaeda training camps, or commanded Taliban troops in battle, or expressed their allegiance to Osama bin Laden, or otherwise made it clear that they want to kill Americans. These are people who, in effect, remain at war with the United States. [Emphasis added.]

Note what Obama is saying. He claims the prerogative to hold people for the duration of this alleged war — potentially for the rest of their lives — without charge or trial because the evidence may be tainted, that is, obtained by torture. But since torture is notorious for yielding unreliable information, how do we know the suspect is in fact a threat?

Others may be held not because they have taken overt steps to commit violence against Americans, but rather because they might do so. How do we know that a given detainee in Guantánamo received explosives training or expressed allegiance to bin Laden? Because someone to whom the U.S. government paid a bounty for turning in “terrorists” said so? And why is it an act of war against “the United States” to command Taliban troops in Afghanistan against the U.S. invaders? This is a bizarre point maintained by Bush and now Obama: The U.S. government invades a country, and anyone in that country who tries to repel the foreign troops is deemed a threat to the country from where the troops originated.

Some detainees who could be subject to indefinite detention never engaged in terrorism, but are so embittered by their abuse by the U.S. government that they now seek revenge. Holding them because they represent a threat is truly Orwellian.

As George Washington University law professor Jonathan Turley and Salon.com legal commentator Glenn Greenwald point out, Obama's program boils down to doing whatever is

necessary to hold the suspects, regardless of the evidence. If authorities are confident they can convict, they may give the suspects a trial in a real court. If they are not so confident, they will put them before military tribunals. And if they are not confident at all, they will simply hold them preventively.

There is no reason to believe “prolonged detention” is only for Guantánamo inmates. Why wouldn’t it be applied to the suspects who are picked up in the future in Iraq, Afghanistan, Pakistan, and elsewhere? And while we’re on the subject, why couldn’t American citizens eventually get this treatment? Jose Padilla is an American citizen.

From Jekyll to Hyde

At this point, Obama’s paeans to the Constitution, the rule of law, and “our values” wear thin.

In our constitutional system, prolonged detention should not be the decision of any one man. If and when we determine that the United States must hold individuals to keep them from carrying out an act of war, we will do so within a system that involves judicial and congressional oversight.

In promising a “fair” system of preventive indefinite detention, Obama aspires to square the circle. It cannot be done.

In Obama we have a new Jekyll and Hyde. From harsh critic of Bush’s trampling of individual rights, Obama has transmogrified into a champion of the omnipotent state that cannot let the niceties of the traditional criminal-justice system stand in the way of “national security.”

The logic behind these decisions and reversals is bizarre. Obama said releasing the abuse photos would “inflame anti-American sentiment” and endanger the troops. Does he really think that that is not happening every day because of the brutal U.S. occupations and bombing of civilians in Afghanistan and Pakistan? Does he think that withholding the much-publicized photos itself doesn’t inflame anti-American sentiment?

Obama has clearly adopted not only Bush’s policies, but also his premise: that the United States is in a war in which the world is the battlefield and restraints on the power of government are a luxury the government cannot afford. He ignores the more realistic view that acts of terrorism are crimes — provoked by years of U.S. intervention — that can be dealt with through normal procedures that protect basic freedoms. Several accused terrorists have already gone through the system without incident, and new cases are moving through the court system now.

It is instructive that the neoconservatives who gave us the Bush war program are now delighted with Obama’s policies, including his escalation in Afghanistan and Pakistan. As Charles Krauthammer wrote in the *Washington Post* in late May,

If hypocrisy is the homage that vice pays to virtue, then the flip-flops on previously denounced anti-terror measures are the homage that Barack Obama pays to George Bush. Within 125 days, Obama has adopted with only minor modifications huge swaths of the entire, allegedly lawless Bush program.

Meanwhile David Brooks pointed out in the *New York Times* that the few good things (at least on the surface) that Obama has promised are things George W. Bush himself embraced as time wore on, such as the closing of Guantánamo and an end to waterboarding. If there is a division between the current and previous administration, it is not Bush-Cheney versus Obama, but Bush-Obama versus Cheney.

Obama's flip should be troubling to anyone who thinks elections can bring needed change. Presidents come and go, with little obvious effect on foreign policy, no matter what they say during their campaigns. "Republican" and "Democrat," "right" and "left" — these terms are more about style than substance. In subtle ways and with staunch corporate media support, the system maintained by the ruling elite ensures that no successful national candidate will deviate too far from its plumb line. The marginalization of real anti-war candidates during the 2008 election was just the latest demonstration.

It's time for the opponents of empire to see the man in the White House for who he is. Fortunately, that is starting to happen.

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