

Fatal Vision: The Deeper Evil Behind the Detainee Bill

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There is no week nor day nor hour when tyranny may not enter upon this country - if the people lose their confidence in themselves - and lose their roughness and spirit of defiance. -
Walt Whitman

1.

It was a dark hour indeed on Thursday when the United States Senate voted to end the constitutional republic and transform the country into a "Leader-State," giving the president and his agents the power to capture, torture and imprison forever anyone - American citizens included - whom they arbitrarily decide is an "enemy combatant." This also includes those who merely give "terrorism" some kind of "support," defined so vaguely that many experts say it could encompass legal advice, innocent gifts to charities or even political opposition to US government policy within its draconian strictures.

All of this is bad enough - a sickening and cowardly surrender of liberty not seen in a major Western democracy since the Enabling Act passed by the German Reichstag in March 1933. But it is by no means the full extent of our degradation. In reality, the darkness is deeper, and more foul, than most people imagine. For in addition to the dictatorial powers of seizure and torment given by Congress on Thursday to George W. Bush - powers he had already seized and exercised for five years anyway, even without this fig leaf of sham legality - there is a far more sinister imperial right that Bush has claimed - and used - openly, without any demur or debate from Congress at all: ordering the "extrajudicial killing" of anyone on earth that he and his deputies decide - arbitrarily, without charges, court hearing, formal evidence, or appeal - is an "enemy combatant."

That's right; from the earliest days of the Terror War - September 17, 2001, to be exact - Bush has claimed the peremptory power of life and death over the entire world. If he says you're an enemy of America, you are. If he wants to imprison you and torture you, he can. And if he decides you should die, he'll kill you. This is not hyperbole, liberal paranoia, or "conspiracy theory": it's simply a fact, reported by the mainstream media, attested by senior administration figures, recorded in official government documents - and boasted about by the president himself, in front of Congress and a national television audience.

And although the Republic snuffing act just passed by Congress does not directly address Bush's royal prerogative of murder, it nonetheless strengthens it and enshrines it in law. For the measure sets forth clearly that the designation of an "enemy combatant" is left solely to the executive branch; neither Congress nor the courts have any say in the matter. When

this new law is coupled with the existing “Executive Orders” authorizing “lethal force” against arbitrarily designated “enemy combatants,” it becomes, quite literally, a license to kill - with the seal of Congressional approval.

How arbitrary is this process by which all our lives and liberties are now governed? Dave Niewert at Orcinus has unearthed a remarkable admission of its totally capricious nature. In an December 2002 story in the Washington Post, then-Solicitor General Ted Olson described the anarchy at the heart of the process with admirable frankness:

“[There is no] requirement that the executive branch spell out its criteria for determining who qualifies as an enemy combatant,” Olson argues.

“‘There won’t be 10 rules that trigger this or 10 rules that end this,’ Olson said in the interview. ‘There will be judgments and instincts and evaluations and implementations that have to be made by the executive that are probably going to be different from day to day, depending on the circumstances.’”

In other words, what is safe to do or say today might imperil your freedom or your life tomorrow. You can never know if you are on the right side of the law, because the “law” is merely the whim of the Leader and his minions: their “instincts” determine your guilt or innocence, and these flutterings in the gut can change from day to day. This radical uncertainty is the very essence of despotism - and it is now, formally and officially, the guiding principle of the United States government.

And underlying this edifice of tyranny is the prerogative of presidential murder. Perhaps the enormity of this monstrous perversion of law and morality has kept it from being fully comprehended. It sounds unbelievable to most people: a president ordering hits like a Mafia don? But that is our reality, and has been for five years. To overcome what seems to be a widespread cognitive dissonance over this concept, we need only examine the record - a record, by the way, taken entirely from publicly available sources in the mass media. There’s nothing secret or contentious about it, nothing that any ordinary citizen could not know - if they choose to know it.

2.

Six days after the 9/11 attacks, George W. Bush signed a “presidential finding” authorizing the CIA to kill those individuals whom he had marked for death as terrorists. This in itself was not an entirely radical innovation; Bill Clinton’s White House legal team had drawn up memos asserting the president’s right to issue “an order to kill an individual enemy of the United States in self-defense,” despite the legal prohibitions against assassination, the Washington Post reported in October 2001. The Clinton team based this ruling on the “inherent powers” of the “Commander in Chief” - that mythical, ever-elastic construct that Bush has evoked over and over to defend his own unconstitutional usurpations.

The practice of “targeted killing” was apparently never used by Clinton, however; despite the pro-assassination memos, Clinton followed the traditional presidential practice of bombing the hell out of a bunch of civilians whenever he wanted to lash out at some recalcitrant leader or international outlaw - as in his bombing of the Sudanese pharmaceutical factory in 1998, or the two massive strikes he launched against Iraq in 1993 and 1998, or indeed the death and ruin that was deliberately inflicted on civilian

infrastructure in Serbia during that nation's collective punishment for the crimes of Slobodan Milosevic. Here, Clinton was following the example set by George H.W. Bush, who killed hundreds, perhaps thousands, of Panamanian civilians in his illegal arrest of Manuel Noriega in 1988, and Ronald Reagan, who killed Moamar Gadafy's adopted 2-year-old daughter and 100 other civilians in a punitive strike on Libya in 1986.

Junior Bush, of course, was about to outdo all those blunderbuss strokes with his massive air attacks on Afghanistan, which killed thousands of civilians, and the later orgy of death and destruction in Iraq. But he also wanted the power to kill individuals at will. At first, the assassination program was restricted to direct orders from the president aimed at specific targets, as suggested by the Clinton memos. But soon the arbitrary power of life and death was delegated to agents in the field, after Bush signed orders allowing CIA assassins to kill targets without seeking presidential approval for each attack, the Washington Post reported in December 2002. Nor was it necessary any longer for the president to approve each new name added to the target list; the "security organs" could designate "enemy combatants" and kill them as they saw fit. However, Bush was always keen to get the details about the agency's network, administration officials assured the Post.

The first officially confirmed use of this power was the killing of an American citizen, along with several foreign nationals, by a CIA drone missile in Yemen on November 3, 2002. A similar strike occurred on December 4, 2005, when a CIA missile destroyed a house and purportedly killed Abu Hamza Rabia, a suspected al-Qaeda figure. But the only bodies found at the site were those of two children, the houseowner's son and nephew, Reuters reports. The grieving father denied any connection to terrorism. An earlier CIA strike on another house missed Rabia but killed his wife and children, Pakistani officials reported.

However, there is simply no way of knowing at this point how many people have been killed by American agents operating outside all judicial process. Most of the assassinations are carried out in secret: quietly, professionally. As a Pentagon document uncovered by the New Yorker in December 2002 revealed, the death squads must be "small and agile," and "able to operate clandestinely, using a full range of official and non-official cover arrangements to ... enter countries surreptitiously."

What's more, there are strong indications that the Bush administration has outsourced some of the contracts to outside operators. In the original Post story about the assassinations - in those first heady weeks after 9/11, when administration officials were much more open about "going to the dark side," as Cheney boasted on national television - Bush insiders told the paper that "it is also possible that the instrument of targeted killings will be foreign agents, the CIA's term for nonemployees who act on its behalf.

Here we find a deadly echo of the "rendition" program that has sent so many captives to torture pits in Syria, Egypt and elsewhere - including many whose innocence has been officially established, such as the Canadian businessman Maher Arar, German national Khalid El-Masri, UK native Mozzam Begg and many others. They had been subjected to imprisonment and torture despite their innocence, because of intelligence "mistakes." How many have fallen victim to Bush's hit squads on similar shaky grounds?

So here we are. Congress has just entrenched the principle of Bush's "unitary executive" dictatorship into law; and it is this principle that undergirds the assassination program. As I wrote in December, it's hard to believe that any genuine democracy would accept a claim by its leader that he could have anyone killed simply by labeling them an "enemy." It's hard

to believe that any adult with even the slightest knowledge of history or human nature could countenance such unlimited, arbitrary power, knowing the evil it is bound to produce. Yet this is exactly what the great and good in America have done.

But this should come as no surprise. They have known about it all along, and have not only countenanced Bush's death squad, but even celebrated it. I'll end with one more passage from that December article, which sadly is even more apt for our degraded reality today. It was a depiction of the one of the most revolting scenes in recent American history: Bush's state of the Union address in January 2003, delivered live to the nation during the final warmongering frenzy before the rape of Iraq:

Trumpeting his successes in the Terror War, Bush claimed that "more than 3,000 suspected terrorists" had been arrested worldwide - "and many others have met a different fate." His face then took on the characteristic leer, the strange, sickly half-smile it acquires whenever he speaks of killing people: "Let's put it this way. They are no longer a problem."

In other words, the suspects - and even Bush acknowledged they were only suspects - had been murdered. Lynched. Killed by agents operating unsupervised in that shadow world where intelligence, terrorism, politics, finance and organized crime meld together in one amorphous, impenetrable mass. Killed on the word of a dubious informer, perhaps: a tortured captive willing to say anything to end his torment, a business rival, a personal foe, a bureaucrat looking to impress his superiors, a paid snitch in need of cash, a zealous crank pursuing ethnic, tribal or religious hatreds - or any other purveyor of the garbage data that is coin of the realm in the shadow world.

Bush proudly held up this hideous system as an example of what he called "the meaning of American justice." And the assembled legislators ... applauded. Oh, how they applauded! They roared with glee at the leering little man's bloodthirsty, B-movie machismo. They shared his sneering contempt for law - our only shield, however imperfect, against the blind, brute, ignorant, ape-like force of raw power. Not a single voice among them was raised in protest against this tyrannical machtpolitik: not that night, not the next day, not ever.

And now, in September 2006, we know they will never raise that protest. Oh, a few Democrats stood up at the last minute on Thursday to posture nobly about the dangers of the detainee bill - but only when they knew the it was certain to pass, when they had already given up their one weapon against it, the filibuster, in exchange for permission from their Republican masters to offer amendments that they also knew would fail. Had they been offering such speeches since October 2001, when the lineaments of Bush's presidential tyranny were already clear - or at any other point during the systematic dismantling of America's liberties over the past five years - these fine words might have had some effect.

Now the killing will go on. The tyranny that has entered upon the country will grow stronger, more brazen; the darkness will deepen. Whitman, thou should'st be living at this hour; America has need of thee.

Chris Floyd is an American journalist. His work has appeared in print and online in venues all over the world, including The Nation, Counterpunch, Columbia Journalism Review, the Christian Science Monitor, Il Manifesto, the Moscow Times and many others. He is the author of Empire Burlesque: High Crimes and Low Comedy in the Bush Imperium, and is co-founder and editor of the "Empire Burlesque" political blog. He can be reached at

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