

The Presidency Problem: High Crimes

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Global Research, September 28, 2009
28 September 2009

Region: [USA](#)

Theme: [Intelligence](#), [Law and Justice](#)

If staging coups, waging secret wars, suspending civil liberties, or torturing people were merely aberrations pursued by a handful of zealots, Congress could simply punish the offenders and get back to “business as usual.” But the obvious, and yet unspoken, truth is that destabilizing other governments, unnecessary (and sometimes covert) wars, and abuses of power – at home and abroad – are standard tactics of the modern presidency.

After first denying such “initiatives,” the Reagan and Bush II administrations turned ultimately to a more credible (though not more creditable) response: they had decided that the presidency isn’t bound by the normal rule of law, especially congressionally-imposed limits, when pursuing its “higher” goals. The defense was both the “necessity” of combating evil (aka communism and more recently terrorism) by any means, and the inviolability of presidential authority in most matters of foreign policy and anything defined as a question of “national security.”

Yet, the real culprits weren’t Reagan or Bush, although they clearly encouraged a “survival of the fittest” approach to governance. Even in the wake of scandals, no one charged that the president personally ordered torture or collaboration with arms dealers and drug merchants. On the other hand, neither did anyone deny that this has happened regularly in the past. At the root, the problem isn’t a particular group of conspirators but rather an executive structure that supports and condones wanton disregard for the sovereignty of nations and rights of individuals.

The continuing transfer of power to the executive branch is a largely untold story of the last half century, abetted by the cult of commander-in-chief authority, a global network of military outposts, a vast intelligence apparatus, the withholding of information on spurious grounds, and a permanent state of emergency. The process continues in the Obama administration. As John Podesta, Obama’s transition chief, explained shortly after the 2008 election, “There’s a lot that the president can do using his executive authority without waiting for congressional action, and I think we’ll see the president do that.” This time around, conservatives are worried and most liberals cheer him on.

Presidential sovereignty stems from the widely accepted notion that only a single executive can manage US foreign affairs. At the urging of various private interests, this has led to hundreds of US interventions around the world, often with Congress partially, wholly or willingly kept in the dark. The pattern, which began with President James Polk’s 1846 calculated provocation of war with Mexico, ultimately went public in the 1980s with the exposure of a worldwide crusade to arm, train and direct various Contra forces. It wasn’t “approved” public policy, yet it nevertheless served as the centerpiece of presidential foreign policy during the Reagan years.

Such activities are difficult to manage and control, however, since they require the mobilization of elite, often underground networks and a conscious effort to mislead other parts of the government (not to mention allies and the general public). In the case of the Contra wars, the connection between arms shipments, drug smuggling and assassinations was an organic development, but one the administration could not fully “manage.”

Once the “enterprise” was outted, the old alliances no longer held firm but the “initiatives” couldn’t be aborted by presidential decree. And, in truth, there was really no sincere attempt to change course. The Reagan, Bush and Clinton administrations continued to promise military aid or backing in exchange for concessions, promote coups in countries whose policies threatened US interests, arm mercenaries in Latin America, Africa and Asia, manipulate elections in “fragile democracies,” distribute disinformation, and harass the opponents of US policies.

In Costa Rica, journalists Tony Avrigan and Martha Honey uncovered the private network behind much of the Reagan-era mayhem long before the Tower Commission and Iran-Contra Committee launched their investigations. Working with the Christic Institute, they eventually filed a lawsuit charging 29 US citizens with conspiracy. The specific instance spurring the suit was the 1984 bombing of a press conference held by Contra leader Eden Pastora. The “Secret Team” making that attempted assassination possible, and ultimately causing the deaths of eight people, had roots that stretched back over 25 years. Featuring Contragate figures such as Richard Secord, Thomas Clines, Theodore Shackley and an assortment of Cuban exiles and ex-military men, the “team” had handled numerous sensitive, often illegal operations at the behest of the US government. In fact, it had been an instrument of US policy from the early days of Castro (when some members helped plot the leader’s death), in Laos and Vietnam, in the overthrow of Salvadore Allende in Chile, in propping up the Shah of Iran, and throughout Central America.

Various researchers and investigations ultimately established the following executive branch participation in the “alleged” Contra conspiracy: Vice President George Bush and his national security advisers had close ties with a secret air-re-supply operation in El Salvador. The State Department, in particular Elliott Abrams, was involved in coordinating Contra activities, bringing together State, the National Security Council, and the CIA. But this was only part of a massive inter-agency program masterminded by CIA Director William Casey. The Defense Department planned airdrops over Nicaragua and provided troops to build the Contra infrastructure. A private aid network, including John Singlaub’s World Anti-Communist League, various non-profit fronts, mercenary groups and CAUSA, the political wing of the Moonies, provided cover for an operation that led back to the Oval office.

The Secret Team, eventually headed by Richard Secord, used money from Iran arms sales and other sources to acquire weapons and channel them to Central America, South Africa, and Angola. The Team and the aid network worked with both the Ilopango Airlift in El Salvador and the South Front, coordinated from John Hull’s Costa Rican ranch. Drugs and guns moved back and forth. One beneficiary of these efforts was the Nicaraguan Democratic Force led by Adolfo Calero and former Somocistas. Over 80 people, in and out of government, actively worked in this network, with additional financial support from Saudi Arabia and Brunei. The President was aware of and approved most phases of this covert foreign policy.

Still, this was only one episode in a much longer and more convoluted tale. An earlier "Contra" war had been mounted against Cuba under the direction of Richard Nixon, then vice president, beginning in the late 50s. With the cooperation of Mafia don Santo Trafficante, a private "sub-operation" had been developed to assassinate Cuban leaders. Members of the "shooter team" included Rafael "Chi Chi" Quintero, who later coordinated arms shipments to the Contras with Secord; Felix Rodriguez, a CIA operative who headed the Ilopango operation during the 80s and met several times with Bush; and several of the future Watergate burglars. The Cuban operation was supervised by Secord associates Shackley and Clines.

The Team's activities stretched around the world. In Australia, they used opium money and weapons profits to help destabilize the Labour government in 1975. In Nicaragua, they assisted Somoza after Carter and Congress had banned further aid; after the dictator's fall, they armed and advised ex-National Guardsmen until the CIA assumed control of the Contra war. When Congress cut off aid in 1984, Oliver North, who had worked under Singlaub in Laos, reached out to the Team to illegally recommence funding and re-supply the Contras. During the 1980s operations in Central America, they established major supply bases in Honduras, El Salvador, Guatemala and Costa Rica. In the meantime, CIA Director Casey developed other Contra operations in Africa. In return for South African assistance in ferrying arms to Central America, for example, he arranged with Saudi Arabian King Fahd to provide aid to the South African-backed UNITA rebels fighting the Angolan government.

After the White House connections to the Secret Team were exposed, three material witnesses died mysteriously. Others were threatened, and groups involved in bringing the administration and its partners to justice were burglarized and harassed. Christic Institute attorney Dan Sheehan charged that ultra-right elements threatened key witnesses and that, in its embassies in Central America, the US had "a series of fascist and hitlerite cells" controlled by the CIA.

Not all of this emanated directly from the President's office, National Security Council, or even the Company. But the presidential system makes such policies commonplace and, unless exposed in an unfavorable way, acceptable US "policy initiatives." Reagan's assertion that the Boland Amendment didn't apply to him or his staff was merely another attempt to assert unilateral executive power, which in turn could be delegated to associates in and out of government. By extension, attempts to "protect the initiative" became part of the authority flowing from the sovereign. The Bush administration clearly took a page from this text in designing its defense of torture and other abuses.

When Barack Obama became president, many of his supporters assumed that he would reverse the unilateral and authoritarian policies of his predecessor. Yet his CIA chief Leon Panetta soon made it clear that extraordinary rendition wouldn't end, his Attorney General used "state secrets" as the rationale to block a trial, and Obama personally refused to release photos of enhanced interrogation. He also said that detainees could still be tried in "military tribunals" and that past official crimes would not be prosecuted. It was audacious, but not an auspicious beginning.

The Bush regime has left Obama with broad latitude for executive intervention, both domestically and in countries with which the US isn't at war. Using that power, Team Obama's new overseas strategy seems to be rollback, which, according to researcher James Petras, means reversing any gains made by opposition governments and movements during

the Bush years. Rollback, explains Petras, involves a combination of open military intervention, seductive diplomatic rhetoric, and deniable covert operations. The most transparent manifestation thus far has been the buildup of military forces in Afghanistan, defined by Obama as a “necessary” war. The most covert, on the other hand, could be the recent ouster of Honduran President Zelaya.

There has been no admission of US involvement in the Honduran coup. But US policy clearly shifted after Zelaya decided to improve relations with Venezuela in hopes of securing petro-subsidies and aid. Then he joined ALBA, a regional organization sponsored by Venezuelan President Chavez to promote trade and investment among its member countries, rather than a US-promoted regional free trade pact.

The Honduran military, whose officer corps has been US-trained and cultivated over several decades, seized Zelaya in June and “exiled” him to Costa Rica; the local oligarchy meanwhile appointed one of their own as interim President. Latin American governments condemned the coup and called for Zelaya’s reinstatement. But Obama and Secretary of State Clinton opted to condemn only unspecified “violence” and called for “negotiations” between the coup-plotters and exiled President.

Even after the UN General Assembly demanded Zelaya’s reinstatement, Obama refused to call it a coup. After all, that classification would have led to a suspension of \$80 million in annual US military and economic aid. Every country in the OAS – except the US – withdrew its Ambassador. Instead, the US embassy began to negotiate with the Junta. Whether Zelaya returns to office or not, the coup serves as a lesson to any other country that considers joining Venezuelan-led economic programs. The blunt message, Petras concludes, is that any such moves will result in presidentially-approved sabotage and retaliation. Don’t expect hearings, or public oversight of any kind.

Two centuries after the US constitutional system was created, it has unraveled under the explosive force of the imperial presidency. The framers, though they could not predict the global dominance of the US, were certainly aware of the dangers of a drift toward monarchy. Unfortunately, their handiwork no longer meets the test. Even though the president needs congressional approval for expenditures and declarations of war, almost anything is permissible if the appropriate “national security” rationale can be manufactured.

Even impeachment won’t counter the long-term drift toward executive sovereignty, since a president can only be impeached for “high crimes and misdemeanors” while most of the covert or “illegal” actions condoned or promoted by presidents are tried-and-true policies that Congress dare not condemn, criminal as they may be. According to historian Barbara Tuchman, the office itself “has become too complex and its reach too extended to be trusted to the fallible judgment of one individual.” Thus, she and others have suggested restructuring ideas; for example, a directorate or a Council of State to which the executive would be accountable. Ironically, such ideas were discussed and rejected at the Constitutional Convention.

Basic changes are obviously needed. Presidents will continue to seek expanded power until clear limits are imposed and public pressure reverses the trend. In the end, the US may need another Constitutional Convention. As during the original, a stated, narrow purpose may be eclipsed by some “revolutionary” move to revamp the entire document. There is clearly a risk that something worse might be imposed, along with draconian restrictions on

basic rights and freedoms. But more positive outcomes are also possible, and, given the way things are going, the risk may turn out to be preferable to the inexorable drift toward presidential tyranny.

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