

Obama: Worse than Bush and Cheney

by Edward Spannaus

May 23—In a recent series of measures, the Obama Administration has outdone even the Bush-Cheney Administration in throwing off the Constitutional system of checks and balances, by wielding arbitrary Executive power for wars abroad, and for police-state measures at home. *EIR* and others warned last year, that Obama would increasingly try to rule through Executive actions—dictatorial measures embodied in the Hitlerian “unitary executive” notion—rather than working through Congress, and public disclosure and debate. Obama’s Libya adventure, in which he has gone further than any previous President in defying the War Powers Resolution, is a leading example of this, but certainly not the only one.

Other notable instances are Obama’s continuation and expansion of domestic surveillance and warrantless wiretapping, the strengthening of the Patriot Act, his continuation of the use of Presidential signing statements, and his cowardice in reneging on his pledge to close the Guantanamo prison camp. In the case of Guantanamo, he dropped the matter, allowing opportunist Republicans to take the initiative, leaving Attorney General Eric Holder twisting in the wind, despite overwhelming evidence that civilian courts have a far better record of obtaining convictions and long prison sentences in terrorism cases than have the Bush-era military commissions.

What is especially pernicious about Obama’s actions, beyond the fact that, in most respects, Obama’s war-mongering and police-state measures go well beyond those of previous administrations, is that they amount to an *institutionalization* of the Bush-Cheney imperial Presidency. During the post-9/11 years, the policies promoted by Vice President Dick Cheney and Defense Secretary Donald Rumsfeld were seen by most as a temporary aberration, that would be quickly reversed once a Democratic administration came into power. But rather than throwing out the Bush-Cheney



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Libya, Barack Obama's Administration is breaking new ground in its construction of an imperial presidency—an executive who increasingly acts independently of Congress at home and abroad.”

In early April, Bruce Fein, a former Reagan Administration Justice Department official, who worked on the impeachment of President Bill Clinton, and who also sought to impeach George W. Bush and Dick Cheney, said that Obama has been “more bold than any other President,” in failing to secure Congressional approval for the Libya attacks. Fein issued a 15-page Article of Impeachment against Obama, which charged that “Barack Hussein Obama has mocked the rule of law, endangered the very existence of

Obama's imperial Presidency has surpassed even that of the Bush-Cheney years, in its violation of the War Powers Act, and use of Executive power to trample the Constitution.

practices, Obama has enthusiastically embraced them; and Congressional Democrats, for the most part, have rolled over in obeisance, thus giving these dictatorial practices a permanence which few anticipated just a couple of years ago.

Lyndon LaRouche said that, regardless of whether or not Congress has the spine to impeach the President for his refusal to comply with the War Powers Act, that he intends to push the issue full throttle. “This cannot be ignored or swept under the rug. The President has broken the law—no ifs, ands, or buts. He has entered the zone of impeachable offenses, and there is no excuse for letting him get away with it. If Congress does not act, then the U.S. Constitution and the foundations of our Republic are in grave jeopardy. I will not let this rest.”

Defying the War Powers Resolution

The most flagrant of Obama's recent actions, is his refusal to comply with the 1973 War Powers Resolution with regard to U.S. military action in Libya. As Yale law professor Bruce Ackerman wrote in late March in *Foreign Policy*, only a few days after Obama ordered U.S. armed forces to conduct bombing raids over Libya: “In taking the country into a war with

the Republic and the liberties of the people, and perpetrated an impeachable high crime and misdemeanor,” in launching war on Libya without approval from the Congress.

“If we're going to be a government of laws, and not descend into empire, this is Caesar crossing the Rubicon,” Fein declared.

On May 17, just a few days before the expiration of the 60-day period in which, under the Resolution, the President was required to obtain Congressional approval, or to terminate the operation within 30 days, Ackerman and a second Yale law professor, Oona Hathaway, published an op-ed in the *Washington Post* entitled “Death of the War Powers Act,” noting that Obama hasn't even tried to consult Congress or get Congressional approval. They surmised that Obama might try to duck the issue by claiming that it is no longer necessary since NATO took the lead on April 1—an obvious fraud, since the U.S. is still deeply involved both militarily and in the NATO leadership.

Accusing Obama of “moving decisively beyond his predecessors,” Ackerman and Hathaway observe that every previous President did comply—although most challenged the constitutionality of the 1973 Res-

olution—either by getting Congressional approval (George W. Bush in Afghanistan and Iraq), or by seeking funding from Congress (Clinton in Kosovo). “If nothing happens,” they conclude, “history will say that the War Powers Act was condemned to a quiet death by a President who had solemnly pledged, on the campaign trail, to put an end to indiscriminate warmaking.”

On Friday afternoon, May 20, when Congress was not in session, Obama sent a letter to Congressional leaders claiming that since the U.S. military role is so “limited” in the NATO-led operation, he doesn’t need to seek Congressional approval. The War Powers Resolution contains no such exemption; it requires Congressional approval within 60 days for any deployment of U.S. forces, equipped for combat, into hostilities in foreign territories—thus rendering Obama’s subterfuge a transparent piece of fakery.

Secret Prisons, Targetted Assassinations

Obama has also carried unilateral war-making powers beyond Bush and Cheney in other ways. Although Obama officially promised to end torture and the “enhanced interrogation” methods of the Bush years, it was disclosed last Fall that abuse of prisoners was still continuing at a secret “black jail” attached to the larger prison at Bagram Air Base in Afghanistan. A report issued by the Open Society Foundation documented consistent use of conditions such as exposure to excessive cold and light, inadequate bedding and food, sensory deprivation, forced nudity, and the like. The Bagram “screening facility” is run by the Joint Special Operations Command (JSOC), the military’s counterterrorism unit which operates a network of secret prisons, and deploys hit teams around the world for the purpose of “snatch and grabs” and targetted assassinations—including the recent killing of Osama bin Laden.

Late last Summer, *The Nation* magazine identified Obama as an enthusiast for the JSOC and Special Operations, reporting that “the Obama Administration has taken the Bush-era doctrine of the world as a battlefield and run with it.” *The Nation* pointed out that U.S. Special Forces are now operating in 75 countries around the world, up from 60 under Bush-Cheney. A Special Forces source told *The Nation* that Obama has “let JSOC off the leash,” adding that, “JSOC has been more empowered under this Administration than any

other in recent history. No question.”

The use of targetted assassinations has also been taken to new levels. “As part of its war against violent extremism, the Obama administration now claims a right to kill Americans without a trial, without notice, and without any chance for targets to legally object,” wrote James Bovard in the *Christian Science Monitor* of May 17. Bovard notes that the Administration says it doesn’t have to show any evidence before targetting an American to be killed. (Others have pointed out that the Obama Administration’s claims of these powers go well beyond any previous administration in elevating this “right” into an official doctrine.)

On May 6, a U.S. drone tried to kill Anwar al-Awlaki, a U.S. citizen living in Yemen; it missed him, but killed two others. The Obama Administration has added other names to a list of those targetted for assassination, but when the ACLU went to court to compel the government to disclose the standards it uses, the Administration claimed the entire program is a “state secret.”

Obama’s National-Security Prosecutions

Domestically, the Obama Administration is carrying out what is being called “an unprecedented war on whistleblowers—even though Obama himself championed the cause of whistleblowers early in his Administration, calling them “often the best source of information about waste, fraud, and abuse in government.”

But now, as investigative reporter Jane Mayer reports in the May 23 issue of the *New Yorker*, the Administration is carrying out more national-security leak prosecutions, using the 1917 Espionage Act, than in all previous administrations combined. Mayer quotes Gabriel Schoenfeld, a conservative analyst at the right-wing Hudson Institute, as saying that, “Ironically, Obama has presided over the most draconian crackdown on leaks in our history—even more than Nixon.”

The centerpiece of Mayer’s blockbuster article is the Obama Administration’s criminal prosecution of Thomas Drake, a former senior executive at the National Security Agency (NSA), who is being charged under the Espionage Act for having provided information to the *Baltimore Sun* on financial waste, dysfunction, and questionable legal practices in the NSA’s counterterrorism program.

"I'm a target." Drake told Mayer. "I did not tell secrets. I am facing prison for having raised an alarm, period. I went to a reporter with a few key things: fraud, waste, and abuse, and the fact that there were legal alternatives to the Bush Administration's 'dark side.'" As *EIR* and others have exposed, the NSA's massive electronic-surveillance program, launched by Bush and Cheney, involved the sweeping-up of all domestic telecommunications data—phone calls, e-mails, and Internet traffic, and was far more extensive than ever admitted. By all accounts, the program has continued unaltered in the Obama Administration.

Drake is being prosecuted by the DOJ's Fraud Section—the same unit that was deeply involved in the 1980s LaRouche frameup—which is now headed by William Welch, who was transferred from the DOJ's Public Integrity Section after being held in contempt-of-court in the case of the late Alaska Sen. Ted Stevens.

Mark Klein, a former AT&T employee who exposed the NSA's secret tapping of all telecommunications traffic, calls the Drake case "outrageous," explaining: "The Bush people have been let off. The telecom companies got immunity. The only people Obama has prosecuted are the whistle-blowers." And former Justice Department attorney Jesselyn Radack, interviewed on *Democracy Now*, points out that the Obama Administration's drive against whistleblowers, is "even more ironic because this is coming from an Administration whose mantra is to look forward, not backwards, at torture and warrantless wiretapping. But apparently it's willing to look backwards at the people who blew the whistle on precisely that kind of wrongdoing."

Jack Balkin, a Yale law professor, sees the Obama leak prosecutions as part of what he calls "the bipartisan normalization and legitimization of a national-surveillance state." Balkin accuses Obama of having "systematically adopted policies consistent with the second term of the Bush Administration."

'Off the Table'

The duplicity of the Obama Administration, and Congress's complicity in abetting Obama's "unitary executive" moves, is shown by the fact that, at the urging of President Obama, Congressional leaders agreed on a tentative deal that would extend the Patriot Act for four years, until June 1, 2015. The deal, between

Senate Majority Leader Harry Reid and House Speaker John Boehner, calls for a vote before May 27, when parts of the current act expire. The idea, said Associated Press, is to pass the extension with as little debate as possible, *to avoid a protracted argument over the expanded power the law gives to the government.* CNN noted that this would largely take the issue off the table for the next election, by extending the law well beyond November 2012.

In his 2008 campaign, Obama promised that he would "revisit the Patriot Act to ensure that there is real and robust oversight of tools like National Security Letters, sneak-and-peek searches, and the use of the material witness provision." Quite to the contrary, Obama has actually proposed to drastically expand the scope of "National Security Letters"—the provision of the Patriot Act which allows the FBI to obtain financial and other records about American citizens without a subpoena or court order—by including "electronic communication transactional records," which would provide the FBI with information about e-mail addressees, and the time and dates on which e-mails were transmitted.

Taking the issue of expanded government powers off the table, and avoiding Congressional hearings, was also what Obama did recently with his scheme to keep FBI Director Robert Mueller in office beyond his 10-year term, which, the May 20 *Washington Post* reported, has triggered an angry reaction among some FBI agents, who say that Mueller imposed term limits on hundreds of supervisors, but is failing to abide by the legal limits set on his own tenure. The FBI's policy, which was adopted after 9/11, is known as "up or out." It requires FBI supervisors to leave their posts after seven years and compete for other managerial jobs, retire, or accept a demotion in the same field office with lower pay.

Obama, whose flunkies are praising him as "gutsy" for his decision to kill Osama bin Laden, apparently doesn't have the guts to allow Congressional hearings, either on the Patriot Act, or for confirmation of a new FBI director, where his own police-state measures would be subject to attack from both Democrats and Republicans. This is exactly what Obama wants to avoid—with the Congress abdicating its own constitutional responsibility—so that Obama's own "imperial Presidency" will not be further exposed to the world.