

# Doubting Obama's Resolve to Do Right

**Exclusive:** In his counterterrorism speech, President Obama ruminated about the moral and legal dilemma of balancing the safety of the American people against the use of targeted killings abroad. But Obama's handwringing did not sit well with some critics including ex-CIA analyst Ray McGovern.

By Ray McGovern

An article in the Washington Post on July 6, 2010, reported me standing before the White House, announcing a new epithet for President Barack Obama: "Wuss a person who will not stand up for what he knows is right."

The report is correct and so, I believe, is the epithet. And after the sleight-of-tongue speech given by the President of the United States at the National Defense University on May 23, I feel I can rest my case. (Caution: my wife insists that I mention at the outset that I've been angry since I listened to the speech.)

The day after Obama's speech I found myself struck by Scott Wilson's article on the front page of the Post, in which he highlighted the "unusual ambivalence from a commander-in-chief over the morality of his administration's counterterrorism policies."

And someone at the Post also had the courage that day to insert into a more reportorial article by Karen DeYoung and Greg Miller a hitting-the-nail-right-on-the-head quote from Benjamin Wittes, a senior fellow at Brookings: "To put it crassly, the President sought to rebuke his own administration for taking the positions it has but also to make sure that it could continue to do so."

Call me naive for putting the wish before the thought, but two days later my hopes zoomed when I saw that page A5 of the Post was dominated by a long article by Glenn Kessler, the Post's normally soporific "fact checker." After the first seven words of the banner headline "**Red herrings, dissemblance and misleading statements ...**" Kessler had me, so to speak.

You will understand my disappointment, then, when I read the rest of the headline: "... **from the IRS's Lerner,**" not from Obama.

And so I read Obama's speech again, initially with the thought of doing Kessler's job for him. But the lies, half-truths and pettifoggery are legion and the task truly Herculean. Besides, many readers will decipher Obama's new "transparency" as transparently self-serving, without any help from me.

## **Hooray! Obama 'Gets It'**

Some progressive pundits have noted, correctly, that Obama's speech shows that he does "get it" when it comes to the many constitutional problems with his preferred violent approach to meeting external threats and his infringement on civil rights at home.

But it seems to me that this now-open sensitivity-to-the-problem is to be applauded ONLY if he also summons the courage to change course. One gets the idea from Obama's words that he may indeed wish to, IF only this, or IF only that. Have we not tired of applauding Obama in the subjunctive mood? I certainly have.

He has now been unusually candid about the dilemmas he faces. But lacking is any real sign there is just hope that he will change character. From his speech we know that he understands he needs to change course in order to discharge his duty to "take care that the laws be faithfully executed."

But I, for one, see little basis for hope that he will go beyond the carefully crafted all-things-to-all-people rhetoric in his speech. In my view, this makes him even more culpable an even more transparent flouter of his oath to defend the Constitution.

Ah, but what about the oft-expressed hope that Obama will be freer to act more responsibly in his second term? The four months we have witnessed thus far in his second term bring to mind Samuel Johnson's quip that a second marriage is "the triumph of hope over experience."

We have had four years and four months of experience with Obama. Those of us who care about the Constitution and rule of law now need to be guided by experience and to stop cutting him still more slack.

## **Presidential Whining**

The whiny tone of Obama's speech offended me as much as his faux transparency and disingenuous words. I asked myself, are we supposed to find reassurance that, while our President is a wimp, he is an empathetic one?; that from time to time he experiences a pang or two of conscience when ordering people killed by drone?; that he claims that being responsible for the deaths of innocent civilians will haunt him for as long as he lives? Can we feel his pain?

"I have taken an oath to defend the Constitution of the United States," the President reminded us. "I do not believe it would be constitutional for the government to target and kill any U.S. citizen with a drone or a shotgun without due process," says he the day after the Attorney General admitted that this is

precisely what happened to New Mexico-born Muslim cleric Anwar al-Awlaki.

Could it be that the commander-in-chief has a trace of PTSD? He seems to be appealing for our understanding about how conflicted he is about ordering people killed, entreating us to imagine his anguish, to appreciate how hard it is for him a constitutional lawyer, no less to do these terrible things anyway.

And then the kicker: "Remember," he adds, "that the terrorists we are after target civilians." (Whatever happened to the "But we are better than that.")

On Guantanamo, Obama expressed regret over how the prison "has become a symbol around the world for an America that flouts the rule of law" (and in the very next sentence trivializes this, lamenting only that "our allies won't cooperate with us if they think a terrorist will end up at GTMO)."

Again regarding Guantanamo, he asks, "Is that who we are? ... Is that the America we want to leave to our children?" And he notes disapprovingly that "we are force-feeding detainees who are holding a hunger strike."

And so I keep asking myself, who is this "we?" Does the President style himself as some sort of extraterrestrial creature looking from afar on the abomination of Guantanamo? Has he forfeited his role as the leader of "we?" What kind of leadership is this, anyway?

### **History of Leadership**

In a speech on March 21, second-term Obama gave us a big clue regarding his concept of leadership one that is marked primarily by political risk-avoidance and a penchant for "leading from behind": "Speaking as a politician, I can promise you this: political leaders will not take risks if the people do not demand that they do. You must create the change that you want to see."

*John Kennedy* was willing to take huge risks in reaching out to the USSR and ending the war in Vietnam. That willingness to take risks may have gotten him assassinated, as James Douglass argues in his masterful *JFK and the Unspeakable*.

*Martin Luther King, Jr.*, also took great risks and met the same end. There is more than just surmise that this weighs heavily on Barack Obama's mind. Last year, pressed by progressive donors at a dinner party to act more like the progressive they thought he was, Obama responded sharply, "Don't you remember what happened to Dr. King?"

It is not as though Obama had no tutors. He entered Harvard Law School 113 years after one of its most distinguished alumni, Supreme Court Justice Louis Brandeis, began to study there. I find myself wondering if Brandeis has been

redacted out of the lectures at Harvard Law.

Slick lawyers have done an effective job over the past dozen years trying, in effect, to render one of Brandeis's most penetrating remarks "quaint" and "obsolete." Following is a paragraph, acutely relevant to today's circumstances; Brandeis wrote it to warn us all about how the government sets a key example on respect for the law:

"The government is the potent omnipresent teacher. For good or ill it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that the end justifies the means, to declare that the government may commit crimes, would bring terrible retribution."

### **Protesting Too Much**

Let me provide a couple of examples from Obama's speech that illustrate the value of Brandeis's warning:

One could easily infer that the President is protesting too much (four times in the speech) in claiming that his "preference" is to capture terrorists rather than kill them. Clearly, though, Obama has made targeted killing his tactic of choice. What do former insiders say? The lawyer who drew up the initial White House policy on lethal drone strikes has accused the Obama administration of overusing them because of its reluctance to capture prisoners. Holding prisoners is such a nuisance.

John Bellinger, who was a lawyer on George W. Bush's National Security Council and worked on the legal framework for both detention of suspected terrorists and targeted drone killings, said on May 1 at the Bipartisan Policy Center in Washington: "This government has decided that instead of detaining members of al-Qaida, they are going to kill them."

It should be noted that Bellinger is not opposed to targeted killings and argues that they are not only lawful but "can be good." He said the big issue was not the administration's claimed legality of targeted killings but rather international acceptance of Washington's so-called global war on terrorism:

"The issue really here ... is that there is a fundamental disagreement around the world, which I experienced when I was the legal adviser, as to whether the United States really is in a war at all. And we are about the only country in the world that really thinks that we are in an armed conflict with al-Qaida."

But Obama said, four times, that his preference is capture over killing. Someone

is not telling the truth.

Here's how Spencer Ackerman posed the question in a recent piece for Wired: "Obama turned more than a few heads by declaring his 'strong preference' for 'the detention and prosecution of terrorists' over sending an armed robot to end their lives. It's hard to know what to make of that. The simplest interpretation is that it's a lie. Whatever Obama's preferences are, he has killed exponentially more people than he has detained and prosecuted."

### **Guantanamo Prison**

Over 100 hunger strikers in the Guantanamo prison are being force-fed to prevent them from the only method of release they see open to them death. In this part of his speech, too, Obama keeps giving a bad name to hypocrisy. His handwringing sounds as though he were some kind of liberal pundit on MSNBC; as though he were powerless to do anything; as though his hands are tied by Congress. He said:

"Look at the current situation, where we are force-feeding detainees... . Is that who we are? Is that something that our Founders foresaw? Is that the America we want to leave to our children."

Interrupting Obama, Code Pink's Medea Benjamin appealed to the President to "release those 86 prisoners" (more than half of the 166 prisoners still held at Guantanamo) already cleared for release. On Jan. 22, 2010, those 86 were pronounced cleared after a year-long investigation of their individual cases by an interagency task force of officials at the Departments of State, Defense, Justice, Homeland Security and others.

But Congress has tied the President's hands, you may be thinking. Congress, to be sure, has posed legal obstacles, but is not the only fly in the ointment. Congress has also given Obama considerable leeway; but he has not had the courage to take advantage of it. One of Congress's most powerful members, Sen. Carl Levin, Chair of the Armed Services Committee, sent the White House a letter on May 6 reminding the President that, thanks to the efforts of Levin and others, Obama can release the 86 without further delay.

In other words, Medea Benjamin was right, though you would never know it from the mainstream media. Referring to congressional restrictions on detainee transfers, Levin reminded Obama: "I successfully fought for a national security waiver that provides a clear route for transfer of detainees to third countries in appropriate cases; i.e., to make sure the certification requirements do not constitute an effective prohibition."

Moreover, Obama did say that he will lift the restrictions he himself imposed on sending detainees to Yemen. After Obama's speech, attorney Michael Ratner,

President Emeritus of the Center for Constitutional Rights, told Paul Jay of the Real News Network:

“All that has to happen is for the President to certify, as he is required to do by law, and send the detainees to Yemen. But then he [the President] says, “I’m going to do this on a case-by-case basis. They have already been cleared on a case-by-case basis. So Obama is going to go back through it?”

“The proof will be in the pudding even on Yemen. Will he actually do it? How slowly will he do it? You know, what he should actually do is just do it and get it done and then move on to the next thing. So we’ll have to see...”

### **Summing Up: An Epochal Speech**

Benjamin Wittes of Brookings (quoted above) is hardly alone in characterizing Obama’s May 23 speech as a rebuke to his own administration for taking the positions it has and then a defense of its intention to continue to do so.

Here’s what Norman Pollack had to say about all this, in an article he titled “Obama’s Militarism-Imperialism Lite”:

“A tissue of lies? No, the whole Kleenex box – one tissue interleaved with all the others. Obama is fortunate to be presiding over a country steeped in false consciousness on essentials (war, sacrifice of the social safety net for the glories of militarism, and ... authoritarian submission, a political-cultural disposition to strong leadership reinforced by appeals to patriotism and pressures toward conformity). ...

“His May 23<sup>rd</sup> address therefore fell on receptive national ears, a desperate will to believe that immorality is moral, illegality, legal, and war, the necessary defense of Homeland in its centuries’-old quest for peace, honor, the rule of law. How comforting!

“Liberals and progressives especially have taken heart in POTUS’s rhetoric that a new day in American foreign policy is dawning, has already dawned, by the simple fact of self-declaration that the United States is always bound by the constraints of the rule of law. ... All else is enemy propaganda.

“With that as background (and a solid phalanx of flags as his backdrop) Obama spoke with becoming assurance, to me, arrogance, as the leader of the Enlightened World in its struggle against the forces of ignorance, darkness, covetousness, wholly oblivious to America’s moral sense and good intentions. Such a masterful speech (as judged by the New York Times and mainstream media opinion) deserves a closer look, but not too close, lest the luster wear off.”

My gratitude to those who have read down this far. And my apologies for not coming across Pollack's article earlier. It's pretty much what I wanted to say all along; and he says it better and shorter.

**Ray McGovern works with Tell the Word, a publishing arm of the ecumenical Church of the Saviour in inner-city Washington. A former CIA analyst, he has been dissecting speeches of foreign leaders for 50 years, and of American presidents for the past 12. He is co-founder of Veteran Intelligence Professionals for Sanity (VIPS).**

---