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Obama's Dodges Hard Truths about War on Terror in Major Speech

By John Glaser

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President Obama managed to deliver a speech on Thursday in many ways reminiscent of the rhetoric employed by candidate Obama, condemning the recklessness of the previous administration, hailing the rule of law, and citing James Madison's warning that "No nation could preserve its freedom in the midst of continual warfare."

But whereas Obama made the right sounds, history shows his words fall far short, and often contradict, his actions as president. When he wasn't using such rhetoric, he was dodging the truth on issues including drone warfare, Guantanamo Bay and indefinite detention, the AUMF, and how to prevent terrorism so as to not always be fighting it.

The Drone War

According to the president, when the option of "detention and prosecution of terrorists...is foreclosed" because "they take refuge in remote tribal regions" where "the state lacks the capacity or will to take action," his administration chooses to secretly use drones to bomb targets as opposed to deploying boots on the ground to apprehend the suspects.

We've heard this justification for the drone war before, but there are two main problems to start with. First, this explanation simply assumes the validity of the targeting process. It is quite plainly inconsistent with the rule of law for the unchallenged executive branch accusations against mostly unnamed suspects to be sufficient for a death warrant by covert assassination.

As Rosa Brooks, Professor of Law at Georgetown University Law Center, told a Senate committee ^[1] last month, “When a government claims for itself the unreviewable power to kill anyone, anywhere on earth, at any time, based on secret criteria and secret information discussed in a secret process by largely unnamed individuals, it undermines the rule of law.”

According to reports ^[2], of the 3,000-4,000 people killed in drone attacks under Obama, less than 2 percent ^[3] were described by the government’s own classified documents as senior members of al-Qaeda. The rest were either mid-level operatives, unidentified clumps of people killed in “signature strikes,” or civilians.

Secondly, just because President Obama identifies some logistical obstacles in apprehending mere suspects doesn’t give him the right to bypass the rule of law. What limited legal restrictions on Executive power we do have are not measly options for him to either take or not. They aren’t suggestions. They are the law.

Obama also mentioned his decision this week to declassify ^[4] the targeted killing of U.S. citizen Anwar al-Awlaki, with the familiar justifications. But he papered over the killing of three other American citizens, including Alwaki’s 16-year old son. He professed respect for due process but didn’t say a word about what kind of accountability he should be subject to for the killings, accidental or otherwise, of four Americans.

The 2001 Authorization for the Use of Military Force

But “America’s actions are legal,” Obama insisted. “We were attacked on 9/11. Within a week, Congress overwhelmingly authorized the use of force. Under domestic law, and international law, the United States is at war with al Qaeda, the Taliban, and their associated forces.”

This is another dubious claim.

The AUMF empowered the president “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.”

In Senate hearings last week ^[5], top Pentagon lawyer Robert Taylor kept using the words “associated forces” to justify the legality of the drone war under the 2001 AUMF. Until Senator Angus King of Maine told him those words never appear in the text ^[6] of the AUMF.

“You guys have invented this term, associated forces, that’s nowhere in this document,” King said. “It’s the justification for everything, and it renders the war powers of Congress null and void.”

Even as Obama used the AUMF to justify his dramatic expansion of the drone war, he warned of its dangers:

The AUMF is now nearly twelve years old. The Afghan War is coming to an end. Core al Qaeda is a shell of its former self. Groups like AQAP must be dealt with, but in the years to come, not

every collection of thugs that labels themselves al Qaeda will pose a credible threat to the United States. Unless we discipline our thinking and our actions, we may be drawn into more wars we don't need to fight, or continue to grant Presidents unbound powers more suited for traditional armed conflicts between nation states. So I look forward to engaging Congress and the American people in efforts to refine, and ultimately repeal, the AUMF's mandate. And I will not sign laws designed to expand this mandate further. Our systematic effort to dismantle terrorist organizations must continue. But this war, like all wars, must end. That's what history advises. That's what our democracy demands.

I don't think the President can have it both ways here. Either the AUMF is an overly expansive blank check for perpetual war, or it is the foremost legal instrument of the completely lawful drone war. Which is it?

It will be interesting to see in the near future if President Obama follows up on his pledge to "refine, and ultimately repeal, the AUMF's mandate," or whether it will become another unfulfilled promise, like closing Guantanamo Bay within one year of his election in 2009.

Guantanamo Bay and Indefinite Detention

Here is Obama's case on Gitmo:

As President, I have tried to close GTMO. I transferred 67 detainees to other countries before Congress imposed restrictions to effectively prevent us from either transferring detainees to other countries, or imprisoning them in the United States. These restrictions make no sense...

Today, I once again call on Congress to lift the restrictions on detainee transfers from GTMO. I have asked the Department of Defense to designate a site in the United States where we can hold military commissions. I am appointing a new, senior envoy at the State Department and Defense Department whose sole responsibility will be to achieve the transfer of detainees to third countries. I am lifting the moratorium on detainee transfers to Yemen, so we can review them on a case by case basis. To the greatest extent possible, we will transfer detainees who have been cleared to go to other countries. Where appropriate, we will bring terrorists to justice in our courts and military justice system. And we will insist that judicial review be available for every detainee.

This was another example of the pretty rhetoric that doesn't match up with actions. Yes, 67 detainees were transferred by the administration early on. But there are currently 86 detainees cleared for transfer that the administration has refused to release because of "security conditions." The moratorium on detainee transfers to Yemen was self-imposed by the administration and their Democratic colleagues in Congress largely participated in the effort to block the closure of Gitmo altogether.

Additionally, Obama seems to have no plan for the rest of the detainees who have not been cleared for release but whose alleged guilt is not admissible in court (because the Bush administration illegally tortured them – and then got away with it thanks to Obama's refusal to impose any accountability for crimes committed). Meanwhile, he continues to order the forced

feeding of scores of detainees starving themselves in protest of their injustice, which is a form of torture in itself according to UN human rights officials ^[7].

Combating Terror Without Combat: Retreat?

Obama urged Americans to recognize that terrorist threats “don’t arise in a vacuum.”

And then he offered an explanation for the motivation of terrorists almost as empty and inaccurate as Bush’s claim that they hate us for our freedom:

“Most, though not all, of the terrorism we face is fueled by a common ideology – a belief by some extremists that Islam is in conflict with the United States and the West, and that violence against Western targets, including civilians, is justified in pursuit of a larger cause,” he said. “Of course, this ideology is based on a lie, for the United States is not at war with Islam...”

If Obama refuses to publicly acknowledge the real motivations behind Islamic terrorism, there isn’t any chance to fulfill his urge to “addressing the underlying grievances and conflicts that feed extremism.”

Forget drone strikes and deploying Special Forces in remote areas of the world. If the United States withdrew its military assets from the Middle East, ended its support of Israeli apartheid and dispossession of Palestinian land and rights, stopped propping up military dictatorships with the aim of maintaining as much control over the region for the sake of its valuable geo-political characteristics and resources, and quit meddling in the internal affairs of nearly every Muslim-dominated country, Islamic terrorism would no longer be a threat to Americans.

But Obama rejected this reality before even giving voice to it today. “This is the price of being the world’s most powerful nation,” he said. “I firmly believe that any retreat from challenging regions will only increase the dangers we face in the long run.”

The opposite is true. “Retreat” from the region would mean less power for Washington. But America would be safer. And all of the moral and legal problems associated with the drone war and indefinite detention would disappear.