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## Executive Branch ‘Dictatorship’

Matt Welch

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Jeremy Scahill has emerged in 2013 as one of the most trenchant and scathing critics of President Barack Obama’s prosecution of an open-ended war and unprecedented tactical framework launched by George W. Bush and his vice president, Dick Cheney. “Obama,” Scahill writes in his new bestseller *Dirty Wars: The World Is a Battlefield* (Nation), has gone from a candidate campaigning against Cheney’s War on Terror abuses to a president guaranteeing “that many of those policies would become entrenched, bipartisan institutions in U.S. national security policy for many years to come.”

Scahill’s 642-page critique, and the accompanying IFC documentary of the same name, picks up the journalistic baton from late-Bush-era books such as Charlie Savage’s 2007 *Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy* and Jane Mayer’s 2008 *The Dark Side: The Inside Story of How The War on Terror Turned into a War on American Ideals*. But while those books helped galvanize an anti-imperial, pro-civil liberties left in opposition to Republican politicians, Scahill’s tome, and his ongoing commentary on Twitter and for *The Nation*, stands as a harsh rebuke to those on the left who sold out those principles once Democrats regained power in Washington. “I think if McCain had been elected,” Scahill explains, “liberals would be crying impeachment over some of the stuff that Obama has done.”

Scahill, the 39-year-old author of the 2007 bestseller *Blackwater: The Rise of the World’s Most Powerful Mercenary Army* (Nation), is steadfastly a man of the left—he has worked in the past with documentary polemicist Michael Moore and progressive *Democracy Now!* host Amy

Goodman. But he's also a skilled and intense reporter with good sources inside the shadowy worlds of American special ops, rendition, torture, and assassination. If Democrats finally begin to hold the Obama administration to the standards by which they once judged its predecessor, Scahill will be a prominent reason why.

**reason** Editor in Chief Matt Welch sat down with Scahill in June to talk about the way America now conducts its covert wars, how Obama intervened to keep a respected Yemeni journalist in jail, and what "human rights" can possibly mean when the entire world is a battlefield. To watch video of this interview, scan the QR code at bottom left or go to **reason.com**.

**reason:** Most people know about the Authorization for the Use of Military Force on September 14, 2001, which was signed into law on September 18. You say there was another, more secretive finding signed into law on September 17, 2001, that is even more momentous. Tell us about that.

**Jeremy Scahill:** Dick Cheney and Donald Rumsfeld came into office with an agenda. I mean, they of course had no way of knowing 9/11 was going to happen, [but] they really wanted to conduct what Rumsfeld called a "revolution in military affairs," and to transform the way that the U.S. military operated around the world. Those guys—and also President Obama, [he] views this the same way—they saw the executive branch as operating a dictatorship when it came to national security policy. Cheney thought of Iran-Contra not as a scandal but as the model for how U.S. foreign policy should be waged.

So when 9/11 happened, they already had their hands on the levers, and they started to issue a series of secret presidential directives that would authorize the CIA and U.S. special operations forces to conduct what are called kinetic operations—either kill or capture operations in a variety of countries across the world—and to have minimal to no congressional oversight. They started a program called Greystone—the abbreviation for it was GST internally—and that was the umbrella under which many of what are now viewed as the more unsavory things that were done during the Bush era were conducted. The black sites of the CIA were set up, the use of waterboarding and other torture techniques, and the snatching of people from both declared battlefields such as Afghanistan and other countries around the world. Basically, they created an archipelago of black sites, interrogation centers, and started to develop alternative legal reasoning for prosecuting what they started to call a Global War on Terror.

**reason:** Part of this was to remove the usual functions of oversight. But there had been snatch operations before. There had even been assassination authority, though seldom used. Walk us through what changed from a legal point of view.

**Scahill:** Gerald Ford was the first president to put on the books a ban, or a supposed ban, on assassinations. It's not that Ford was some great opponent of assassination; it's that there was this scandalous period where the CIA had been involved with a number of coups, with various targeted killing operations, with overthrowing democratically elected governments, supporting juntas, and there were very aggressive congressional investigations—the Church Committee, [named after] former Sen. Frank Church of Idaho, and others. And so Ford, coming out of the Nixon era, decided that he was going to issue an order saying that it's the policy of the United

States that we do not conduct assassinations. What's interesting is that every president since has updated or renewed some version of that executive order. Congress has never passed a law saying that the United States doesn't assassinate. My thinking is that Congress doesn't want to take up that question.

Every president from Ford to the present has engaged in something that I think reasonable people could argue is assassination. President Clinton was directly targeting Saddam Hussein's palaces. President Reagan attempted to kill Qaddafi. President George W. Bush was involved in all sorts of targeted killing operations that they refused to call assassinations. You had this era preceding 9/11 where every president sort of found a way around it, and Congress didn't want to take up the question.

Under President Clinton—and a lot of liberals don't like to talk about this—that's when the "rendition" program was started: Clinton was the first president to really create a policy framework for snatching people in countries and not sending them to CIA black sites [but] sending them to Hosni Mubarak's Egypt, or Assad's Syria, or in some cases Qaddafi's Libya, where people could be interrogated, sometimes with U.S. personnel in the room. It was a way of saying, "We're not doing this, but we're facilitating or aiding other governments in their fight against terrorism or extremism."

When 9/11 happened, the CIA created its own network of black sites, and instead of sending [prisoners] exclusively to third countries, the CIA started taking custody of them and interrogating them on their own. So there's been a continuous arc of U.S. policy toward escalating the use of assassination, although rebranding it as something else, and using secret prisons, either other countries' or in the case of the first six or so years of the Bush administration, actual black sites run by the CIA.

**reason:** You talk of this pivotal moment when we go from the tradition of illegal or rare kinds of snatch programs to this world that we've had since September 11. That moment was the case of [Ibn al-Shaykh al-Libi] in 2002. Tell us about that.

**Scahill:** There's this book by a former senior FBI interrogator, Ali Soufan, called *The Black Banners*. Ali Soufan tells this story about how really early after 9/11, the Clinton Doctrine was still on the books for how terrorism was viewed, which was basically a law enforcement approach. The Clinton folks had created what Richard Clarke, the former senior counterterrorism adviser, called an almost Talmudic set of qualifications in order to conduct an actual targeted killing operation.

**reason:** Or in order to never do it.

**Scahill:** Which is how it was viewed in the Special Operations community. Remember Rumsfeld and Cheney, they first of all viewed Clinton as an almost pacifist character. They viewed the CIA as a liberal debate society; they wanted to be hitting targets all the time, doing pre-emptive strikes against terrorists.

**reason:** They worked in the Ford administration while he was signing these documents, and their view of executive power was that Congress went way too far in 1974, the Church Committee went way too far.

**Scahill:** These guys cut their teeth at a time when the whole thing was unraveling. Under Nixon, the CIA was coming under intense scrutiny, and you had a generation of CIA officers who had come through the ranks with the understanding that covert action is going to get you hauled in front of the Senate Intelligence Committee. Rumsfeld and Cheney were big fans of executive orders and using presidential findings to get around having to go to Congress. They viewed Congress as pretty much just a funding organ, and the oversight function was only overseeing how funds were spent, not getting involved with or being briefed on covert operations.

There was this sort of fight that happened right after 9/11 between the FBI and CIA paramilitary division—which was being empowered by the White House to conduct really aggressive operations—where you would have actual fights over prisoners who were taken in Afghanistan or Pakistan in the early stages. Ibn al-Shaykh al-Libi was a guy who was believed to have intelligence and information about Osama bin Laden and the Al Qaeda network. He’s originally in the custody of the FBI; the FBI agents reported they were developing a [rapport] with him, and that they thought that he was going to be a cooperative witness who would give them information. And just as they were preparing to take him back to the United States and bring him into custody so they could do thorough interrogations and an investigation of him, the CIA comes through and takes control of him. And they move him to a series of black sites and torture him.

Most of the FBI people I talked to—and this has come out in some of their memoirs—they say that they believe that because al-Libi was tortured and taken, the U.S. lost a crucial opportunity early on to gain actionable intelligence that could have led to the capture of many more high-value targets that were directly involved with the 9/11 attacks. And that set the tone for how things were going to go for the next several years.

**reason:** It wasn’t only that he was tortured; it’s that he was tortured to produce a specific result.

**Scahill:** Right. These guys were trying to tie Iraq to the 9/11 attacks. The CIA was under tremendous pressure from Cheney and Rumsfeld, two primary figures who were creating the U.S. response strategy to 9/11, and they wanted to get people who would say that Saddam was working with Al Qaeda, or that Saddam had weapons of mass destruction. A lot of the torture that took place early on, including when the U.S. first went into Iraq and started an extensive interrogation and detention program, a lot of the torture was aimed at retroactively proving their claims, that Iraq had WMDs or some sort of connection to Al Qaeda. I think it was Ali Soufan who said that al-Libi was so broken that he said he would just tell them anything that they wanted to hear, because he just saw it as, “I want the torture to stop...so if they’re trying to get me to say that Saddam has something to do with Al Qaeda, I’ll say Saddam had something to do with Al Qaeda.”

**reason:** One of the only real things that supporters of President Obama will say is an important difference between his record in the War on Terror and President Bush's is that we no longer torture. Do we no longer torture?

**Scahill:** First of all, there's this psychologist out in the Bay Area named Jeffrey Kaye who's done some really good analysis on the shift from Bush to Obama and looking at what the Obama policy is. He's done really good reporting on Appendix M of the U.S. Army Field Manual, which is now the standard, and has made a pretty credible argument that there are tactics that are still authorized that reasonable people would probably consider to be torture: forms of sleep deprivation, the use of dogs, dietary manipulation, isolation, lying to prisoners, telling them things have happened to their family members. In the psychological community and the mental health professionals that had worked on this program, there's a school of them that say that even the minimum Obama is saying that he's doing openly is torture.

But there's another layer to this that I think is more important. What I discovered when I went to Mogadishu, Somalia, is that under Obama, the United States is using a secret prison that is buried in the basement of Somalia's national security service, which is supported by the United States. There are prisoners in there that have been snatched from other countries. I tell the story of one guy in particular who was taken on orders from the United States from his home in Nairobi, taken to the Wilson Airport, flown to Somalia, and put in this prison, which is an underground prison infested with bed bugs, where no one has access to the Red Cross. In fact, I was on a show with the Red Cross and asked them about this, and they said they'd never heard of the prison.

This is under Obama. We have people being held in an underground prison in Somalia, and they're being interrogated by the CIA and U.S. military intelligence. Now President Obama doesn't hold press conferences talking about that. I believe him if he says that he's shut down the CIA black sites, but what is the real difference between having someone put in a dungeon in Somalia on your orders and then interrogated by your intelligence personnel, and actually running the facility in Thailand or Poland yourself? That's how narrow the divide is between what the Bush people were doing and what Obama's doing.

A lot of Obama's counterterrorism policies are just rebranded versions of the Bush policy. He's really trying to legitimize it, and I think he's done it successfully for a majority of liberals, they've taken the thing whole, like drinking Kool-Aid. When it comes to counterterrorism policy, people believe there's been this marked shift from Bush to Obama. No way: The core tenets of the program live on under Obama...I think if McCain had been elected, liberals would be crying impeachment over some of the stuff that Obama has done.

**reason:** Obama gave a big speech on May 23 that was supposed to be a big rethink of the War on Terror strategy, and some people who are colleagues of yours, Jane Mayer of *The New Yorker* especially, responded to it by saying, "Hey, this is a major step in the right direction." You seem to be a bit more skeptical.

**Scahill:** Jane Mayer is one of my journalistic heroes, and I admire her tremendously. I don't agree that this represented any kind of a major shift.

I think that Obama is talking out of both sides of his mouth. On one hand, I think he's sincere when he says that civilian deaths are going to haunt him until the day he dies. I don't view him as some sort of callous, evil man plotting the destruction of the world, or celebrating the killing of civilians just because they're Muslims, and I do think you had some sickos in government that after 9/11 really just wanted to kill Muslims. I don't think that Obama falls into that category at all. What I think is happening, though, is that he's asserting that the United States has a right to assassinate people in countries across the globe if through some secret process the executive branch determines they pose a threat to U.S. persons. What I think is particularly dangerous about it is that because he's a popular Democratic president, and he's a constitutional lawyer by trade and won the Nobel Peace Prize, a lot of liberals have checked their conscience at the door of his presidency, and they're sitting out looking in any serious way at what the actual policy is.

So on the one hand, he's saying we don't want to live in perpetual war. On the other hand, in the week following that speech, he authorized a drone strike in Pakistan and authorized another drone strike in Yemen. On the one hand, he's telegraphing and saying we don't want perpetual war. On the other hand, he is the president who will go down in history as having created a streamlined system to normalize assassination as a central component of what they call U.S. national security policy. And despite all the rhetoric about [conducting the program] with great care and with great analysis, the reality is he's still continuing to use what are called "signature strikes," a sort of pre-crime, where in certain regions of Yemen and Pakistan, he and his advisers have deemed targeted areas totally on-limits for any military-aged male gathered with a group of military-aged males. We don't even have to know the identities of the people we are targeting for assassination anymore.

**reason:** They just look from the sky to be the wrong age and crowded around the wrong people. It's stop-and-frisk with drones.

**Scahill:** I'll give you an example that I think is probably the most common way this happens. You've got a guy you're watching who attends a certain mosque. And then you start to watch other guys who go into that mosque—this is in Pakistan or Yemen in certain places. Then one of the guys you've been tracking who goes to that mosque also goes to a house that you suspect might be a place where they're manufacturing IEDs. And now you've got a lock on that guy, and you have two places where he's been, and there's smoke around them. And then he's gathering with a group of other men, and you assume these guys must be up to no good because this guy's been at that mosque and he's been at this compound, so we're just going to assume that he's engaged in terrorist activity. And so he's then with a group of other military-aged males sitting out, having dinner, maybe they're at a funeral, or at a wedding, and we say, "Let's take this opportunity because if that guy has so much smoke around him, these guys must also be up to no good."

We don't know the identity of a single one of these people, we don't necessarily have intelligence that they're involved with any plotting against the United States or any potential criminal activity, but we're going to preventively, or pre-emptively, take them out. So we kill them with a drone strike. And because they were in this certain region, they're military-aged males, we'll posthumously declare that they were militants or terrorists; hence the phrase "suspected militants" or "suspected terrorists." Journalists repeat it all the time.



**reason:** Every single drone-in-Yemen story starts off that way.

**Scahill:** What is a “suspected militant”? Is that now a death penalty offense, to be a suspected militant? We’ve got suspected militants in the United States.

**reason:** Do we have a sense of how many of these “signature strikes” there have been?

**Scahill:** No. And part of it is the state of oversight under the Obama administration. [Although] it’s hard to believe, I think at times it has been worse than it was when Bush and Cheney were in office. I mean, I talk to members of the Senate and House intelligence committees who describe to me what the state of oversight is like on the kill program. I don’t think most Americans understand this, which is incredible. Certain senators, not all, are allowed to go to a secure, classified intelligence facility—and they had to fight to get the chance to do this under Obama—they go to a secure classified intelligence facility, they’re not allowed to bring in writing utensils, they can’t bring in paper, they can’t bring in anything with a battery, and they are allowed to look at certain memos the White House, in secret, has cleared for them to look at, even though these are people by law who are not just allowed to but responsible for overseeing covert operations.

So they’re given a redacted set of documents basically from the White House, and they look at those, and then they’re not allowed to tell anyone what they’ve seen. In our film, I’m interviewing Ron Wyden, a senator from Oregon who has been tough on this issue from Bush to Obama and has fought the Obama White House. He said to me, “It’s as though there are two laws in America. There’s one law that reasonable people would read and come to a conclusion of how to interpret that law, and most reasonable people would interpret it roughly the same way. And then there’s another law, which is how the White House has interpreted that same law in secret.” And he said the American people would be shocked if they could see the difference between what they believe the law says, and how it’s been interpreted by the president and his advisers in secret. I asked him to share the difference, and he said, “Well no, I’m not allowed to.” So that’s a pretty chilling reality.

We’re engaged in this grotesque form of pre-crime under Mr. Constitutional Law Professor President Obama. If McCain was asserting [a right] to bump U.S. citizens off without even charging them with a crime, not on a battlefield shooting at U.S. troops, I think you would’ve seen a lot more controversy about it.

**reason:** Obama intervened personally to keep a Yemeni journalist in jail. Tell us that story.

**Scahill:** This to me is shameful. The book is dedicated to journalists who are in prison for doing their jobs and those who die in pursuit of the truth, and the last line of my book is that Yemeni journalist Abdulelah Haider Shaye is in prison in part because of the intervention of President Obama, and should be set free.

The short story is that after Obama started authorizing the bombing of Yemen in December 2009, the U.S. engaged in this conspiracy with the Yemeni government to cover up the U.S. role and for Yemen to take responsibility and credit for the attacks that the United States was going to

start conducting. We know that because of the WikiLeaks cables, the meetings between Gen. [David] Petraeus—who at the time was the CentCom commander—and the Yemeni president.

So this first strike happens that Obama authorized on Yemen. The Yemeni government puts out a press release that Yemeni air forces have attacked this Al Qaeda base and killed 34 terrorists, and the U.S. sends congratulations to Yemen. But Yemen had nothing to do with it: It was all U.S. cruise missile attacks.

The first person to report on the fact that there were these U.S. munitions used that Yemen doesn't possess is this guy, Abdulelah Haider Shaye, who is a journalist who is doing very serious reporting on the rise of Al Qaeda in Yemen. He was interviewing Al Qaeda leaders and was doing actually quite critical interviews with Al Qaeda people, far more critical than anything we see from the White House press corps with the president of the United States. So this guy is interviewing Al Qaeda leaders, and he's exposed a U.S. missile attack. Soon after that he gets abducted by Yemen's U.S.-backed intelligence service, taken to an interrogation center and beaten, and told that "if you don't stop talking about the American bombing in Yemen, we're going to put you back in here for good." And so he immediately leaves that first abduction, goes on Al Jazeera, and says, "I've been snatched because they want me to stop talking about the fact that America is now bombing Yemen, and I'm going to continue to report on it." And he did. He continued to report on it.

He interviewed Anwar al-Awlaki at a time when the CIA apparently couldn't find him, and because of his interviews with Awlaki, we know that Awlaki praised the underwear bomber. I encourage people to look at it; he did a very critical interview with Awlaki. He's saying, "Why is it that you're praising an attempt to down an airliner full of civilians? How can you say that's a military target?" Can you imagine being that journalist sitting here with this guy, and you're not just lobbing softballs at him; you're asking him real questions? This is why I'm so outraged about this.

So he's doing all this reporting. He provided photographs to human rights organizations of the munitions that definitively proved after they were analyzed by munitions experts that the only party that could have conducted these bombings was the United States. So now the world knows the United States is conducting a bombing campaign in Yemen. Eventually Abdulelah Haider Shaye is taken in a night raid on his home and disappears for 34 days, and then he is hauled into a special tribunal that has been set up by the dictator of Yemen to prosecute journalists for crimes against the state. And he's brought into a cage, they charge him with being an Al Qaeda facilitator, and they present all this trumped-up evidence against him; they fabricate documents saying he's involved with all these plots. Every major human rights and media freedom organization in the world condemned his trial and condemned the tribunal where he was being prosecuted in. In fact, he refused to even put on a defense, because he said, "I'm not going to recognize the court."

There's this video of him in the cage, saying, "The only reason I'm here is I exposed the cruise missile attacks that the United States did against Yemen, and this is what happens when you do real journalism in Yemen and you're not a sycophant for the regime." So they sentence him to five years in prison, and there's a huge outcry in Yemen and outside of Yemen from the human



rights and media freedom community. There's all this pressure, and the dictator decides, "I'm going to release Abdulelah Haider Shaye, I'm going to issue a pardon, not to say that he's not guilty, but I'm going to pardon him over his crimes." And it leaks in the Yemeni press that the dictator of Yemen is going to pardon Abdulelah Haider Shaye.

That day, he gets a phone call from the White House. Not from some undersecretary or some assistant to the president. President Obama personally calls him and says that "the United States is deeply concerned about reports that you're going to release Abdulelah Haider Shaye." The pardon is then ripped up, and he remains in prison to this moment. The White House just in the first few days of June told my colleague Ryan Grim at *The Huffington Post* that it remains the White House's position that he's dangerous and should be kept in prison.

So, we're in an environment where the Associated Press had its phone records seized, not just on one or two reporters but dozens of phone lines; where there was the attempt to imply [that] criminal conduct was committed [by] James Rosen, this Fox News journalist; you have whistleblowers who are being targeted by this White House in record numbers, and you have the president of the United States, a constitutional law professor, Nobel Peace Prize winner, keeping a respected Yemeni journalist in prison seemingly because he committed the crime of doing actual journalism. And the thing to me that's sort of outrageous is that none of the major U.S. media outlets that he did work for, that were happy to run his content—*The Washington Post*, ABC News, NBC News—none of them have said a thing about his case. That's shameful.

I never worked with him at all, but I try to bring him up every day of my life, because there's something so fundamentally rotten when the most powerful man in the world can keep a journalist in Yemen in prison without ever having to present a piece of evidence that he was involved with anything except responsible journalism.