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Is Obama's 'prolonged detention' American?

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Supreme Court Justice Thurgood Marshall once warned: "Throughout the world today there are men, women and children interned indefinitely, awaiting trials which may never come or which may be a mockery of the word, because their governments believe them to be 'dangerous.' Our Constitution ... can shelter us forever against the dangers of such unchecked power" (dissenting, *U.S. v. Salerno*, 1987).

We may have to find out how strong a shelter the Constitution will be under a plan being considered by President Obama for "a new legal system" that can indefinitely confine — possibly in American "Supermax prisons" — certain terrorism suspects at Guantanamo Bay, and not only there. They cannot be tried in our civilian courts because they have been tortured (preventing evidence against them being admitted) or because as NPR's Ari Shapiro puts it, they "would compromise sensitive sources and methods." Like, he adds, if they've been tortured, the assumption could be "they're dangerous because they've been tortured."

It's important to emphasize, if Obama prevails, that his "prolonged detention" — as he prefers to call "preventative detention" — will, as Salon's ever-vigilant constitutional analyst Glenn Greenwald tells us, also allow (beyond Guantanamo) "imprisonment not based on proven crimes or past violations of law, but of those deemed generally 'dangerous' by the Government for various reasons."

This is America, Mr. President?

And more "Supermax" prisons could be built to accommodate other "dangerous" terrorism suspects held, in cooperation with the U.S. in Egypt, Pakistan, Jordan, Indonesia — and why not here at home?

Ever since the Bush-Cheney administration's Attorney General John Ashcroft, American streets are considered part of the jihadists' "battleground," and Americans suspected of giving the enemy "material support" could be subjected to the Bush, and now Obama, versions of due process and imprisoned.

Ah, but President Obama assured us (*Miami Herald*, June 1) that "prolonged detention should not be the decision of any one man." He added (*NPR*, May 22): "If and when we determine that the United States must hold individuals to keep them from carrying out an act of war, we will do so within a system that involves judicial and congressional oversight."

We continually see how that "oversight" operates under Obama. On May 2, the Senate passed the "Detainee Photographic Records Protection Act of 2009" that prevents disclosure of all photographs taken between Sept. 11, 2001, and Jan. 22, 2009, "relating to the treatment of individuals engaged, captured or detained after Sept. 11, 2001, by our armed forces outside the United States if the defense secretary and chairman of the Joint Chiefs of Staff have determined they would endanger military personnel if released."

But Obama continually and forcefully speaks of his "unyielding belief" that his administration must operate "with an unprecedented level of openness."

Asks Glenn Greenwald (Salon, June 1): “What kind of a country passes a law that has no purpose other than to empower its leader to suppress evidence of the torture it inflicted on people?”

Answer: We are living in that very country.

The Obama administration apparently never tires of adjusting our legal system to cover up defilement of our laws and treaties by itself and the Bush-Cheney regime. Witness Attorney General Eric Holder, asserting state secrets to force the cancellation of court cases that could reveal what was done to victims of “extraordinary renditions” during the years of CIA secret prisons.

For another illustration of the dedicated “transparency” of the Obama presidency, New York Times reporter William Glaberson broke the story (June 6) that, “The Obama administration is considering a change in the law for the military commissions at the prison of Guantanamo Bay that would clear the way for detainees facing the death penalty to plead guilty without a full trial.”

That’s a neat way to ensure that any testimony about the torture of these defendants will be literally buried along with them. Denny LeBoeuf, an American Civil Liberties Union lawyer involved in death penalty cases at Guantanamo, asks: “Don’t we have an interest as a society in a trial that examines the evidence and provides some reliable picture of what went on?”

The president doesn’t agree.

Also, when he was a senator, Obama threatened to veto a bill that would absolve telecommunications companies of complicity in the NSA’s extensive lawless monitoring of our e-mails and phone calls. But he then voted for the bill that was passed by Congress; and on June 4, Chief Judge Vaughn R. Walker of Northern California’s Federal District Court reluctantly agreed with Obama’s Justice Department to throw out dozens of lawsuits by “ordinary Americans” against AT&T, among other companies, which could have been hit with billions of dollars in damages.

Walker ruefully explained that these alleged constitutional violations of personal privacy by Bush and the telecommunications companies, championed by Obama as well, could not withstand the wishes of Congress. That, you see, is Obama-style congressional and judicial “oversight.”

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