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Obama makes 'kinetic military action' against the English language

By: Gene Healy 03/25/11 10:34 AM

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In this space Wednesday, Byron York quoted an Obama administration official, deputy national security adviser Ben Rhodes, who refused to say that bombing Libya constituted "war," but allowed that it "involves kinetic military action."

And just like that, my Twitter feed lit up with extra snark, as folks had fun with the Obama team's ungainly euphemism. My favorites so far:

@jwehrle: Make Kinetic Reproductive Action, Not #KineticMilitaryAction

@rachel_j: Cry "manmade temporary disruption!" and let slip the muzzled canine unit of Kinetic Military Action.



Near as I can figure, "kinetic action" is redundant--like "wet water." But Harvard Law professor and former head of the Bush administration's Office of Legal Counsel Jack Goldsmith thinks there's a reason the Obama administration is at, er, "kinetic military action" with the English language here:

As he sees it, the administration is at pains to deny we're at war because they're relying on two Clinton-era legal opinions by then-OLC head Walter Dellinger, justifying the 1994 Haiti intervention and the 1995 peacekeeping mission in Bosnia, respectively. "Dellinger essentially argued that because those interventions were consensual, limited in scope and duration, and not likely to lead to casualties, they did not amount to 'War' within the meaning of the Declare War clause, and thus did not require congressional authorization."

As I noted in a 2000 paper for the Cato Institute [pdf], the Clinton administration played similar rhetorical games during the Kosovo air war in 1999. Here's then-White House press secretary Joe Lockhart, explaining that, to borrow a phrase from his boss, it depends on what the definition of 'war' is:

Q: Is the President ready to call this a low-grade war? Lockhart: No. Next question. Q: Why not? Lockhart: Because we view it as a conflict. Q: How can you say that it's not war? Lockhart: Because it doesn't meet the definition as we define it.

Rep. Tom Campbell, R-Calif., explained how frustrating it was to get a straight answer from Clinton administration officials about the legal status of U.S. operations in Serbia and Kosovo.

Campbell asked Secretary of State Albright: "Well, if this isn't war, what is it?" And she said, "It's an armed conflict." So I asked [Assistant] Secretary [of State Barbara] Larkin, "Well, what's the difference?" She couldn't tell me, but she said her attorney would. So the

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attorney finally said, "It becomes war when you call it war."

Why did the Clinton team decide to take a page from Lewis Carroll in describing the Kosovo War? Maybe they were up to the same tricks the Obama team is up to now -- trying to shoehorn Kosovo into the "limited conflict" distinction that Dellinger used to justify Haiti and Bosnia. But that's a dubious distinction, nowhere to be found in the Constitution.

In any event, as Goldsmith notes, Libya doesn't fit into the "consensual and limited" rationale used to argue for the constitutionality of the Haiti and Bosnia interventions: "those troops were being sent there as part of consensual peacekeeping or stability missions, not as a coercive force," whereas "extreme use of force and preparatory bombardment are what Libya is about." Thus, Goldsmith writes, "it seems to me that characterizing the Libya intervention as not 'war' requires an expansion, possibly significant, of the Dellinger rationale for unilateral presidential power."

Speaking plainly about the legal rationale for what they're up to would make it plain that the president is willfully violating his oath of office. No wonder his administration's so tongue-tied.

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