Trump to build on Obama's antidemocratic legacy

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In the course of the election campaign, Republican Senator John McCain justified his support for Trump by stating, "I still believe we have the institutions of government that would restrain someone who seeks to exceed their constitutional obligations."

During his recent trip to Europe, Obama likewise sought to assuage fears of a Trump presidency by offering reassurances that the president-elect will be constrained by the "solemn gravity of the office." In her concession speech, Hillary Clinton similarly attempted to console her audience by invoking "constitutional democracy" and the "rule of law."

In reality, Obama is handing Trump the reins to the state apparatus under conditions where the legal and constitutional limits on executive power lie in tatters and the "rule of law" has been reduced to a hollow phrase. The fact that McCain, Obama and Clinton feel obliged to provide these assurances only underscores the extent of the danger.

The fifteen-year siege on democratic rights and institutions within the framework of the so-called "war on terror," launched under the Bush administration and institutionalized and expanded under the Obama administration, has ensured that Trump will enjoy vastly expanded powers to spy, assassinate, torture, persecute dissenters and wage war.

Without making an exhaustive list, these powers, which will now be at the disposal of the far right, include:

Unlimited spying

Beginning in 2013, a series of revelations by National Security Agency whistleblower Edward Snowden and WikiLeaks, together with journalists Glenn Greenwald and Laura Poitras, exposed a vast, secret, illegal domestic surveillance apparatus, the scale of which would make any totalitarian dictatorship of the 20th century green with envy.

The US government's huge surveillance apparatus slurps up and stores records of telephone calls, emails, internet browsing activity, online searches, text messages, mobile phone data, photos, GPS data, airline tickets, credit card transactions, bank accounts, social media activity, medical records, traffic tickets, facial recognition data, political activity and online purchases. One internal NSA power point slide summed up the agency's contempt for constitutional and legal limits: "Sniff It All, Collect It All, Know It All, Process It All, Exploit It All."

The Obama administration's response to these revelations was to persecute and denounce Snowden, lie to the public about the extent of surveillance, and eventually implement cosmetic reforms and guidelines that left the programs essentially intact. At a cost of $2 billion, the administration constructed a massive data center in Bluffdale, Utah to store all of the information that the NSA continues to gather on US citizens. (See: "Obama administration expands illegal surveillance of Americans")

As of January 20, 2017, this spying apparatus, including all of the information gathered thus far, will be in the hands of the Trump administration.

Assassination

The Obama administration's illegal drone assassination program has resulted in the deaths of tens of thousands of people in Afghanistan, Pakistan, Yemen, Somalia and elsewhere. In September 2011, Obama openly authorized the assassination of a US citizen, fundamentalist cleric Anwar Al-Awlaki, in Yemen. This murder, a flagrant violation of US and international law, set a precedent whereby the US president can sign death warrants for US citizens on his own say-so, without charges or trial. In a subsequent speech, Obama's attorney general, Eric Holder, announced that the president could order assassinations of American citizens on US soil. (See: "Military tribunals and assassination")

America's squadrons of Predator drones, equipped with Hellfire missiles, will now take off on Donald Trump's orders.

Torture

A Senate Intelligence Committee report, the executive summary of which was released in December 2014, exposed a CIA torture program that dated back to 2001. The report not only provided the most grisly and sadistic details concerning the program, including the form of torture known as rectal feeding, but also exposed a systematic cover-up of the program that reached to the highest levels of both the Bush and Obama administrations.

From the start, the Obama administration blocked efforts to prosecute Bush-era war criminals—some of whom went on to serve in the Obama administration—by invoking the mantra of "looking forward, not backwards." Meanwhile, Obama's lawyers sought to block litigation that would uncover torture by invoking the "state secrets" doctrine. When the Senate Intelligence Committee's report was completed, the Obama administration did everything it could to block and suppress the report. This included its defense of CIA Director John Brennan's illegal and unconstitutional hacking of computers used by Senate investigators. (See: "Obama administration continues to suppress report on CIA torture")

Instead, the administration became implicated in new acts of torture, such as the torture of political prisoner Chelsea (Bradley) Manning. The infamous Guantanamo Bay torture camp, which Obama promised to close when he was running for office in 2008, remains open. President Trump

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will take office under conditions where both parties have worked to cover up and legitimize torture.

Immunity for police

In cases involving police brutality that came before the US Supreme Court, the Obama administration consistently argued that state officials, including police officers, should be entitled to immunity. In one representative case in 2014, the Supreme Court, with the express support of the Obama administration, unanimously granted immunity to Arkansas police officers who killed an unarmed driver and his innocent passenger in a hail of bullets. (See: "Supreme Court issues unanimous decision defending police in fatal shooting")

A judicial award of immunity means that the case is thrown out of court, without a jury or a trial. These decisions, and the positions taken by the Obama administration, will only embolden the repressive arms of the state under Trump.

Criminalization of dissent and persecution of whistleblowers

The Obama administration prosecuted more whistleblowers than all previous American administrations combined. The Cablegate exposures of international intrigues and war crimes by Army whistleblower Chelsea Manning were treated as criminal acts and prosecuted ruthlessly under Obama. (See: "The sentencing of Bradley Manning") As a result of the precedents set under Obama, prospective whistleblowers under the Trump administration can expect to face torture and decades-long prison terms if they speak out.

Unchecked presidential powers

The Bush and Obama administrations have overseen a revolution in American jurisprudence, especially as concerns the powers of the president. Under tendentious and antidemocratic legal doctrines infiltrated into the legal system by Bush administration lawyers, the president in wartime enjoys expanded emergency powers as "commander-in-chief." According to these theories and doctrines, the "war on terror" constitutes a state of national emergency, justifying additional secrecy and the abrogation of democratic rights and requiring "deference" by all to the decisions of the executive branch.

Instead of disavowing these positions, the origins of which can be traced to fascist jurisprudence, the Obama administration affirmed and invoked them repeatedly for its own ends. (See: "Obama administration asserts unchecked powers") The cumulative effect of these precedents and positions is to dramatically weaken the constitutional-democratic system of checks and balances, according to which the president's powers are mitigated by the powers of the legislative and executive branches.

As things presently stand, it is not clear if there are *any* substantial legal limits on the president's powers. After all, if the president and his agents can assassinate US citizens at will, violate the Bill of Rights with impunity, cover up torture, jail whistleblowers, flout international law and unilaterally launch foreign wars, it is not clear that there is anything that the president *cannot* do.

And even if the president did take a hypothetically unconstitutional action, who would stop him? It is highly doubtful that the "institutions of government" described by McCain retain sufficient power to constrain a president determined to take the legal arguments of the Bush and Obama administrations to their logical conclusion, i.e., presidential dictatorship.

Emergency powers and states of emergency

Under Obama, it has become almost routine for entire urban centers to be put under lockdown conditions, with emergency powers declared, warrantless searches carried out, residents ordered to stay indoors, and the streets occupied by riot police and national guard troops backed by tanks and military helicopters. Such was the response to the 2013 Boston Marathon bombings and protests in cities such as Ferguson, Missouri and Baltimore following police killings of unarmed youth.

Assuming all of these powers in January 2017 is a man who promised during his campaign to use the "solemn office" of US president to authorize new forms of torture, murder family members of alleged terrorists, deport millions, rewrite libel laws to ban criticism of himself, bar Muslims from entering the country, set up a nationwide "registry" of Muslims, and shield killer cops, among other things.

While the Democrats roll out the red carpet for him—and pledge, in Obama's words, "to do everything we can to help you succeed"—Donald Trump is in the process of dredging the gutter for the most right-wing figures that can be found to staff his cabinet, including a number of Kubrick-esque generals and extremist figures associated with racist and fascistic views.

In a forthcoming autobiography, Milwaukee County Sheriff David Clarke, reportedly in the running to become Trump's secretary of homeland security, argues that "radicalized Americans" should be treated like "terrorists" in the war on terror. This means they can be abducted on secret charges, tried in military tribunals without attorneys, held indefinitely, and presumably tortured or assassinated.

The disintegration of American democracy through both the Bush and Obama administrations can be understood only in the context of the historical period. It is no coincidence that the Obama administration presided over a collapse of democratic institutions at the same time that it oversaw a vicious assault on wages, benefits and social programs; a massive transfer of wealth to the super-rich; and eight solid years of bloody warfare abroad.

Those liberal elements (including not a few supposed "constitutional scholars") who upheld Obama's assertion of unprecedented executive power against his detractors are now reacting with shock and alarm that the powers they helped defend are now in the hands of Trump and his ilk.

One *Politico* article describes a "whiplash-inducing role reversal" in Democratic legal circles in Washington following the election, "as liberals who spent the past eight years defending President Barack Obama's use of his executive authority prepare to challenge Trump's plans on issues like immigration, the environment and transgender rights..."

University of Chicago law professor Geoffrey R. Stone is one such example. In an exchange with the *World Socialist Web Site* in 2013, Stone defended his participation in the persecution of Edward Snowden by invoking the "rule of law." (See: "A letter from Professor Geoffrey R. Stone, liberal advocate of a police state")

In a November 20 submission to the *Huffington Post*, Stone sings a different tune: "Let there be no doubt. We stand in the face of danger. Danger to our nation, to our values, to our liberties, to all that our nation stands for." This dirge goes on in the same style for many paragraphs. Stone blames everyone but himself. Then he goes on to quote abolitionist

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Wendell Phillips: “Eternal vigilance is the price of liberty.” Having denounced Snowden as a “criminal” who was endangering “national security,” Professor Stone now wants to lecture his readers about “vigilance” in the cause of liberty!

Josh Blackman, a law professor at the South Texas College of Law, is somewhat more frank. He told *Politico*: “Obama has set all these dangerous precedents” and “the shortcuts Obama took are now coming home to roost.”

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