

NDAA: OBAMA'S BETRAYAL

By Michael Ventura

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The president signed the 2012 National Defense Authorization Act on New Year's Eve, a Friday night, certain of lax-to-nonexistent coverage over the three-day, binge-and-hangover weekend.

This is part of what he signed:

"Congress affirms" that the president's power "includes the authority for the Armed Forces of the United States to detain covered persons (as defined in subsection (b))." A covered person may be "a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces."

The government may define as it pleases "associated forces," "belligerent act," and "support." Peaceful but noisy, intense demonstrators may easily be considered "belligerent."

Read on: "The disposition of a person under the law of war as described in subsection (a) may include the following: (1) Detention under the law of war without trial until the end of the hostilities ... (4) Transfer to the custody or control of the person's country of origin, any other foreign country, or any other foreign entity."

You can be arrested by order of the president, held without trial "until the end of hostilities," and put under "the custody and control" of a foreign country or entity. Translation: They can do what they please with you. Your rights are no longer protected by law.

In a signing statement, Obama "promised the provisions would comply 'with the Constitution, the laws of war, and all other applicable law'" (FoxNews.com, Jan. 2).

It is Orwellian to the max to suggest that arrest without warrant and detention without trial comply with the Constitution. As for "all other applicable law" – that's a corker.

Try this for applicable law: the USA PATRIOT Act's definition of "terrorism": "Acts dangerous to human life that are a violation of the criminal laws ... [or that] appear intended to intimidate or coerce the civilian population, to influence the policy of the government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping."

Only the last clause specifies violence; the definition mainly concentrates on "dangerous" acts that "appear intended to intimidate or coerce." Most demonstrations are intended to intimidate and coerce government. Why say "dangerous" rather than "violent"? Because everyone knows what "violent" means, but this law lets government define "dangerous." The vague word "appear" means government needn't prove substance, merely appearance.

But even the PATRIOT Act says they need some kind of warrant (albeit secret) and some kind of trial (also secret). Obama's NDAA dispenses with those formalities. No warrant, no trial, indefinite detention. Obama's law.

"He will forever be known as the president who signed indefinite detention without charge or trial into law," said ACLU Executive Director Anthony Romero on New Year's

Eve. “Any hope that the Obama administration would roll back the constitutional excesses of George Bush in the war on terror was extinguished today.”

“Glenn Greenwald ...notes that section 1022 exempts US citizens from the *requirement* of military detention but still leaves the option open to the state,” Forbes.com reported. In a Salon editorial, Greenwald wrote, “The proof that this bill does not expressly exempt U.S. citizens or those captured on U.S. soil is that amendments offered by Sen. Feinstein providing expressly for those exemptions were rejected.”

In his signing statement, Obama wrote: “The fact that I support this bill as a whole does not mean I agree with everything in it. In particular, I have signed this bill despite having serious reservations with certain provisions that regulate detention, interrogation, and prosecution of suspected terrorists. ... Moreover, I want to clarify that my Administration will not authorize the indefinite military detention without trial of American citizens.”

Mother Jones blog, Jan. 2: “Note what the president does not say: that indefinitely detaining an American suspected of terrorism would be unconstitutional or illegal. Obama’s signing statement seems to suggest he already believes he has the authority to indefinitely detain Americans – he just never intends to use it.”

The president’s cavalier attitude toward our future was demonstrated when ABC’s Jake Tapper questioned White House Press Secretary Jay Carney, as transcribed on ABCNews.com, Jan. 17:

Tapper asked, “Is President Obama doing anything to rescind this provision that gives the military this new power?”

Carney diddled with a non-answer that ended, “The president retains the flexibility that he believes is essential for the commander in chief to make sure that our people in the field have all the tools necessary to do their job and make sure that we are handling these matters in a way that are consistent with our values. So we will implement the law in a way that makes that achievable.”

Tapper persisted: “But that’s a signing statement that says ‘This is how we are interpreting the law.’ But the law is [that] the military now has the power to indefinitely detain an American citizen if they suspect them of terrorism. And I understand that the president is going to interpret it his way. But he’s not going to be president forever. He might not even be president in two years.”

“Well,” Carney stammered, “I have no updates for you on – since the law was just passed and signed, on” –

“There’s no effort” –

“Well, I would just say that we’ve made clear our concerns about it. We’ve made clear how we will approach implementation of it. And you know, how this is revisited, if it is revisited, remains to be seen. But at this moment I think the president has been very clear about the values he brings to and his – the method – or rather, the approach he will take when the law is implemented.”

More back and forth to little effect until Tapper said, “I’m not talking about how he’s going to implement it. I’m just talking about the law as it stands on the books.”

“Well,” Carney said, “I understand that. And we’ve made clear that our position is on how it needs to be implemented in a way that’s consistent with our values, in a way that – and in a way that maintains maximum flexibility for our operators in the field.”

“Well,” says Tapper, “let me just ask this final question: Are you comfortable with

how any president in the future might interpret that law?"

"Well" –

"Is the president comfortable?"

"Again, you're – that's a hypothetical about the future. And in terms of how we will approach this issue in the future, I won't want to speculate."

The Obama administration poses as a somehow innocent bystander to an act of congress. Not so.

The co-sponsor of this bill was a Democrat, Sen. Carl Levin of Michigan. "[Levin] said during congressional hearings that Obama asked him to preserve language in the bill making Americans subject to indefinite detention" (Courthouse News Service online, Jan. 17).

The great American jurist William O. Douglas wrote: "As nightfall does not come at once, neither does oppression. In both instances, there is a twilight when everything remains seemingly unchanged. And it is in such twilight that we all must be most aware of change in the air -- however slight -- lest we become unwitting victims of the darkness."

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