



February 2013

POWER IS A POISON

Dear Friend of Radio Liberty,

“Power is a poison well known for thousands of years. If only no one were ever to acquire material power over others! But to the human being who has faith in some force that holds dominion over all of us, and who is therefore conscious of his own limitations, power is not necessarily fatal. For those, however, who are unaware of any higher sphere, it is a deadly poison. For them there is no antidote.” Alexandr Solzhenitsyn (1)

“We reject the old systems of morality and ‘humanity’ invented by the bourgeoisie to oppress and exploit the ‘lower classes.’ Our morality has no precedent, and our humanity is absolute because it rests on a new ideal. Our aim is to destroy all forms of oppression and violence. To us, everything is permitted, for we are the first to raise the sword not to oppress races and reduce them to slavery, but to liberate humanity from its shackles.... Blood? Let blood flow like water!... forever from the return of those jackals!” Excerpt from an editorial published in the first issue of the *Kranshi Mech* ("The Red Sword"), the publication of the Kiev division of the Soviet secret police. (2)

“...these and successive acts of the same character, unless arrested on the threshold, may tend to drive these states into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron; that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is everywhere the parent of despotism; free government is founded in jealousy, and not confidence, which prescribes

limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no farther, our confidence may go.... In questions of power, therefore, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution.” Thomas Jefferson (3)

What happens to a country when those who presume to rule it are themselves emancipated from the rule of law? That question haunted the men who framed the United States Constitution.

Like all other human beings, the Framers were robustly imperfect, as was their handiwork. As the products of a Christian culture, however, the Founders had sufficient intelligence to understand the dangers of unchecked power, and sufficient humility and self-awareness to recognize that they could not trust themselves in its exercise. This is why they did their commendable best to create a system in which power would check power, in order to restrain the growth of government through institutional arrangements that would, in Madison’s words, compensate for “the defect of better motives” on the part of those who exercised delegated authority. (4)

The Founders, of course, weren’t familiar with Lenin, Hitler, Stalin, or Mao, nor is it likely that they possessed an imagination adequate to the task of envisioning the atrocities such modern tyrants would commit. They were, however, familiar with the historic examples of Caesar, Cataline, and other similarly ambitious tyrants. As men who had been immersed in Christian ethics (albeit in some cases as Deists who weren’t orthodox Christian believers), the Founders likewise understood the dangers inherent in what Christianity calls man’s “sin nature.” To entrust power to fallen, flawed men, they understood, was unwise and self-destructive and would inevitably lead to tragedy.

Just as importantly, the Founders urged the citizenry to “take alarm at the first experiment on our liberties,” to cite Madison once again. (5) To put the matter quite bluntly, Americans are to expect the worst from those who presume to exercise government power – in any office, at every level. Every individual elected or appointed to a position of public trust was to be seen as a tyrant in embryo, and restrained to the strict limits of his delegated authority. This isn’t paranoia; it’s sound citizenship.

The country we inhabit today would be entirely unrecognizable to the Founding Fathers. Our lives are entirely transparent to those who presume to rule us; their dealings, by way of contrast, are almost entirely opaque to us. We have reached a point at which it is considered appropriate for the President of the United States to maintain a “kill list” of individuals – including U.S. citizens – who are subject to

summary execution by way of a drone-fired missile. This is a claim of power that is upheld by national politicians from both parties – and those who carry it out are immune to scrutiny.

White House Security Adviser John Brennan, a key architect of the drone-killing program and keeper of the official “kill list,” has been nominated to serve as director of the CIA. On the orders of Democratic Senator Diane Feinstein, Chair of the Senate Intelligence Committee, testimony in Brennan’s confirmation hearing was limited to the nominee himself. No participation was permitted by any public officials or legal scholars who were critical of the drone program. (6)

As a sop to some of its congressional critics, the Obama White House released a short Justice Department “White Paper” outlining what it called its legal defense of the drone program. The unsigned document was a tissue of unsubstantiated claims and unexamined assertions that could be digested to a single, simple phrase: The President has the unqualified authority to kill anybody he considers an “imminent” threat.

Rather than condemning Obama for assuming the powers of a literal dictator, many conservative commentators and political figures actually applauded him. Former U.S. ambassador to the UN John Bolton points out that the drone strike program “is consistent with, and derived from, the Bush administration approach to the war on terror, and ... entirely sensible.”

Channeling the spirit of a Stalin-era Communist Party apparatchik, South Carolina Republican Senator Lindsay Graham proposed a resolution applauding the administration’s drone-killing program and urging all of his Republican colleagues to express their support. (7) That resolution explicitly commended the administration for the summary execution of U.S. citizen Anwar al-Awlaki, who was murdered (no other word is suitable) by a drone strike in Yemen without ever being charged with a crime.

More remarkable still was the reaction of John Yoo, a former Bush-era Justice Department functionary who now teaches law at the University of California-Berkeley. In the Justice Department’s Office of Legal Counsel – which is supposed to provide a check on the actions of the administration – Yoo, acting under the direction of Jay Bybee (who is now a federal appeals court judge) created a set of memoranda defending the supposed authority of the President to authorize the torture of suspected terrorists.

In a *Wall Street Journal* article Yoo has condemned the Obama administration’s legal “white paper” that sets out the guidelines for drone attacks – not because it gives unaccountable discretionary killing power to the presidents and his

subordinates, but because it supposedly extends due process to “enemy combatants.” Yoo complains that the paper “suggests” **that U.S. citizens like Anwar al-Awlaki, who was killed by a drone strike, “enjoy due process rights. By doing so, it dissipates the rights of the law-abiding at home.”** (8)

Senator Angus King of Maine has proposed the institutionalization of the drone program through creation of a special court that would be modeled after the tribunal that issues warrants under the Foreign Intelligence Surveillance Act (or FISA). (9) The FISA court, significantly, issues warrants after surveillance has begun. In similar fashion, Senator King’s proposed court would review decisions to carry out drone strikes after the missiles had flown and the targeted individual had been killed. This proposal has been criticized by some congressional Republicans – once again, not because it represents a concession to tyrannical power, but rather because it supposedly inhibits the exercise of that power, if only by acknowledging that the power is subject to some form of independent scrutiny.

“We now confront the unthinkable; a proposal to establish another secret court, this one with the authority to authorize the president and his designees to kill Americans,” reflects Judge Andrew Napolitano. **“This proposal has come from Congress, which seems more interested in getting in on the killing than in upholding the Constitution....The president has made a political calculation that it will be easier for him to justify killing folks he can demonize than it will be to afford them due process, by capturing, housing, and trying them. Now, he has come to believe that it will be easier still if unnamed federal judges meeting in secret take the heat.”**

The only suitable descriptive term for these assumptions and proposals, Judge Napolitano concludes, is **“Stalinesque.”** (10)

Indeed, reviewing some sections of Solzhenitsyn’s *Gulag Archipelago* leave the reader with a sense of dismal familiarity – not just because of the similarity between contemporary federal officials and their Soviet counterparts, but of the numerous and detailed points of correspondence between the attitudes and personalities found in the Soviet apparatus of repression and those we encounter as residents of the emerging American *Soyuz*. Although the ever-expanding use of drones is an acute symptom, the sickness goes much deeper and has spread well beyond the ranks of federal officials.

“Just give us a person – and we’ll create a case!” That was the attitude of Soviet secret policemen, observes Solzhenitsyn. In the Soviet system, everybody was a criminal, because everybody was considered an enemy of the State. The purpose of law enforcement was not to protect individuals, who were regarded as state

property; instead, it was to manufacture offenders and process them through the gulag. (11)

That brings to mind an account provided by legal scholar Tim Wu, who describes a perverse and sadistic “game” invented by federal prosecutors:

“At the federal prosecutor's office in the Southern District of New York, the staff, over beer and pretzels, used to play a darkly humorous game. Junior and senior prosecutors would sit around, and someone would name a random celebrity – say, Mother Teresa or John Lennon. It would then be up to the junior prosecutor to figure out a plausible crime for which to indict him or her. The crimes were not usually rape, murder, or other crimes that populate the U.S. Code like a kind of jurisprudential minefield: Crimes like 'false statements' (a felony up to five years), 'obstructing the mails' (five years) or 'obstructing justice on the high seas' (also five years). The trick and the skill lay in finding inevitable 'prison time.'” (12)

Legal scholar Harvey Silverglate warns that each American, from the time he rises until the time that sleep overtakes him, commits three acts that a sufficiently creative federal prosecutor could turn into felonies. In other words: Any American, at any time, could find himself subject to criminal prosecution for doing things that no rational person would consider a criminal offense of any kind. This is because the current American system – like its Soviet predecessor – is rigged to produce offenders, defendants, and convicts, not to protect life, liberty, and property.

Actually, the comparison to the Soviet-era Russian legal system is unfair, given that a defendant hauled before a Soviet criminal tribunal actually enjoyed a small but measurable chance of acquittal. That’s no longer true of the American court system.

After the Bolsheviks seized power in 1917, the jury system — which had been established under Alexander II in 1864 — was abolished and replaced with "People's Courts" composed of a judge and a panel of two to six Party-appointed "assessors" who heard all of the evidence and decided all questions of both fact and law. The assessors **"became known as ‘noddors’ for simply nodding in agreement with the judge,"** wrote federal Judge John C. Coughenour in an article published by the *Seattle University Law Review*. **"People's assessors virtually always agreed with judges; acquittals were virtually nonexistent.... [U]nlike our adversarial system, the Soviet inquisitorial criminal justice system neither prioritized nor emphasized the rights of individual defendants, but instead paid homage to the interests of the state.”**

What Judge Coughenour describes as a contrast between the Soviet and American legal systems is actually one of the strongest points of similarity. In the pseudo-legal proceedings referred to as "trials" by the federal Leviathan, the defendant **"wins once every 212 times"** — a respectable approximation of "never." (13)

During the late Stalin era, Soviet procurators were ordered to achieve a 100 percent conviction rate; their counterparts in contemporary U.S. federal courts have essentially accomplished that feat. This is because the federal system, like its Soviet predecessor, is designed to serve the interests of the State — and federal juries are typically purged of anyone unwilling to play the role of "nodder" in a show trial. (14)

As the *New York Times* has pointed out, in recent years the Supreme Court has "turned its attention away from criminal trials, which are vanishingly rare"; this isn't because the growth of the prison sector has stopped or even slowed down, but rather because the process of putting people in prison is no longer being inhibited by actual criminal trials. (15)

One answer to the question — **"What happens to a country when those who presume to rule it are themselves emancipated from the rule of law?"** — was provided by Stalin's Soviet Union. The contemporary United States is providing an answer of its own, one that is likely to be similarly grim, bloody, and heartbreaking.

REFERENCES

- 1) Alexandr I. Solzhenitsyn, *The Gulag Archipelago, 1918-1956: An Experiment in Literary Investigation* (New York: Harper and Row, 1973), pg. 147.
- 2) Cited in *The Black Book of Communism: Crimes, Terror, Repression*, Stephane Courtois, et al, eds (Cambridge, Massachusetts: Harvard University Press, 1999) pg. 102.
- 3) Thomas Jefferson, Kentucky Resolutions, 10 November 1798.
- 4) James Madison (as Publius), *The Federalist*, Essay 51.
- 5) Madison, "Memorial and Remonstrance against Religious Assessments," 1785.
- 6) See — http://usatomics.com/cpt_news/no-witnesses-allowed-to-testify-against-drone-killing-at-brennan-confirmation-hearings/
- 7) "Graham defends Obama on drones," Politico, February 6, 2013.
- 8) John Yoo, "The Real Problem with Obama's Drone Memo," *Wall Street Journal*, February 7, 2013.
- 9) "U.S. Senators propose assassination court to screen drone targets," Fox News, February 11, 2013.
- 10) Andrew J. Napolitano, "Obama's Secret Court for Killing," LewRockwell.com, February 14, 2013.
- 11) Solzhenitsyn, op. cit. pp. 146-147.
- 12) Tim Wu, "American Lawbreaking," Slate magazine, Oct 14, 2007.
- 13) Lew Rockwell, "The Police State Abolishes the Trial," LewRockwell.com, September 27, 2011.
- 14) See — http://universalium.academic.ru/245554/Soviet_law
- 15) Adam Liptak, "In Supreme Court Term, Striking Unity on Major Cases," *New York Times*, June 30, 2012.

Written by William N. Grigg

I agree with William Grigg's analysis of the current situation. Why has the United States changed? I believe a small group of evil men control the U.S. and rig the elections. They control the military, they control the six major banks that control 70% of the financial assets of our nation, they control the major corporations, they control both major political parties, they control graduate and undergraduate education, they control many churches, they control most of the major Tax-exempt Foundations, and they control the media... but they don't control the hearts and souls of the American people, and that is our greatest strength.

What lies ahead? I fear Israel, the United States, or both nations, will invade Syria in the coming months because Syria has a massive supply of chemical and biological weapons. Some people claim Syria has the third largest supply of chemical/biological weapons in the world, and Israel and the U.S. can't let the weapons fall into the hands of the "terrorists."

How did President Assad acquire C/B weapons? Saddam Hussein shipped his C/B weapons to Syria shortly before the First Gulf War began. How did Saddam Hussein acquire C/B weapons? He got them from the U.S. during the Afghan war. Why did the U.S. provide the weapons? The transfer didn't make sense at the time, but it makes a great deal of sense today. Why? I fear Israel and the U.S. will use the fact that Syria has C/B weapons to justify an invasion of Syria, and that could precipitate the disastrous war prophesied in Psalm 83.

What can you do? You can pray, and ask God to bring revival to the United States because that is the only thing that will save our nation.

Barbara and I appreciate your loyal support, and your faithful prayers.

Yours in Christ,

Stanley Monteith