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Noam Chomsky: Obama's Attack on Civil Liberties Has Gone Way Beyond Imagination

By Mike Stivers

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Mike Stivers: Anyone following issues of civil liberties under Obama knows that his administration's policies have been disastrous. The signing of the 2012 National Defense Authorization Act (NDAA), which effectively legalizes indefinite detention of US citizens, the prosecution of more whistleblowers than any previous president, the refusal to close Guantanamo, and the adoption of ruthless positions in trials such as Hedges vs. Obama and Holder vs. Humanitarian Law Project don't even encapsulate the full extent of the flagrant violations of civil, political and constitutional rights. One basic question that a lot of people seem to be asking is, why? What's the rationale?

Noam Chomsky: That's a very interesting question. I personally never expected anything of Obama, and wrote about it before the 2008 primaries. I thought it was smoke and mirrors. The one thing that did surprise me is his attack on civil liberties. They go well beyond anything I would have anticipated, and they don't seem easy to explain. In many ways the worst is what you mention, Holder vs. Humanitarian Law Project [4]. That's an Obama initiative and it's a very serious attack on civil liberties. He doesn't gain anything from it – he doesn't get any political mileage out of it. In fact, most people don't even know about it, but what it does is extend the concept of "material assistance to terror" to speech.

The case in question was a law group that was giving legal advice to groups on the terrorist list, which in itself has no moral or legal justification; it's an abomination. But if you look at the way

it's been used, it becomes even more abhorrent (Nelson Mandela was on it until a couple of years ago [5].) And the wording of the colloquy is broad enough that it could very well mean that if, say, you meet with someone in a terrorist group and advise them to turn to nonviolent means, then that's material assistance to terrorism. I've met with people who are on the list and will continue to do so, and Obama wants to criminalize that, which is a plain attack on freedom of speech. I just don't understand why he's doing it.

The NDAA suit, of which I'm a plaintiff - it mostly codifies existing practice. While there has been some protest over the indefinite detention clause, there's one aspect of it that I'm not entirely happy with. The only protest that's being raised is in response to detention of American citizens, but I don't see why we should have the right to detain anyone without trial. The provision of the NDAA that allows for this should not be tolerated. It was banned almost eight centuries ago in the Magna Carta.

It's the same with the drone killings. There was some protest over the Anwar Al-Awlaki killing because he was an American citizen. But what about someone who isn't an American citizen? Do we have a right to murder them if the president feels like it?

On Obama's 2012 election campaign web site, it clearly states that Obama has prosecuted six whistleblowers under the Espionage Act [6]. Does he think he's appealing to some constituency with that affirmation?

I don't know what base he's appealing to. If he thinks he's appealing to the nationalist base, well, they're not going to vote for him anyway. That's why I don't understand it. I don't think he's doing anything besides alienating his own natural base. So it's something else.

What it is is the same kind of commitment to expanding executive power that Cheney and Rumsfeld had. He kind of puts it in mellifluous terms and there's a little difference in his tone. It's not as crude and brutal as they were, but it's pretty hard to see much of a difference.

It also extends to other developments, most of which we don't really know about, like the surveillance state that's being built [7] and the capacity to pick up electronic communication. It's an enormous attack on personal space and privacy. There's essentially nothing left. And that will get worse with the new drone technologies that are being developed and given to local police forces.

That expansion of the surveillance state, do you see that as another facet of expanding executive power?

It's an enormous expansion of executive power. I doubt that they can do much with this information that's being stored. I've had plenty of experience with the FBI in simpler years when they didn't have all this stuff. But they had tons of information. They were just drowning in it and didn't know how to use it. It's sort of like walking into the New York Public Library and saying "I want to be a chemist." You've got all the information there, but it's not doing any good.

Might that change with enhanced technology and search capabilities?

There will be new ways of combing through the data electronically to pick up things that look like suspicious connections, almost all of which will mean nothing, but they may find some things. It's kind of like the drone killings. You have what's called "intelligence." Sometimes it means something; other times it means nothing. It also means that if you have suspicions of somebody for some reason, whatever it is, you can go in there and find all sorts of incriminating stuff. It may not be legally incriminating, but it will be used to intimidate people - threatening to publicize things people meant to be private.

Do you think nonviolent, verbal dissent could eventually be criminalized?

It could be criminalized. Anybody who has looked at law enforcement at all knows that one of the techniques is to try to force confession or plea-bargaining by just using material that the person doesn't want publicized. That's very common. You can threaten to expose something even if it didn't happen, or it's just a rumor. That's a powerful weapon to get people to cooperate or submit, and I suspect we're going to see a lot of that. We already do see a lot of it in the criminal courts. Most cases don't come to trial. They're settled. And a lot of them are settled in this way.

There's an alarming quote from Chris Hedges in reference to the NDAA suit. He said, "If we lose [the suit], the power of the military to detain citizens, strip them of due process and hold them indefinitely in military prisons will become a terrifying reality." How much weight does this case hold?

We've already lost that right. If you look at the criminal systems and the truly oppressed populations, like the black male population, for them, due process is sometimes existent, but overwhelmingly they just don't have it. You can't hire a lawyer; you don't get a decent defense and you don't have resources. That's how the prisons are filled.

Do you think the left in general could become another oppressed population in the future?

I don't think there's much of a threat there. I doubt that there'll be anything like what there was in the 60s. We're nowhere near the days of COINTELPRO. That was the FBI, and it was pretty harsh. It went as far as political assassinations. Again, the worst of which was directed towards blacks. It's harder to attack privileged whites.

It's the same with the drug wars. The police can go to downtown Harlem and pick up a kid with a joint in the streets. But they can't go into the elegant apartments and get a stockbroker who's sniffing cocaine.

You can see the same with incarceration rates, which are increasing outrageously. That all started with Reagan. He started a race war. There's a great book by Michelle Alexander, *The New Jim Crow* [8]. She points out, and she's quite right, that it's very analogous to what happened after reconstruction when slavery was technically eliminated, but it just turned into criminalization of black life. You ended up with a large part of the black, mostly male population in jail, and they become slave labor. This runs deep in American history. It's not going to be easy to extricate. Privileged whites on the left will never be subject to this, though. They have too much political power.

How do the military-industrial complex and market forces in general perpetuate these systems of injustice?

Very much so. Just look at the incarceration rates now. They're driven by privatized prison systems. The development of the surveillance technology like drones is also highly commercialized by now. The state commercializes a lot of this activity, like the military does. I'm sure there were more contractors in Iraq than soldiers.

Is there any way that political economic reform - like, say, overturning Citizens United - might rein in these industrial complexes?

Well, I don't think Citizens United is likely to be overturned, and it is, of course, a rotten decision, but it does have some justifications. And there are some civil libertarians like Glenn Greenwald who more or less supported it on free speech grounds. I don't agree with it, but I can see the argument.

On the other hand, things like detention without trial, well, that strikes right at the heart of Anglo American law dating back to the 13th century. That's the main part of the Charter of Liberties, the core of the Magna. Now that had a narrow scope; it was mostly limited to free men.

It's interesting to see the way in which due process is being reinterpreted by Obama's Justice Department in regards to the drone killings. Attorney General Eric Holder was asked why the administration was killing people without due process. Well, there was due process, he said, because they discuss it within the executive branch [9]. King John in the 13th century would have loved that.

In two years, we're going to get to the 800th anniversary of Magna Carta, and it'll be a funeral. Not just this, but every other aspect. Take rendition, for example. One of the provisions of Magna Carta is that you can't send someone across the seas for punishment. Much of the world participates in rendition now.

Is there potential for legal redress in cases like Hedges vs. Obama? How viable is that strategy?

Well, I was asked by Chris Hedges to participate and I'm one of the plaintiffs. I think it's a viable strategy. But NDAA is not the worst of it by far. Holder vs. Humanitarian Law is certainly worse. Legal strategies are certainly worth pursuing, and they can achieve results. Our system of law is flawed. But it's still a system of law. It's not Saudi Arabia.

There has been considerable outrage towards the Bradley Manning case - what do you make of the campaign to support him [10]?

Bradley Manning is another case of radical violation of the Magna Carta. Here's a guy, an American citizen. He's been held in prison without trial for about a year and a half, a large part of it in solitary confinement, which is torture, and he's never going to get a civil trial. It'll be a military trial if he even gets one.

It's pretty remarkable to see that things like this are acceptable and not even worthy of comment. And Bradley Manning isn't even the worst case. Take, say, the first Guantanamo prisoner who went to what's called "trial" under Obama. Omar Khadr, his name is. Take a look at his history. He's a 15-year-old boy in his village in Afghanistan. Soldiers invade the village, so he shoots at them, trying to defend it. That makes him a terrorist. So he was sent to Bagram Airfield in Afghanistan, which is worse than Guantanamo. There's no Red Cross, no supervision, no nothing. He was there for a couple of years, and then sent to Guantanamo for another couple of years. Finally there came a chance to have a hearing before a military tribunal. This is mostly under Obama, for the record. His lawyers were told, You have two choices: You can plead guilty and you get another eight years in Guantanamo. Or you can plead innocent, in which case, you're here forever. So those are the choices his lawyers were given, practically in those words. So they told him to plead guilty. He's actually a Canadian citizen, and though they could have gotten him out anytime they wanted, Canada finally had the courage to step on the master's toes and asked for him to be released, though he remains imprisoned. [11]

The point of this is that we accept it. There's virtually no protest over the fact that a 15-year-old child is treated this way.

Is it possible that we might see a revival of the global justice movement of the 1980s to launch large-scale movements against these practices and policies?

There is a global justice movement, and it does important work. But it doesn't conform to the prevailing doctrinal system of the powerful, so it doesn't make it into the public view. There was an interesting report published recently by the Open Society Institute, "Globalizing Torture [12]." There were some very interesting aspects to that. It wasn't commented on much, but Latin American analyst Greg Grandin at New York University wrote a comment on it that was very important [13]. He said that if you look at the map of countries that participated in the US torture practices - which remember, is a violation of Magna Carta - most of the world participated. Most of Europe, the Middle East, Asia and Africa. But there was one striking omission: Latin America. There wasn't a single Latin American country that participated. Which is striking because Latin America used to be under the thumb of the United States. They did what we wanted or else we would overthrow their governments. Furthermore, during that whole period, Latin America was one of the world centers of torture. But now they've liberated themselves enough, so they're the one area of the world that didn't participate. That helps explain the passionate hatred of Chavez and Morales and others who have taken Latin America out of the US's reach. Those are very important changes. It shows that things can be done.

In your time as an activist and writer, do you see states on a trajectory toward more openness, transparency and accountability, obviously with movements pushing that, or do you see them as more opaque, unaccountable and exclusive?

These things are always going on in parallel. In many respects it's more open and transparent. But there's a backlash to try to restore obedience, passivity and power structures. That struggle has gone on throughout history. Over hundreds of years, they do move toward openness, freedom and justice. Like Martin Luther King said, the arc of history is long, but it bends towards justice. It's very slow, and it often bends backwards and that's true of basically any

movement you can think of. Civil rights, women's rights, freedom of expression, etcetera. And we should remember that, in a lot of these movements, the United States has been a global leader. Freedom of speech is protected in the US beyond any country I know - certainly more than the European countries in all sorts of ways. And it's not in the Bill of Rights, incidentally. It comes mostly from Supreme Court Cases of the 1960s, some of them in the context of the civil rights movement. That's what large-scale popular movements do. They push things forward.

Do you see potential for a movement like that in response to recent policy and practice in regards to surveillance?

There should be. Nobody could have predicted what happened in the 60s. In the 50s, things were totally dead. I lived through it, so I know. There was very little activism going on. Then, all of a sudden, things started to happen. Unpredictably. A couple of black kids sat in at a lunch counter in Greensboro, North Carolina. It could have ended there. Cops could have come and thrown the kids in jail and it would have been over. But it grew into a huge popular movement. That could happen again.

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