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## Barack Obama: Torturer-and-Assassin-in-Chief

by Jacob G. Hornberger

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The Ninth Circuit’s ruling yesterday in the case of *Binyam Mohamed vs. Jeppesen Dataplan, Inc.* confirms two things: the U.S. government wields the omnipotent, unreviewable power to torture people and, two, that Barack Obama, despite his much ballyhooed pre-election campaign hype about “change,” is actually just serving George W. Bush’s third term in office.

The plaintiffs’ claims against Jeppesen arose out of the CIA’s infamous kidnapping and rendition program, in which the CIA kidnaps people and then transports them to brutal foreign regimes for the purpose of torture. According to the plaintiffs’ complaint, which the Court was required to accept as true for purposes of ruling on the defendant’s motion to dismiss, the victims were subjected to horrible medieval-like torture techniques, such as breaking of bones, cutting into sexual organs, and pouring of painful liquids into open wounds.

The U.S. government intervened in the case, claiming that the suit should be dismissed based on the “state-secrets doctrine,” a pernicious doctrine that is found nowhere in the Constitution but which, the Court held, trumps the due process provisions of the Bill of Rights.

The government claimed that to allow the suit to go forward would entail the disclosure of government secrets, which would supposedly threaten national security.

The government's position, however, which the court unfortunately bought into, is sheer nonsense. The state-secrets doctrine does nothing more than protect government officials from having their wrongdoing disclosed to the American people. That's its purpose. That's its effect.

Contrary to the government's plea and the Court's holding, the government's secrets regarding its torture and rendition program have nothing to do with so-called national security. National security is invoked in order to protect federal officials from criminal and civil liability for their commission of serious crimes.

What should the Court have done? It should not only have let the case go forward, it should have expressly ordered that the plaintiffs were fully entitled, through pre-trial discovery, to delve into every nook and cranny of this dark, nefarious program and to disclose everything about it to the American people and the people of the world. At the end of this road, the nation would continue to stand, in fact on a much more solid moral foundation.

No doubt there would be some insecurity suffered by CIA agents and their enablers, similar to the insecurity that CIA officials undoubtedly felt after being convicted of serious crimes regarding kidnapping, rendition, and torture in Italy. But the security of federal officials who have engaged in wrongdoing is not the same as the security of the nation.

After the John Kennedy assassination, the U.S. government ordered all documents in the case to be kept secret from the American people for 50 years, based on the ludicrous notion that national security was at stake. The claim was ridiculous. The documents were kept secret for one purpose only: to hide from the American people the overwhelming evidence that contradicted the official findings of the Warren Commission. When much of the hidden evidence was finally released in the 1990s, in the wake of the storm produced by Oliver Stone's movie *JFK*, the nation remained standing. National security was never at stake. What was at stake was government credibility, which, deservedly, received serious blows from the disclosure of what the government had claimed were national-security secrets some 30 years before.

The Ninth Circuit's ruling confirms that we now live in a country in which the president and his military and paramilitary forces can torture anyone they want with impunity. Add to that the president's claim of power to assassinate anyone he wants. How is all this different from any ordinary totalitarian dictatorship? Sure, the torturer-and-assassin-in-chief is democratically elected, but so what? What difference does that make to the victims?

The Constitution called into existence a federal government with limited, enumerated powers. If a power wasn't enumerated, it couldn't be exercised. Where are the powers to torture and assassinate people? One searches the Constitution in vain for them. Moreover, how can a ludicrous "state-secrets doctrine," which appears nowhere in the Constitution,

trump the express restrictions on power that the American people imposed on federal officials with the due process clause of the Fifth Amendment?

Ultimately, the root of this evil weed lies in U.S. foreign policy. The U.S. Empire goes abroad and stirs up hornets' nests. That produces rage among the victims, which then manifests itself in terrorist retaliation. The terrorist retaliation is then used as the excuse by federal officials to ignore the Constitution and the Bill of Rights by claiming omnipotent powers to wage "war on terrorism," including the power to torture people and the power to assassinate people.

Americans would be wise to pull the evil weed out by its root, which means dismantling America's overseas military empire, bringing all the troops home from everywhere and discharging them, abandoning all overseas bases and relinquishing any ownership or leasehold rights to such properties, dismantling the standing army and military-industrial complex, and restoring America's founding principles of anti-militarism, anti-imperialism, anti-interventionism, and a limited, government constitutional republic to our land.