

“KILLING IS A PART OF WAR, AND TORTURE ISN'T”

I wasn't crazy about the way that Tom Junod framed his first piece on Obama's Lethal Presidency; but it's getting a lot of people to think about the issues, so while I didn't comment on it I was happy to have it.

But I am rather interested in where the debate has gone, now that Andrew Sullivan got involved. At issue is whether Obama's targeted killing—done because, having made detention an unpalatable option (except in the giant black hole of Bagram), it's all that left—is morally better or worse than torture.

Sully says it's much better, Junod says it's not much different. But both make an assumption that gets to one heart of the issue.

Yes, killing is a part of war, and torture isn't. But what if the the kind of militant who was captured and tortured under Bush is the kind of militant who is simply being killed under President Obama?

Torture is not a part of war? Then why do we put our servicemen and women through SERE training to make sure they'll be able to withstand torture if we don't expect, based on historical experience, that they might be subjected to it?

Torture is illegal. But it is, very much, a part of war (and sometimes power generally, as Ayman al-Zawahiri learned in Nasser's Egypt). Intentionally targeting civilians is also illegal, but part of war. Given that we now seem to be defining “civilian” more narrowly than international law does, we can't very easily distinguish between torture and killing in this way.

The point is important because this debate is

actually talking about at least four different things: reality, morality, legality, and efficacy. The legal argument doesn't get you very far in this debate, because it puts you on John Yoo's ground of proclaiming, correctly, that our adversaries don't abide by international law—they've clearly both tortured and killed civilians—and that therefore, incorrectly IMO, we can and should invent new categories to cover both them and their detention.

But the question of morality is equally slippery, as it allows Sully this squishy defense of Obama.

First and foremost, there is an end to the torture program. For many of us, that was the first non-negotiable deal-breaker from the Bush administration. To bungle two wars, as Bush and Cheney did, is one thing. To throw away the invaluable tradition of decency in wartime was unforgivable. Torture is not, as Bunch would have it, a "difficult issue". It is an easy one. We don't do it or condone it and we bring to justice anyone caught doing it. Obama's failing is in the latter part – but it pales in comparison with Cheney's lawless barbarism. And the end of torture has immensely improved intelligence and brought some moral credibility back to the West. Are some terror suspects being treated horribly in allied countries? There's much evidence that this is true. And the Obama administration should be extremely careful not to exploit or use any intelligence garnered from torture or abuse. But there is an obvious difference between the injustices perpetrated by regimes in developing countries and the standards we set for ourselves.

For Sully, this is about civilization and

barbarism, which comes packed with unexamined assumptions.

This might be an interesting time to note how, within al Qaeda and its affiliates, a similar debate is and has long gone on. Not only have we seen debates about when Islamic law allows the killing of civilians, both non-Muslim and Muslim. We've seen Osama bin Laden's recognition that killing Muslim civilians—and fighting the battle against the US on Muslim grounds—ruined the brand of his movement. But we've also seen, in al Qaeda's now apparently failed attempt to rebrand as Ansar al-Sharia, al Qaeda also trying to “win” the “war” by providing services, by turning on the electricity.

And while it would far oversimplify what our counterterrorism efforts include—we do make efforts, albeit inadequate and almost universally failed ones, to turn on the electricity, too—the debate, as Sully frames it, is occupation, no arms, or drones.

The alternatives are either long-term occupation of Jihadist-spawning countries, or a decision to end all military responses to Jihadist terror, or a more focused drone campaign that can minimize civilian casualties while taking out key enemies planning to kill Western and Muslim civilians.

Which is, if anything, a mere twist on the drones or torture debate. If al Qaeda—Sully's barbarians—are debating how badly civilian deaths are hurting their cause and whether providing electricity is part of a winning strategy, ought that not be a more central question in our debate?

But that's not the only thing missing from Sully's response. In his response to Sully, Junod hits another issue I've been trying to get to.

I talked to a source familiar with the targeting process who told me that the

people involved in the life-or-death decisions of the Obama administration often do not know the credibility of intelligence sources. This was a highly informed and involved source who, when asked the most essential question – “how good is the intelligence?” – paused and finally couldn’t answer. In fact, when I raised the question of whether those who were once captured are now being killed, the source suggested that it was the wrong question:

“It’s not at all clear that we’d be sending our people into Yemen to capture the people we’re targeting. But it’s not at all clear that we’d be targeting them if the technology wasn’t so advanced. What’s happening is that we’re using the technology to target people we never would have bothered to capture.”

This gets to the point I try to make in the piece: that the Lethal Presidency is inherently expansive, because of its conflation of technological capability with moral imperative, and its confusion of killing with scruple. So when Sullivan asks what I consider an alternative to lethal operations, my answer is not any of the ones he provides: it’s not war or surrender. It’s anything that will provide a check and a balance to a power that no president before President Obama has wielded so confidently, and with such a busy hand.

If Junod’s source is accurately representing what’s going on, our use of drones go beyond the hammer and nail problem of drones being perceived as our only tool. Rather, we strike at low level targets—or people doing jumping jacks—because we can. I think Junod’s source ignores the problem with the underlying bad intelligence—which is that too often, those men doing jumping jacks aren’t even fighters at all.

But ultimately, his source suggests we're using drones because we can.

Admittedly, not even the cover of Mitchell and Jessen's science made our torture anything but the same old torture (so in that sense, we can't blame the beauty of the technology as drone apologists seem to do), but the logic for using it ultimately amounts to the same. We use drones because we can. Not because we need to, not because we've decided it's the best way to accomplish our goals. But because it's easy, it reinforces our feeling of power, and we can.