

Democratic rights in America: the first casualty of Bush's anti-terror war

The Editorial Board
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US Attorney General John Ashcroft and FBI Director Robert Mueller met with congressional leaders of both parties September 16 to press for immediate action on a package of new laws which would give unprecedented and sweeping police powers to the federal government. This follows Senate passage three days earlier of the Combating Terrorism Act of 2001, which legalizes widespread police spying on the Internet.

The Bush administration wants greater powers for federal agents to wiretap suspected terrorists, trace financial transactions, and monitor, detain and expel immigrants and foreign visitors. The legislation would also increase the penalties for anyone convicted of providing assistance to terrorists and remove the statute of limitations on terrorism-related charges.

The new laws are being presented as an urgent response to the attack on the World Trade Center and the Pentagon, but they bring together measures long sought by the FBI, CIA and other intelligence agencies. Similar plans were advanced repeatedly by the Clinton administration, but encountered heavy opposition on civil liberties grounds. Now such concerns are being swept aside in the name of the "war on terrorism."

Just as in the field of foreign policy, the Bush administration has seized on the murderous events of last week to unveil a reactionary agenda in domestic policy that was in preparation long before September 11.

The past two decades have seen the steady erosion of democratic rights in the United States—ever-increasing powers of government surveillance and spying, mounting police brutality, the accelerated use of capital punishment, an immense growth in the number and pervasiveness of security personnel. (There are more police and armed security guards in the United States than in the rest of the industrialized world combined.)

In the political arena, the assault on democratic rights took the form of repeated attempts by the extreme right to destabilize and undermine the Clinton administration, through a series of media-driven provocations that culminated in the Monica Lewinsky affair and impeachment. While the right wing ultimately failed to oust a twice-elected president, they did succeed in hijacking the election of his successor.

The Bush administration's very existence is the product of this protracted decay of American democracy. Bush was placed in the White House despite losing the popular vote, after a 5-4 majority of the unelected Supreme Court intervened to halt the recounting of votes in Florida. It is an irony passed over in silence by the

media that a government installed in such a fashion should claim to be launching a war to defend "democracy" against its enemies.

What the new laws will do

Ashcroft presented the new laws as little more than measures bringing the criminal code into line with recent advances in technology, such as disposable cell phones and encrypted e-mail messages. But the measures have far-reaching implications for democratic rights.

A 1978 law established a secret federal court that handles Justice Department wiretap requests directed against those suspected of terrorism, espionage or sabotage. Each wiretap request must specify a particular telephone number or location to be monitored. Under the new law, the Justice Department would be able to file a secret request to monitor any and all telecommunications devices used by a particular suspect—a much more intrusive procedure, since it could potentially encompass all pay phones in a neighborhood, all the computer terminals in a public library, or all the Internet chat rooms accessed by an individual.

The new laws would give the Immigration and Naturalization Service expanded powers to detain and expel foreigners, in some cases on a mere allegation by a federal agent that would not be subject to any court proceeding. Bush may soon invoke Section 215 of the Immigration and Nationality Act, which gives the president wide authority to restrict the exit and entry of foreign nationals. The INS is also expected to press ahead with the implementation of a 1996 law mandating the establishment of a computerized databank on all foreign students now at American colleges and universities—more than 500,000 people, many of them from the Middle East.

The proposed expansion of federal powers to monitor and prosecute fundraising for organizations that the federal government designates as "terrorist" could have serious consequences for legitimate political activity. It was not so long ago that the US government classified the African National Congress, the Irish Republican Army and the Palestine Liberation Organization as terrorist, and the PLO and IRA could well fall under such strictures again—making their political supporters in the United States subject to arrest and prosecution for such actions as raising money for the relief of refugees. That is precisely what happened earlier this year in Britain to supporters of the LTTE, the Tamil nationalist guerrilla movement in Sri Lanka.

Congressional leaders of both parties said the House and Senate Judiciary Committees would take up the proposed anti-terrorism

bill as soon as Congress reconvenes Thursday, even though the Justice Department has not even prepared a final draft of the legislation. A spokeswoman for Senator Patrick Leahy, the Democrat who chairs the Senate panel, said all other business would be pushed aside.

Congressional liberals like Massachusetts Democrats Barney Frank and Martin Meehan have been quoted giving their enthusiastic support to measures that sharply restrict civil liberties. Meehan told the *New York Times*, “I don’t think we’ve done a good enough job in this country utilizing the technology available, like facial recognition technology. We need to make greater investments there. Given this unspeakable act, Americans will tolerate some restraint on their liberties for the sake of security.”

Spying on the Internet

The action of the Senate in approving the Combating Terrorism Act of September 13 can only be described as a stampede. There was no debate and no dissent on the measure after it was introduced by Republican Senators Orrin Hatch of Utah and Jon Kyl of Arizona, as an amendment to an appropriations bill.

This bill extends the powers of the FBI and other police agencies to spy on the Internet using new technology, known as Carnivore, which monitors e-mail messages as they pass through Internet Service Providers.

Under current law on telephone wiretapping it is relatively easy for the police to obtain the records of incoming and outgoing phone calls, a procedure called “trap and trace,” resulting in a list of all numbers called from or calling to a target location. A much higher standard of evidence must be met to get an actual wiretap that records the substance of telephone conversations.

In the past the monitoring of Internet traffic was limited to the more restrictive standard set for telephone wiretaps. Under the new law, Internet monitoring will be treated the same as a trap-and-trace, although the information obtained goes far beyond a simple list of phone numbers, including e-mail addresses, web sites accessed, and even the phrases users entered into search engines.

Senator Judd Gregg, a New Hampshire Republican, called for even greater police monitoring of the Internet, suggesting that the computer industry be required to provide the government with keys to decode all encrypted e-mail messages.

While the Bush administration and Congress take the initiative in the practical implementation of sweeping new domestic spying powers, the American media seeks to create the necessary political climate, with incessant declarations that in order to combat terrorism it is necessary to sharply restrict basic democratic rights.

Both the daily newspapers and the television and cable networks present a picture of an American public clamoring to have their liberties curtailed in the interest of what is somewhat incongruously proclaimed to be a war for “freedom” against terrorism.

Particularly significant is the attitude of the *New York Times*, which carried a chilling article September 18 forecasting America’s transformation into “a new kind of country, where electronic identification might become the norm, immigrants might be tracked far more closely and the airspace over cities like New York and Washington might be off limits to all civilian aircraft.”

Among the measures likely to be adopted, the article predicted, was a national electronic identification card: “Such cards, with computer chips, would have detailed information about those they were issued to and would identify them when read by a computer. The cards could be coordinated with fingerprints or, in a few years, facial characteristics, and be programmed to permit or limit access through turnstiles to buildings or areas. They could track someone’s location, financial transactions, criminal history and even driving speed on a particular highway on a given night.”

Other actions could include severe controls on immigration, widespread video surveillance, and the expanded use of personality profiles by police, “possibly including racial descriptions, to identify potential terrorists. They might use such profiles as the basis to search people anywhere they felt terrorism was a possibility.”

The *Times* analysis concluded: “Some security officials said Americans had yet to focus on the more difficult questions most likely to follow tighter airport security. Once airports and airplanes are more secure, they said, the country will have to consider extending many restrictions to other public places like stadiums, train and bus stations, universities, elementary schools, parks and reservoirs.”

In the course of the impeachment drive of 1998-99 and the election crisis of 2000, it became clear that within the American political and media establishment, there was no significant constituency for the defense of democratic rights. The predominant sections of the ruling elite had become hostile to the elementary protections of civil liberties and democratic principles set down in the Constitution, considering them an obstacle to the implementation of deeply unpopular policies—militarism and war, the lifting of all restrictions on corporate profit-making, the destruction of guaranteed social welfare provisions such as Medicare and Social Security. The traditional forms of bourgeois democracy had become increasingly incompatible with a social structure marked by ever-increasing inequality and a yawning chasm between the political establishment and the broad masses of working people. The liberal wing of the establishment was, for its part, largely indifferent, and neither willing nor able to oppose the assault on basic rights.

Now, in the wake of the vile and reactionary terrorist attacks of September 11, the profound erosion of democratic institutions has found expression in an overnight decision by the ruling elite, aided by a media that functions as an agency of the state, to plunge the country into a war of indefinite duration against an unspecified list of enemies, and drastically curtail civil liberties, without any public discussion or debate.

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