

US Supreme Court Justice O'Connor says "personal freedom" will be curbed

John Andrews
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On the eve of the October 1 opening of the Supreme Court's 2001-2002 term, Associate Justice Sandra Day O'Connor said she foresaw unprecedented restrictions on democratic rights in the wake of the September 11 terrorist attacks.

She declared flatly, "We're likely to experience more restrictions on our personal freedom than has ever been the case in our country."

Her extraordinary remarks came in a speech commemorating the opening of a Greenwich Village campus of the New York University School of Law. O'Connor went on to say, "It is possible, if not likely, that we will rely more on international rules of war than on our cherished constitutional standards for criminal prosecutions in responding to threats to our national security."

To leave no doubt that this formulation implied the bypassing of constitutional safeguards, O'Connor said the attacks "will cause us to reexamine some of our laws pertaining to criminal surveillance, wiretapping, immigration and so on."

The speech was an invitation to the Bush administration to adopt authoritarian forms of rule. It is one more demonstration that the dominant sections of the American ruling elite have broken with traditional democratic procedures.

O'Connor's remarks are unprecedented in Supreme Court history. Traditionally the justices scrupulously avoid making public comments on issues likely to come before them, so as not to appear predisposed to make certain rulings. (This practice took a bizarre form during President Bush's September 14 speech to a joint session of Congress. Chief Justice William Rehnquist signaled O'Connor and the other three justices in attendance—Antonin Scalia, Clarence Thomas and Stephen Breyer—when they could join in applauding

Bush without compromising the appearance of judicial impartiality.)

Never before has a justice of the Supreme Court gone public with an open-ended assertion that individual rights should be curtailed in the name of national security.

O'Connor, a former Republican Party functionary, usually sides with the three extreme right-wing justices—Rehnquist, Scalia and Thomas. On occasion, however, she has voted against them on questions of civil liberties.

The US high court has been issuing rulings eroding free speech, the separation between church and state, and privacy rights for more than 20 years. The judicial assault on democratic rights reached an apogee last December when O'Connor joined Rehnquist, Scalia, Thomas and Associate Justice Anthony Kennedy to stop the counting of votes in Florida and steal the election for Bush.

O'Connor's statements evoke the most reactionary traditions of the Supreme Court, an unelected body with vast powers. When she declared that impending restrictions on democratic freedoms would be greater than "has ever been the case," she was alluding to earlier historical episodes when the Court sanctioned police-state measures carried out under the guise of national security.

One example occurred during World War I, when working class leaders such as Eugene Debs of the Socialist Party and "Big Bill" Haywood of the Industrial Workers of the World were prosecuted, imprisoned, or driven into exile for their anti-war views. Following the Russian Revolution of 1917, the US government launched the notorious "Palmer Raids," in which thousands of socialists and anarchists were rounded up, jailed and deported. The Supreme

Court upheld the imprisoning of revolutionary Marxists for their political views in cases such as *Gitlow v. New York* (1925).

The outbreak of World War II was accompanied by the internment of Japanese-Americans in concentration camps, a flagrant violation of constitutional rights that was upheld by the Supreme Court in *Korematsu v. United States* (1945).

O'Connor's remarks were a signal that this Supreme Court will not stand in the way should the Bush administration institute "homeland" security measures that go even further than these prior episodes. Her speech should serve as a warning to the American working class of the far-reaching nature of the assault on basic rights that has been launched in the name of the government's "war against terrorism."



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