The New York Times and the state of siege in Boston

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The *New York Times* published an editorial Monday that not only endorses last week's police-military lockdown of Boston, but suggests that it was entirely consistent with democratic procedures. In "How to Handle a Terrorism Case," the *Times* makes the absurd argument that the operation that led to the arrest of alleged Boston Marathon bomber Dzhokhar Tsarnaev was a vindication of "the fundamental rights that distinguish this country from authoritarian regimes."

In the editorial, the leading organ of the "liberal" establishment shamelessly falsifies what actually occurred, omitting any mention of the use of National Guard troops, SWAT teams, machine-gun mounted armored vehicles and Black Hawk helicopters. It makes no mention of the order for some 1 million residents to remain in their homes or the warrantless house-to-house searches carried out by heavily armed police.

The piece begins by setting up Republican Senator Lindsey Graham as a right-wing foil, criticizing his call for Tsarnaev to be declared an enemy combatant and turned over to the military. The *Times* seeks to use the decision of the Obama administration to try Tsarnaev in a civilian court to whitewash the state of siege that was imposed during the manhunt for the terror suspect.

The newspaper writes: "Mr. Graham's reckless statement makes a mockery of the *superb civilian police work* that led to the suspect's capture, starting with a *skillful analysis of video recordings* of the marathon. *The law enforcement system solved the case swiftly and efficiently*, led by the Federal Bureau of Investigation and the local police…" [Emphasis added].

Leaving aside the rapturous praise for the police and intelligence agencies, this account is utterly dishonest. Anyone reading it who was not familiar with the events of last Friday would have no idea what actually happened.

In passing, the *Times* bestows its blessings on the pervasive use of surveillance cameras in public places, something that has become a regular feature of American life although it violates constitutionally guaranteed privacy rights.

"Mr. Tsarnaev is a naturalized American citizen," the editorial continues, "an inconvenient fact for the pressure-him-at-Gitmo crowd. He cannot be tried in a military commission, a legal system reserved for aliens. Even to be held by the military without trial would require a showing that he is associated with a declared enemy of the United States, such as Al Qaeda or the Taliban. So far there isn't any visible connection between the Tsarnaev brothers and anyone more malevolent."

This paragraph makes clear that the *Times* ' disagreement with Graham is not based on a principled defense of democratic rights. The newspaper does not question the legitimacy per se of military commissions or indefinite military detention without trial. It simply argues that Tsarnaev is not a candidate for such treatment because he is a citizen and has not been shown to be "associated with a declared enemy of the United States."

What if the government were to claim that the suspect was "associated" with a "declared enemy" of the US? Then, according to the argument put forward by the *Times*, the state would have a right to haul Tsarnaev off to a military brig.

The terminology the *Times* employs, entirely uncritically, is itself significant. The word "associated" is sufficiently vague to potentially include individuals, groups or publications that simply express support for or mere sympathy with organizations declared by the government to be "enemies," or even lawyers who seek to represent alleged terrorists captured and held at

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Guantanamo or other US prison camps. Moreover, there has been no congressional declaration of war against either Al Qaeda or the Taliban.

The *Times* goes on to laud Obama for deciding to try Tsarnaev in the federal court system. It mildly rebukes the administration, however, for invoking the so-called "public safety exception" so as to permit the FBI and police to question Tsarnaev without reading him his Miranda right to remain silent and have legal counsel present during any interrogation. "Unfortunately," the newspaper writes, "the administration improperly told agents that they could expand [the public safety] exception for terror suspects even when threats were not imminent."

In other words, the Obama administration has rendered the Miranda warning in terror cases virtually meaningless.

In "How to Handle a Terrorism Case," the *New York Times* makes clear that it is prepared to accept without protest the imposition of dictatorial forms of rule, so long as a few outer trappings of democratic procedure are maintained.

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