

Bush Paves the Way for Martial Law

2007 National Defense Authorization Act overturns Posse Comitatus Act

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“Paradoxically, preserving liberty may require the rule of a single leader—a dictator—willing to use those dreaded ‘extraordinary measures,’ which few know how, or are willing, to employ.” — Michael Ledeen, White House advisor and fellow of the American Enterprise Institute, “Machiavelli on Modern Leadership: Why Machiavelli’s Iron Rules Are As Timely and Important Today As Five Centuries Ago”

“Gen. Tommy Franks says that if the United States is hit with a weapon of mass destruction that inflicts large casualties, the Constitution will likely be discarded in favor of a military form of government.” — NewsMax, November 21, 2003

In October 2006, Bush signed into law the John Warner National Defense Authorization Act for Fiscal Year 2007. Quietly slipped into the law at the last minute, at the request of the Bush administration, were sections changing important legal principles, dating back 200 years, which limit the U.S. government’s ability to use the military to intervene in domestic affairs. These changes would allow Bush, whenever he thinks it necessary, to institute martial law—under which the military takes direct control over civilian administration.

Sec. 1042 of the Act, “Use of the Armed Forces in Major Public Emergencies,” effectively overturns what is known as posse comitatus. The Posse Comitatus Act is a law, passed in 1878, that prohibits the use of the regular military within the U.S. borders. The original passage of the Posse Comitatus Act was a very reactionary move that sealed the betrayal of Black people after the Civil War and brought the period of Reconstruction to an end. It decreed that federal troops could no longer be used inside the former Confederate states to enforce the new legal rights of Black people. Black people were turned over to the armed police and Klansmen serving the southern plantation owners, and the long period of Jim Crow began.

During the 20th century, posse comitatus objectively started to play a new role within the bourgeois democratic framework: as a legal barrier to the direct influence of the powerful military establishment and the armed forces over domestic U.S. society. It served to some degree as an obstacle against military coups and presidents seizing military control over the country. (However, National Guard troops have been legally available to the ruling class for use inside the U.S., and there have been other loopholes to the prohibition of the use of armed forces domestically, as in the mobilization of Marine troops during the 1992 L.A. Rebellion.)

So the changes to posse comitatus signed into law by Bush are extremely significant and ominous. Bush has modified the main exemptions to posse comitatus that up to now have

been primarily defined by the Insurrection Act of 1807. Previously the president could call out the army in the United States only in cases of insurrection or conditions where “rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings.” Under the new law the president can use the military in response to a natural disaster, a disease outbreak, a terrorist attack or “other condition in which the President determines that domestic violence has occurred to the extent that state officials cannot maintain public order.”

The new law requires the President to notify Congress “as soon as practicable after the determination and every 14 days thereafter during the duration of the exercise of the authority.” However Bush, as he has often done during his presidency, modified this requirement in his signing statement, which declared, “The executive branch shall construe such provisions in a manner consistent with the President’s constitutional authority to withhold information the disclosure of which could impair foreign relations, the national security, the deliberative processes of the Executive.” In other words, Bush claims that he does not even need to inform Congress that martial law has been declared!

Changing Role of Military Within the U.S.

This major change in the criteria under which martial law can be declared is a continuation of a process, begun after 9/11, to dismantle legal barriers to unrestrained executive, presidential powers.

In 2002, the government created the new Northern Command. This is the first time since the Civil War that the U.S. military has been given an operational command inside the continental United States.

In 2005, the Washington Post reported that Northcom had developed battle plans for martial law in the U.S. One secret document, CONPLAN 2005, envisions 15 different scenarios where these plans could go into effect.

The U.S. has also used natural disasters like Katrina to push for an increased role for the military. According to the Washington Post, Bush advisor Karl Rove told the governor of Louisiana that she should explore legal options to impose martial law “or as close as we can get.”

Spying by the military against U.S. persons, also supposedly prohibited, has greatly expanded in recent years. Counterintelligence Field Activity (CIFA) was created in 2002 supposedly to evaluate threats against Department of Defense installations. However, a secret 400-page document obtained by MSNBC revealed that CIFA had spied on more than 1500 “suspicious incidents” during a ten-month period, including a meeting of Quakers to plan a protest of military recruiting at local high schools and an anti-war protest in Los Angeles.

James Risen has exposed in the New York Times and in his book *State of War: The Secret History of the CIA and the Bush Administration* that the National Security Agency, which is under the Department of Defense, has been used in a massive campaign of illegal spying of U.S. citizens, including tapping phone calls and monitoring bank and financial records and the internet. (See *Revolution #35, “Spies, Lies, Thugs and Torture.”*)

In 2006, the Military Commissions Act was passed which, in addition to legalizing torture, allows the president and military courts to declare anyone an enemy combatant without basic civil rights like habeas corpus.

Plans for massive detention centers are already being prepared. Pacific News Service reported that in early 2006, Kellogg Brown and Root (KBR) received a \$385 million contract from the Department of Homeland Security to build detention and processing facilities to be used "in the event of an emergency influx of immigrants into the U.S. or to support the rapid development of new programs."

Would They Really Go That Far?

The Bush Regime's preparations for martial law are part of an extreme agenda. This is a regime that is setting out to create a world empire that is unchallenged and unchallengeable and has embarked on an endless war to bring this about. Along with this, they aim to restructure social relations in the U.S., doing away with many of the social and economic institutions that have characterized U.S. society since World War 2. Because of this extreme agenda, the Bush regime takes very seriously the possibility of jolts and ruptures and resistance and are preparing very extreme measures to deal with this.

On February 27, 1933, a fire broke out in the Reichstag (government) building in Germany. The next day Hitler and his Minister of the Interior Hermann Goering drafted the Reichstag Fire Decree, which suspended civil liberties and gave the central government total power. The decree was signed into law within days. After that point, opposition to Hitler became MUCH more difficult.

In the U.S. today, extreme measures much like the Reichstag Fire Decree are already being put into place-making it even more urgent that a determined struggle be waged to drive out the Bush regime and reverse this dangerous trajectory.

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