

America's Transition from a Democracy to the National Security State. The Derogation of Civil Rights in the Homeland

In Five Easy Steps. And What We Can Do about It. Part II

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Part One of this analysis set out the main parts of the shift in U.S. government from democracy to National Security State. In this part, we will complete and analyze this development.

5) Do not count (foreign or domestic) civilians as important to State functioning

First, abroad, civilians are "collateral damage," like destroyed property.

The Bush administration and its generals did not consider the category of discrimination to be of importance. The Obama administration has continued this policy. This is demonstrated by two facts: first, the U.S. military spokespersons have stated directly and consistently that the U.S. does not count the civilian dead in Iraq and Afghanistan. Second, the U.S. government either does not release or downplays civilian casualties in Libya, Syria, Yemen, or from U.S. drone attacks. If it was truly U.S. policy to protect noncombatants from a brutal dictator (e.g. Saddam Hussein; Muammar Gaddafi, Bashir al Assad, etc.) and to avoid injuring or killing them, one would think that knowing how many they have killed or for whose deaths they are at least partly responsible would be something the military would want to know and engage, not suppress.

Contradictory to that practice, by a long and time-honored tradition in ethics and in international law, when the practice of either ignoring (by not taking into account) or intending civilian deaths becomes commonplace, whether proportional or not to the good intention of defeating the enemy, any military action may be said to be conducted unjustly. *How* the civilians came to be killed is critical, because it tells us directly about the conduct of the war.

USA PATRIOT ACT

Second, the State becomes repressive of citizens domestically. When Supreme Emergency becomes the order of the day, it uses its force against its citizens. For example, Hitler's February 28 "Decree for the Protection of the People" suspended the articles of the Weimar Constitution concerning personal liberties, and was never repealed.

We are witnessing a similar movement in the U.S. Beginning in 2001 with the USA PATRIOT Act, civil liberties have been deliberately and systematically eroded, while elite privilege has expanded. There are particular issues concerning due process rights and habeas corpus that were eroded under this model. This can be seen in the arrests of both Jose Padilla and Yasser Hamdi, both of which concern due process and habeas corpus rights, denied by the government. Both are U.S. citizens. Hamdi was arrested in 2001, and held without charge by the U.S. government in Guantanamo Bay, Cuba. It was only with the Supreme Court decision in *Hamdi v. Rumsfeld* that Hamdi was released. Padilla was arrested in 2002 and held without charge until 2006. For most of their period of detention without charge, neither was permitted legal counsel, or a hearing. It was only due to the pressure of civil liberty groups that each was finally given a hearing.

For Obama's contribution to this, note his deepening of unchecked surveillance powers (including warrantless wiretapping of citizens, accessing personal records, monitoring financial transactions, and tracking email, internet and cell phone use), his position that the federal government cannot be sued for illegal spying on U.S. citizens, his claims of Executive privilege to order assassinations of U.S. citizens, and his continuation of torture and Guantanamo Bay prison.

All of these actions and others are instances of the direct legislative erasing of any legal status of the individual, in some cases individual U.S. citizens. As if to underscore this point, witness General Wesley Clark stated on MSNBC, on July 17, that dissident citizens should be put in internment camps "for the duration" of the U.S. war on terrorism—i.e. *forever*.

Kevin Phillips (*Wealth and Democracy*) and Chalmers Johnson (*The Sorrows of Empire*) have eloquently traced how these structural mechanisms of government in Rome, Spain, Portugal, and Britain all led to repressive governments which fell quickly when they began to govern through a structure of repression. Today we see the similar structures in place in the U.S., not only in such draconian pieces of legislation as the USA PATRIOT Act, but most chillingly in "continuity of government" (COG) plans, prepared twenty years ago by elite government insiders, which calls for warrantless surveillance, warrantless detention, and militarizing domestic security to keep dissent nonexistent (see Peter Dale Scott, "The Doomsday Project, Deep Events, and the Shrinking of American Democracy" *The Asia-Pacific Journal*, January 24, 2011).

Conclusion: Three steps for making change

The obvious question is: how can we stop this and make the critical changes needed to and in our government apparatus? I would conclude this essay by suggestion three actions that may be taken.

First, recognize that U.S. citizens themselves must make the changes required to and in government. With the foundational mode of state structure and purpose being to achieve and maintain complete state hegemony in the world, radical change of state structure is required. This can only be done with some kind of people's push to return the power to themselves, as we saw in Egypt and Tunisia, and now see in Greece. It will come slowly and painstakingly, but without it, state mechanisms will continue to be structured as hegemonic agencies, and perpetual war and continued assault upon citizen rights will be the ongoing and deepening *modus operandi* of the state.

Second, focus objective analysis on ethical and legal prescriptions as well as empirical facts and consequences. Too often political analysis revolves around a theme of "this move, that consequence" by our political leaders. However, ethically speaking, objective analysis can be done by analyzing how government actions fit or do not fit universal ethical norms. A good norm would be, as the German philosopher Jurgen Habermas puts it, to recognize that for authentic communication between parties to take place, all affected must be able to accept the consequences of any proposed norm.

This strategy does two things: it pre-empts the charge from opponents that one believes only according to one's ideology; and it allows one to see and show the pattern of a movement from democracy to fascism.

Here is an application of such analysis. Let us examine the crime of aggression of Obama's drone strikes, specifically the U.S. use of drones in Yemen and Pakistan. The U.S. first said it used targeted killing in November 2002, with the cooperation and approval of the government of Yemen. But as of 2013, the U.S. had more than 6,000 drones, more than 160 of which were Predator drones controlled by the U.S. Air Force. These drones are being used in Afghanistan, Somalia, Yemen, but most of all in Pakistan, where in eight years the drones killed close to 4,000 people (see Gregoire Chamayou, *A Theory of the Drone*).

On June 3, 2009, the United Nations Human Rights Council (UNHRC) delivered a report sharply critical of US tactics. The report asserted that the US government has failed to keep track of civilian casualties of its military operations, including the drone attacks, and to provide means for citizens of affected nations to obtain information about the casualties and any legal inquests regarding them.

Obama's response: ignore the U.N. report, and increase the drone attacks, thus instantiating what neocon architect Francis Fukuyama stated: the U.N. is "perfectly serviceable as an instrument of American unilateralism" When it isn't, the National Security State can and does ignore them. (see Chomsky, *Hegemony or Survival*).

Contradictory to that, we would have a solid ethical and legal analysis of U.S. drone actions by quoting a tentative definition of aggression which was adopted by the U.N. International Law Commission on June 4, 1951. It stated:

"Aggression is the use of force by a State or Government against another State

or Government, in any manner, whatever the weapons used and whether openly or otherwise, for any reason or for any purpose other than individual or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations.”

Further, in 1950, the Nuremberg Tribunal defined Crimes against Peace, in Principle VI, specifically Principle VI(a), submitted to the United Nations General Assembly, as:

(i) *Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;*

(ii) *Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).*

Again, we should apply the Geneva Conventions against Attacking Civilians. Article 51, Section 2 proscribes “indiscriminate attacks:” those not directed at specifically military targets; those attacks or weapons that cannot be limited to military objectives and that strike civilians or civilian objects as well as military ones; and attacking military targets that the belligerent has reason to believe in advance will cause excessive and disproportionate damage to civilians or civilian objects, the latter defined simply as non-military objects.

Protocol II, “relating to the Protection of Victims of Non-International Armed Conflicts,” specifically calls upon all nations to refrain from all “violence to the life, health, and physical and mental well-being of [noncombatant] persons.”

Finally, the Hague Conventions of 1899 ban the attacking of towns and cities that are undefended, and collective punishment. Prescriptions to limit the conduct of war include the requirements to warn towns of impending attacks, to protect cultural, religious, and health institutions, and to insure public order and safety.

Third, understand that civil disobedience is the only weapon citizens have to fight such overwhelming methods of force that are now in place. The state—on both federal and local government levels—now possesses so much military-level force and political-economic power that they can fairly easily respond to any type of violent action. Nonviolence is the only option, especially since, to work, nonviolence requires a force in numbers. When that happens, the fear moves from the people to the government officials and their economic elite controllers who currently rule the country.

The motivating factor for such disobedience is often said to be economic hardship, such as the citizens of Greece are undergoing. That is certainly true, but in addition to that, U.S. citizens are used to a more developed and robust conception of human and civil rights, and the practice of limited government in terms of such rights. This assumption of most citizens makes a full-blown totalitarian state such as Hitler’s or Mussolini’s unlikely. Nonetheless, it is certainly conceivable and possible that a totalitarian-light state can exist while leaving in place the main skeleton of a republican democracy that has long since been reduced to a minimal democracy, virtually without most citizens seeing it and without angering citizens too much. This is especially true if the citizens live in fear and are willing to grant the government significant leeway in its responses to the trumped-up fear of terrorists. That is precisely what has happened since 9/11, and precisely what civil disobedience attempts to overcome.

Objective, public analysis and civil nonviolent action are our best weapons against government power. They are, in fact, not just our best hope; they are all we have left with which to fight.

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