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# Losing a War, Winning a Police State

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**The [New York Times disclosure](#)** of an official National Intelligence Estimate, which states that the Iraq invasion has worsened the global terrorist threat, carries an unspoken subtext - that the Bush administration is either woefully ignorant of how to combat terrorism or finds the terrorist threat a useful tool for managing the American public.

### [September 26, 2006](#)

That's because on one level, the NIE, representing the consensus view of 16 U.S. intelligence agencies, recognizes the obvious: that the invasion of Iraq has spawned a new generation of Islamic extremists who are determined to strike at the West, that Iraq has served as both a recruitment poster and a training ground for jihadists.

"The Iraq war has made the overall terrorism problem worse" since Sept. 11, 2001, summarized one U.S. intelligence official in referring to the NIE, which was completed in April 2006. [NYT, Sept. 24, 2006]

But to many Americans, this conclusion comes as no surprise. Indeed, it was one of the central arguments of the antiwar movement before the invasion more than three years ago, that an unprovoked invasion of Iraq would inflame anti-Americanism and increase the terrorist threat at home and abroad.

Indeed, I wrote an article before the war essentially making that argument.

"The war's devastation and the U.S. occupation also could play into the hands of [Osama bin Laden, who] spelled out in a recent message that he plans to gain a propaganda advantage from any U.S. invasion and occupation of Iraq, by presenting himself as the defender of the Arab people," I wrote in February 2003. [See Consortiumnews.com's "Iraq's Liberation Day."]

### **Widespread Warnings**

And it wasn't just journalists and bloggers offering warnings about the war's potential to fuel extremism and deepen the terrorist threat. Respected leaders both inside and outside the U.S. government offered dire warnings over the war's potential consequences.

For example, retired Gen. Anthony Zinni, who served as a Middle East envoy for George W. Bush, warned in October 2002 that by invading Iraq, "we are about to do something that will ignite a fuse in this region that we will rue the day we ever started."

Brent Scowcroft, national security adviser in the first Bush administration, said a strike on Iraq "could unleash an Armageddon in the Middle East." Former South African President Nelson Mandela said Bush was "introducing chaos into international affairs."

But George W. Bush brushed aside these warnings and proceeded with the invasion.

As the war and occupation have dragged on, more concerns were raised that heavy-handed U.S. tactics would

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further inflame Arab anger. Those worries were realized in the devastation of Fallujah, the prisoner abuse scandal at Abu Ghraib, and the massacre at Haditha - not to mention the grisly daily death toll of Iraqi civilians.

Yet, every step along the way, the Bush administration and its allies have bullied their domestic critics. Americans who raised questions before the war were sneered at as "cowards," "dupes" and "traitors."

Then, when the rosy predictions of Iraqis showering U.S. troops with flowers proved false, the administration berated the Iraq War critics some more, accusing them of "defeatism" and insisting that "staying the course" was the only appropriate option.

More recently, the critics have been mocked as "cut-and-runners," while Bush calls the Iraq War the "central front" in the "war on terror," which, in turn, he says is "the decisive ideological struggle of the 21st Century."

But the downward spiral of the Iraq War and the worsening worldwide terrorism threat are negatives only if one assumes that creating a more peaceful and secure world was the original goal.

If the goal included changing the character of the United States as a free and open society - and consolidating one-party Republican control over the federal budget - then the administration's policies would seem to be working like a charm.

In the United States, which Bush calls part of the "battlefield" in the "global war on terror," fear has prompted millions of Americans to surrender constitutional rights willingly and accept government intrusions that would have been unthinkable before 9/11.

### **Fanned Fears**

These domestic fears have been fanned by government claims of last-minute police actions to stop new acts of al-Qaeda terrorism, which later turn out to be over-hyped public relations stunts.

Since opting to charge alleged "dirty bomber" Jose Padilla with crimes unrelated to original allegations that he was an "enemy combatant" - to avoid a Supreme Court showdown over presidential powers - the Bush administration was dealt another blow on Aug. 21 when a federal judge in Miami threw out one of the administration's charges against the alleged al-Qaeda operative.

U.S. District Judge Marcia Cooke dropped a conspiracy charge against Padilla, saying that it violated constitutional prohibitions against double jeopardy. But the judge left intact two other terrorism-related counts against the former Chicago gang member.

Nevertheless, it's becoming increasingly clear that the original allegations against Padilla - an American citizen who was held without charges for 3 ½ years - were deeply flawed. The Padilla case also showed how readily the Bush administration cast aside constitutional guarantees of a speedy trial in which the government must present its evidence in public, one of the most fundamental rights dating back to English common law.

In the administration's other much-touted victory against "homegrown" terrorists, the case of the so-called Miami Seven accused of plotting to blow up the Sears Tower in Chicago, it appears that the alleged plot consisted of little more than loose talk. The accused had almost no ability to pull the scheme off and the case looks more like

entrapment by federal agents.

According to court records, government informants provided money and a meeting place for the seven Miami men, gave them video cameras to conduct surveillance, and suggested that the first target of terrorism be a Miami FBI office. Lawyers for the defendants say their clients were lured into the scheme and had no contact with real al-Qaeda members.

Despite the criticism of FBI tactics, it appears that the trend may be towards an even more draconian approach to counter-terrorism efforts. On Aug. 29, the FBI showcased to reporters a new database with more than 659 million records.

The "Investigative Data Warehouse," as it is called, includes terrorist watch lists, intelligence cables and financial transactions culled from more than 50 FBI and other government agency sources.

Unveiling the database was intended in part to address criticism that the FBI's technology was outdated as the fifth anniversary of 9/11 approached. But the database raised concerns from privacy advocates who worry about how long the government stores such information and about the right of citizens to know what records are being kept.

For instance, anyone who has ever lost or had a passport stolen could be considered suspect, and anyone who has been put on the government's notoriously inaccurate "no-fly" list also could be flagged in the FBI's database. The system includes 250 million airline passenger records, stored permanently.

Gurvais Grigg, acting director of the FBI's Foreign Terrorist Tracking Task Force, said every data source is reviewed by security, legal and technology staff members, and a privacy impact statement is created in order to safeguard civil liberties.

But David Sobel, senior counsel of the Electronic Frontier Foundation, said the FBI's use of an internal privacy assessment undercuts the intent of the Privacy Act.

### **NSA Wiretaps**

Also of concern is how this new database might use information from the National Security Agency's warrantless domestic surveillance program. The National Counterterrorism Center's terrorist watch list includes at least 325,000 people, and according to an NCTC official, the database includes names of suspected terrorists provided by all intelligence organizations, including NSA.

The NSA program has raised concerns because Bush is asserting that his presidential powers during the "war on terror" trump the Fourth Amendment's protections against unreasonable searches and seizures. The eavesdropping is being conducted without court oversight in apparent violation of the 1978 Foreign Intelligence Security Act, passed in response to the COINTELPRO scandal of the 1970s.

At the end of a Senate investigation into domestic intelligence violations, Sen. Frank Church, D-Idaho, specifically cautioned against the vast potential for abuse if the NSA targeted American citizens.

The NSA's "capability at any time could be turned around on the American people," Church warned, "and no American would have any privacy left ... There would be no place to hide." [NYT, Dec. 25, 2005]

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All of the intelligence organizations, including the FBI, CIA and the NSA, are overseen by the Director of National Intelligence, a position created in early 2005 and now filled by former U.S. Ambassador to Iraq John Negroponte.

But the DNI's independence has always been in doubt. In calling on Congress to create the post of DNI in 2004, Bush made it clear that the director would serve "at the pleasure of the President."

Creating the post of DNI also required extensive revision of the 1947 National Security Act, a Cold War-era law which has undergone further revision since the creation of the DNI. In legislation passed by the House this year, the National Security Act was amended to grant the DNI more power and authority.

The legislation, now before the Senate, provides the DNI new authority to "have access to all national intelligence ... concerning the human intelligence operations of any element of the intelligence community," and authorizes personnel designated by the DNI "to make arrests without warrant for any offense against the United States committed in the presence of such personnel."

The new arrest powers follow similar authority granted to the U.S. Secret Service. In the reauthorization of the Patriot Act in 2005, the Secret Service was granted the same power in identical language.

### Expanded Powers

Civil libertarians question the steady expansion of government powers within the Executive Branch. This concern has deepened with the tendency of agencies, such as the Secret Service, to engage in law enforcement activities that are political in nature.

During the Bush presidency, the Secret Service has shielded the President from dissenters. Since 2001, the Secret Service has been establishing "free speech zones" for protesters to gather, while police have arrested people who express opposition to Bush's policies outside of the designated areas.

At a Florida Bush rally in 2001, three demonstrators - including two elderly women - were arrested for holding up small protest placards outside the "free speech zone." In 2003, also in Florida, seven protesters were arrested when they refused to be cordoned off into a protest zone hundreds of yards from a Bush rally at USF Sun Dome.

In general, these demonstrators have been arrested by local police at the behest of the Secret Service, but this could change with the new powers granted to the Secret Service by the Patriot Act reauthorization of 2006.

Not only does the law grant the Secret Service new powers of arrest, but it also increases fines and penalties for individuals who "willfully and knowingly ... enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds where the President ... will be temporarily visiting."

Beyond expanding powers for the DNI and the Secret Service, Congress also is moving to grant the President more authority over the National Guard.

Governors across the nation are complaining about a bill that has passed the House of Representatives that would expand Bush's authority to take over National Guard troops in case of a natural disaster or a "homeland security threat."

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The legislation was criticized by Arkansas Gov. Mike Huckabee, a Republican, as symptomatic of a wider federal effort to make states no more than "satellites of the national government."

Huckabee, who is chairman of the National Governors Association, said the legislation would end the historic link between the states and their Guard units and "violates 200 years of American history."

Iowa Gov. Tom Vilsack, a Democrat, pointed out that for "230-plus years governors have had control of their National Guard and have done a good job," but "all of a sudden, there are one or two lines in a bill that no one has debated and no one has discussed to take that authority away."

While the governors express frustration over the usurpation of authority that has traditionally belonged to the states, there is a larger concern. That is the trend toward centralized authoritarianism that will be accelerated by granting Bush total control over the National Guard.

This trend may speed up even more if Congress effectively grants amnesty to the administration over violations of the Geneva Conventions, and essentially gives the President new authority to interpret Common Article 3, which sets standards for treatment of prisoners of war.

Although billed as a "compromise," the Republican-sponsored legislation provides the Executive Branch legal cover for authorizing interrogation techniques that are widely considered violations of domestic and international law.

### War on Iran?

As alarming as the drift towards increased authoritarianism may be, it could pale against what might be in store if the Bush administration attacks Iran over its nuclear program.

In a report for the Century Foundation, retired Air Force Colonel Sam Gardiner asserted that "the summer of diplomacy is over," and argued that "the diplomatic activity of the past several months was just a pretext for the military option."

Dave Lindorff, writing in *The Nation*, reported that the Bush administration and the Pentagon have moved up the deployment of a major "strike group" of ships to sail to the Persian Gulf, just off Iran's western coast.

Lindorff points out that "the Eisenhower Strike Group, bristling with Tomahawk cruise missiles, has received orders to depart the United States in a little over a week." Navy sources confirmed that the armada is due off the coast of Iran on or around Oct. 21.

The strongest argument against the possibility of the U.S. striking Iran is that such an attack doesn't make any sense.

Skeptics point out that the military option would likely be counterproductive, if not catastrophic. There are fears that Iran (and perhaps Venezuela) would cut off oil shipments, possibly sending the price of oil to upwards of \$200 a barrel. Iran also could launch strikes on Israel, and take revenge against American forces in Iraq.

Furthermore, there is the possibility that Hezbollah sleeper cells exist in the United States, and could be activated by Iran in the event of a U.S. attack. Press reports indicate that the FBI has launched new probes in New York and other cities targeting alleged members of Hezbollah, in anticipation of a U.S.-Iran showdown.

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If the U.S. does launch an attack, it seems clear that the terrorism threat faced by Americans at home and abroad will dramatically increase. For such reasons, many observers argue that an attack on Iran is unlikely.

But Gardiner points out that not making sense won't limit what the Bush administration does. "The 'making sense' filter was not applied over the past four years for Iraq, and it is unlikely to be applied in evaluating whether to attack Iran," Gardiner writes.

It also could be that "making sense" means something different for the Bush administration than it does for average Americans.

Although the Iraq War has cost about 2,700 American lives and hundreds of billions of dollars from the Treasury, the war has created great business opportunities for well-connected corporations such as Halliburton and Bechtel, which have registered substantial profits from the occupation and "rebuilding" of Iraq.

Also, although U.S. intelligence agencies now agree that the terrorist threat has ballooned due to the Iraq War, the Bush administration has found the conflict useful in simultaneously expanding its powers, abrogating constitutional rights and justifying more government secrecy.

Those trends seem likely to continue - and even accelerate - as the "war on terror" remains a powerful excuse for transforming the United States from a historically free and open society to a frightened nation where citizens eagerly trade their constitutional rights for government promises of more security.

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PS:

**Other article on this subject**

**- Detainee Bill and the Dawning of a Fascist America**

by [Kurt Nimmo](#)

Friday September 29th 2006

As Steve Douglas notes, "the Schmittian drives for the arrogation of all power into the hands of a 'unitary executive' Presidential dictatorship," in the case of both Hitler and Bush, are "essentially, identical."

In the wake of the Reichstag fire in early 1933, blamed on the Comintern, Hitler and the Nazis, with "the support of a terrified populace ... suspended civil rights and civil liberties, fattened their war machine and rode the fascist tide into a full-blown dictatorship," writes Harvey Wasserman.

After the Reichstag fire, Paul von Hindenburg signed the fateful emergency decree, thus providing Hitler's SA and SS with the legality required to round up the opposition and throw them in makeshift concentration camps run by local Gauleiters and SA leaders. "The rest, as they say, is history," notes Wasserman.

Bush, or rather his neocons, who subscribe to the Schmittian drive "for the arrogation of all power into the hands of a 'unitary executive' Presidential dictatorship," have their own gesetzvertretende Verordnungen or "law-substituting decrees," or rather Constitution-substituting decrees, in particular scrubbing the Fourteenth Amendment.

"The military trials bill approved by Congress lends legislative support for the first time to broad rules for the detention, interrogation, prosecution and trials of terrorism suspects far different from those in the familiar American criminal justice system,"

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explains the Washington Post. "President Bush's argument that the government requires extraordinary power to respond to the unusual threat of terrorism helped him win final support for a system of military trials with highly truncated defendant's rights...."

Included in the bill, passed by Republican majorities in the Senate yesterday and the House on Wednesday are unique rules that bar terrorism suspects from challenging their detention or treatment through traditional habeas corpus petitions. They allow prosecutors, under certain conditions, to use evidence collected through hearsay or coercion to seek criminal convictions."

Naturally, we are told this "arrogation of all power into the hands" of the unitary decider will apply only to "foreign nationals," that is to say Muslims. Hitler said much the same.

The enemies of the fatherland were foreigners-and their German fellow travelers-members of the comintern (communist international), Hitler declared, and such subversion required austere measures, including interning thousands in concentration camps, subjecting them to interrogation, torture, and summary execution.

As Marty Lederman points out, the so-called "military commissions bill," if read literally, "means that if the Pentagon says you're an unlawful enemy combatant-using whatever criteria they wish-then as far as Congress, and U.S. law, is concerned, you are one, whether or not you have had any connection to 'hostilities' at all."

This definition is not limited to Al Qaeda and the Taliban. It's not limited to aliens-it covers U.S. citizens as well. It's not limited to persons captured or detained overseas. And it is not even limited to the armed conflict against Al Qaeda and the Taliban, authorized by Congress on September 18, 2001. Indeed, on the face of it, it's not even limited to a time of war or armed conflict; it could apply in peacetime.

For some, it is a relatively easy task to dismiss Lederman out of hand as a paranoid crank, or possibly another conspiracy nut.

However, even the Los Angeles Times warns of the draconian aspect of this law. "[T]he bill also reinforces the presidential claims, made in the Padilla case, that the commander in chief has the right to designate a U.S. citizen on American soil as an enemy combatant and subject him to military justice," writes Bruce Ackerman, a professor of law and political science at Yale.

This atrocious, Hitlerian bill authorizes "the government to seize and detain indefinitely, without charge or trial, anyone who 'purposefully and materially supported hostilities' even if not engaged in armed conflict, including U.S. citizens arrested inside the United States," explains Human Rights First.

"Kate Martin, director of the Center for National Security Studies, said that by including those who 'supported hostilities'-rather than those who 'engage in acts' against the United States-the government intends the legislation to sanction its seizure and indefinite detention of people far from the battlefield," notes the Washington Post.

"In short," writes John Dean, "this could include anyone the federal government (Bush and Rumsfeld will delegate and re-delegate this authority) labels 'an unlawful enemy combatant.'"

Nazi Germany provides a historical example of what we can expect in the months ahead. William L. Shirer, author of *The Rise and Fall of the Third Reich*, explains how tribunals operated under fascism.

Hitler's courts consisted of three judges, who invariably had to be trusted party members, without a jury. A Nazi prosecutor had the choice of bringing action in such cases before either an ordinary court or the Special Court, and invariably he chose the latter, for obvious reasons. Defense lawyers before this court, as before the *Volksgerechtshof*, had to be approved by Nazi officials. Sometimes even if they were approved they fared badly. Thus the lawyers who attempted to represent the widow of Dr. Klausener, the Catholic Action leader murdered in the Blood Purge, in her suit for damages against the State were whisked off to Sachsenhausen concentration camp, where they were kept until they formally withdrew the action.

Under Bush's Detainee bill, however, the secretly accused, snatched off the street and disappeared in classic Gestapo fashion, will not be allowed to select an attorney-one will be appointed by the Inquisition.

At least the Nazis bothered to construct a cover for their tactics, describing the detention of the opposition as *Schutzhaft*, or protective custody.



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Bush and the neocons offer no such cover, instead proffering the same old threadbare and transparent palliative-in order to protect the American people from ubiquitous and around-every-corner terrorism, promised to last for generations, the state is unfortunately forced to resort to eviscerating the Constitution, not that most Americans have an inkling of what the document spells out-the rights and the responsibilities-or will they particularly care so long as they are free to shop and watch football and sit-coms.

Of course, the neocons need big fat dossiers of intelligence on "homegrown" enemy combatants in order for the neocon Inquisitor Generals to proceed.

The NSA, Pentagon, and the FBI with its Joint Terrorism Task Force are in the process of gathering this crucial data and entering it into the Threat and Local Observation Notice (TALON) database, a project initiated back in 2003 by the neocon Paul Wolfowitz, now don of the World Bank loan sharking operation.

So keen are the neocons to gather intelligence on American "enemy combatants," Deputy Secretary of Defense Gordon England issued a memorandum directing intelligence personnel to receive "refresher training on the policies for collection, retention, dissemination and use of information related to U.S. persons," that is to say traitors, mostly involved in criminal plots to exercise constitutionally guaranteed liberties such as free speech and the right to assemble, now anathema to the fascist state, as it was to Hitler and his minions.

But never mind. Not only are most Americans blissfully unaware of the immense peril they face-thanks to a complicit and soft-pedal corporate media-many of them faithfully support the fascist state, as the German people did before them.

As the above quoted Shirer writes: "The overwhelming majority of Germans did not seem to mind that their personal freedom had been taken away, that so much of culture had been destroyed and replaced with a mindless barbarism.... The Nazi terror in the early years affected the lives of relatively few Germans and a newly arrived observer was somewhat surprised to see that the people of this country did not seem to feel that they were being cowed.... On the contrary, they supported it with genuine enthusiasm. Somehow it imbued them with a new hope and a new confidence and an astonishing faith in the future of their country."

It will be too late on the day a predatory bureaucrat from the Ministry of Homeland security steals your land or appropriates your wife-a fate inflicted upon countless bovine vassals by rulers and their henchmen down through the dark shadow of history.

Our Machiavellian rulers, wearing expensive suits instead of the ermine of royal heraldic authority, are determined to reduce the planet to a hellish realm of corporate lords, worker drone vassals and serfs, and a small number of liege fiefs lording over the former.

Bush's detainee bill is a large paving stone in that direction.