

Martial Law Threat is Real

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Global Research, July 29, 2007

Commons Dreams 29 July 2007

Region: [USA](#)

Theme: [Police State & Civil Rights](#)

The looming collapse of the US military in Iraq, of which a number of generals and former generals, including former Chief of Staff Colin Powell, have warned, is happening none too soon, as it may be the best hope for preventing military rule here at home.

From the looks of things, the Bush/Cheney regime has been working assiduously to pave the way for a declaration of military rule, such that at this point it really lacks only the pretext to trigger a suspension of Constitutional government. They have done this with the active support of Democrats in Congress, though most of the heavy lifting was done by the last, Republican-led Congress.

The first step, or course, was the first Authorization for Use of Military Force, passed in September 2001, which the president has subsequently used to claim (improperly, but so what?) that the whole world, including the US, is a battlefield in a so-called ³War² on Terror, and that he has extra-Constitutional unitary executive powers to ignore laws passed by Congress. As constitutional scholar and former Reagan-era associate deputy attorney general Bruce Fein observes, that one claim, that the US is itself a battlefield, is enough to allow this or some future president to declare martial law, ³since you can always declare martial law on a battlefield. All he'd need would be a pretext, like another terrorist attack inside the U.S.²

The 2001 AUMF was followed by the PATRIOT Act, passed in October 2001, which undermined much of the Bill of Rights. Around the same time, the president began a campaign of massive spying on Americans by the National Security Agency, conducted without any warrants or other judicial review. It was and remains a program that is clearly aimed at American dissidents and at the administration's political opponents, since the Foreign Intelligence Surveillance Court would never have raised no objections to spying on potential terrorists. (And it, and other government spying programs, have resulted in the government's having a list now of some 325,000 ³suspected terrorists²!)

The other thing we saw early on was the establishment of an underground government-within-a-government, though the activation, following 9-11, of the so-called ³Continuity of Government² protocol, which saw heads of federal agencies moved secretly to an underground bunker where, working under the direction of Vice President Dick Cheney, the ³government² functioned out of sight of Congress and the public for critical months.

It was also during the first year following 9-11 that the Bush/Cheney regime began its programs of arrest and detention without charge (mostly of resident aliens, but also of American citizens) and of kidnapping and torture in a chain of gulag prisons overseas and at the Navy base at Guantanamo Bay.

The following year, Attorney General John Ashcroft began his program to develop a mass network of tens of millions of citizen spies—Operation TIPS. That program, which had considerable support from key Democrats (notably Sen. Joe Lieberman), was curtailed by Congress when key conservatives got wind of the scale of the thing, but the concept survives without a name, and is reportedly being expanded today.

Meanwhile, last October Bush and Cheney, with the help of a compliant Congress, put in place some key elements needed for a military putsch. There was the overturning of the venerable Posse Comitatus Act of 1878, which barred the use of active duty military inside the United States for police-type functions, and the revision of the Insurrection Act, so as to empower the president to take control of National Guard units in the 50 states even over the objections of the governors of those states.

Put this together with the wholly secret construction now under way—courtesy of a \$385-million grant by the US Army Corps of Engineers to Halliburton subsidiary KBR Inc—of detention camps reportedly capable of confining as many as 400,000 people, and a recent report that the Pentagon has a document, dated June 1, 2007, classified Top Secret, which declares there to be a developing ³insurgency² within the U.S, and which lays out a whole martial law counterinsurgency campaign against legal dissent, and you have all the ingredients for a military takeover of the United States.

As we go about our daily lives—our shopping, our escapist movie watching, and even our protesting and political organizing—we need to be aware that there is a real risk that it could all blow up, and that we could find ourselves facing armed, uniformed troops at our doors.

Bruce Fein isn't an alarmist. He says he doesn't see martial law coming tomorrow. But he is also realistic. He says, ³This is all sitting around like a loaded gun waiting to go off. I think the risk of martial law is trivial right now, but the minute there is a terrorist attack, then it is real. And it stays with us after Bush and Cheney are gone, because terrorism stays with us forever.² (It may be significant that Hillary Clinton, the leading Democratic candidate for president, has called for the revocation of the 2002 Authorization for Use of Military Force against Iraq, but not of the earlier 2001 AUMF which Bush claims makes him commander in chief of a borderless, endless war on terror.)

Indeed, the revised Insurrection Act (10. USC 331-335) approved by Congress and signed into law by Bush last October, specifically says that the president can federalize the National Guard to ³suppress public disorder² in the event of ³national disorder, epidemic, other serious public health emergency, terrorist attack or incident.² That determination, the act states, is solely the president's to make. Congress is not involved.

Sen. Patrick Leahy (D-VT), chair of the Senate Judiciary Committee, has added an amendment to the upcoming Defense bill, restoring the Insurrection Act to its former version—a move that has the endorsement of all 50 governors—but Fein argues that would not solve the problem, since Bush still claims that the U.S. is a battlefield. Besides, a Leahy aide concedes that Bush could sign the next Defense Appropriations bill and then use a signing statement to invalidate the Insurrection Act rider.

Fein argues that the only real defense against the looming disaster of a martial law declaration would be for Congress to vote for a resolution determining that there is no ³War² on terror. ³But they are such cowards they will never do that,² he says.

That leaves us with the military.

If ordered to turn their guns and bayonets on their fellow Americans, would our ³heroes² in uniform follow their consciences, and their oaths to ³uphold and defend² the Constitution of the United States? Or would they follow the orders of their Commander in Chief?

It has to be a plus that National Guard and Reserve units are on their third and sometimes fourth deployments to Iraq, and are fuming at the abuse. It has to be a plus that active duty troops are refusing to re-enlist in droves <especially mid-level officers.

If we are headed for martial law, better that it be with a broken military. Maybe if it's broken badly enough, the administration will be afraid to test the idea.

Dave Lindorff's most recent book is "The Case for Impeachment" (St. Martin's Press, 2006). His work is available at www.thiscantbehappening.net.

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