

# **Totalitarianism: The National Defense Authorization Act (NDAA), Latest Chapter In the Road towards “Police State USA”**

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“I believe,” warned James Madison in a speech to the Virginia Convention on June 16, 1788, “there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations.”

Surely, this is the story behind the New Year’s Eve, 2011, signing by President Obama of the National Defense Authorization Act(NDAA). While they were merry-making and tootling horns, NDAA stripped Americans of the last vestiges of their liberties. Now that President Obama can order the military to arrest and imprison you indefinitely on suspicion without trial, your First Amendment rights of speech, press, assembly, and petition have no meaning. Who are you going to assemble with from your jail cell?

NDAA is only the most recent chapter in a creeping totalitarian horror story going back decades. President Harry Truman vetoed the Internal Security Act of 1950 that codified indefinite detention without trial but his veto was overturned by Congress. Truman called the Act “the greatest danger to freedom of speech, press, and assembly since the Alien and Sedition Laws of 1798, a “mockery of the Bill of Rights” and a “long step toward totalitarianism.”

That Act, a.k.a. the McCarran-Walter Act, was aimed at the Communist Party of the United States and authorized incarceration of those who would “probably engage in espionage or sabotage.” At the time it would have been difficult to think of any example of any known U.S. Communist Party member anywhere engaging in sabotage. By contrast, it was about the same time the CIA was getting off to a jump start at overthrowing foreign governments by force and violence.

Under the Act, prominent individuals considered subversive were barred entry to the United States, limiting the free speech of American citizens. Among them: Argentine novelist Julio Cortazar, Colombian novelist Gabriel Garcia Marquez, Chilean poet Pablo Neruda, and British novelist Graham Greene, Wikipedia recalls.

Totalitarianism continued its creep despite the objections of Senator George McGovern of South Dakota in 1970, who vainly blasted the “no knock” ordinance Congress pressed down upon that occupied territory known as the District of Columbia. This law allowed police to bust into any dwelling without a court order. McGovern referred to it as the Big Brother Act, pointing out that “your home is no longer your castle and your liberties are no longer your own.” That was but one small foretaste of today’s police state powers.

In 1978, President Jimmy Carter signed into law the Foreign Intelligence Surveillance Act(FISA) that violated the Fourth Amendment of the U.S. Constitution. It set up the FISA Court, and later the FISA Court of Review, true “Star Chambers” that international law Professor Francis Boyle of the University of Illinois says “are nothing more than rubber stamps for government requests for unconstitutional surveillance on U.S. citizens.”

“With the FISA Amendments Act approved by Obama,” Boyle continues, “there is nothing left of the Fourth Amendment that protects ‘The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.’ I do not understand how any self-respecting U.S. Federal Judge can serve on the FISA Court and the FISA Court of Review and actively participate in the interment of the Fourth Amendment.”

According to Boyle, “After the “draconian Anti-terrorism and Effective Death Penalty Act(AEDPA) passed by Congress in 1996 in reaction to the bombing of the Murrah Federal Building in Oklahoma City, there was no legitimate law enforcement need for the Patriot Act.” Among other things, the AEDPA drastically limited the right of inmates to appeal their death sentences.

Enactment of the Patriot Act of 2003, rushed through Congress after 9/11 and since renewed at leisure, opened the spillways of totalitarianism to flood an entire nation. “From the gagging of our nation’s librarians under the national security letter statute to the gutting of time-honored surveillance laws, the Patriot Act has been disastrous for Americans’ rights,” said Caroline Fredrickson, Director of the ACLU’s Washington office.

“In the panic following the events of 9/11, our nation’s lawmakers hastily expanded the government’s authority to a dangerous level and opened a Pandora’s box of surveillance,” she cautioned in a statement on ACLU’s web site.

Amazingly, there has been scant public outcry condemning these government actions. Few Americans objected when President Obama in March, 2011, by executive order decreed Guantanamo detainees could be held indefinitely—a policy that NDAA now applies to American citizens under the NDAA.

“No president,” said the ACLU, “should have the power to declare the entire globe a war zone and then seize and detain civilian terrorism suspects anywhere in the world—including within the United States—and to hold them forever without charge or trial.”

“By signing this defense spending bill(NDAA), President Obama will go down in history as the president who enshrined indefinite detention without trial in US law,” said Kenneth Roth, executive director of Human Rights Watch. “In the past, Obama has lauded the importance of being on the right side of history, but today he is definitely on the wrong side.”

“This amounts to the repeal of the U.S. Constitution,” Roth said, adding, “We have a Republican Party that is a Gestapo Party—to arrest American citizens and put them in concentration camps.” (Author’s note: NDAA could not have passed without the strong support of Democratic lawmakers.)

Roth goes on to say: “The (NDAA) law replaces an effective system of civilian-court prosecutions with a system that has generated the kind of global outrage that would delight recruiters of terrorists.”

With the NDAA, America has now returned to the disgraceful Korematsu Era, when President Roosevelt ordered the military to round up law-abiding Japanese-American citizens and stick them in concentration camps for the duration of World War II.

“By comparison,” Boyle says, “there is no end in sight to the bogus U.S. war on terrorism. The United States Supreme Court has never overruled the Korematsu case. And as a teacher of constitutional law, President Obama is fully aware of this loaded-gun that he now has in his hands waiting to fire on the American people by means of the NDAA.”

Boyle also warns that the NDAA, coupled with the notorious Pentagon and CIA “murder lists,” means President Obama could now start CIA and Joint Special Operations Command(JSOC) death squads and/or disappearance squads to render American citizens to Guantanamo Bay prison or abroad “for torture and murder.”

If most Americans are unfamiliar with JSOC, perhaps that’s because it operates in secret. That this menacing terror law has been enacted, like the unconstitutional laws that preceded it, with barely a murmur of outrage, speaks volumes about the manner in which the repressive aspects of these laws have been hidden from the general public. It also reflects on the indifference of the American people to the incineration of their once cherished civil liberties on the bonfires of totalitarianism.

You can’t say James Madison didn’t warn us in 1788.

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