Obama Seeks Consolidation Of Dictatorial Powers

by Nancy Spannaus

Sept. 25—In the wake of the 9/11/2001 terrorist attack on the United States, the George W. Bush Administration (largely run by Vice President Dick Cheney), demanded and received a massive expansion of what can only be called police-state powers. When you realize that the terror incident itself was product of British/Saudi origin, with inside complicity, the Administration's push for dictatorship literally fulfilled the forecast of Lyndon LaRouche on Jan. 3 of that year: that the Administration would seek a Hitler-like Reichstag Fire in order to maintain control of the country in the midst of economic breakdown and chaos.

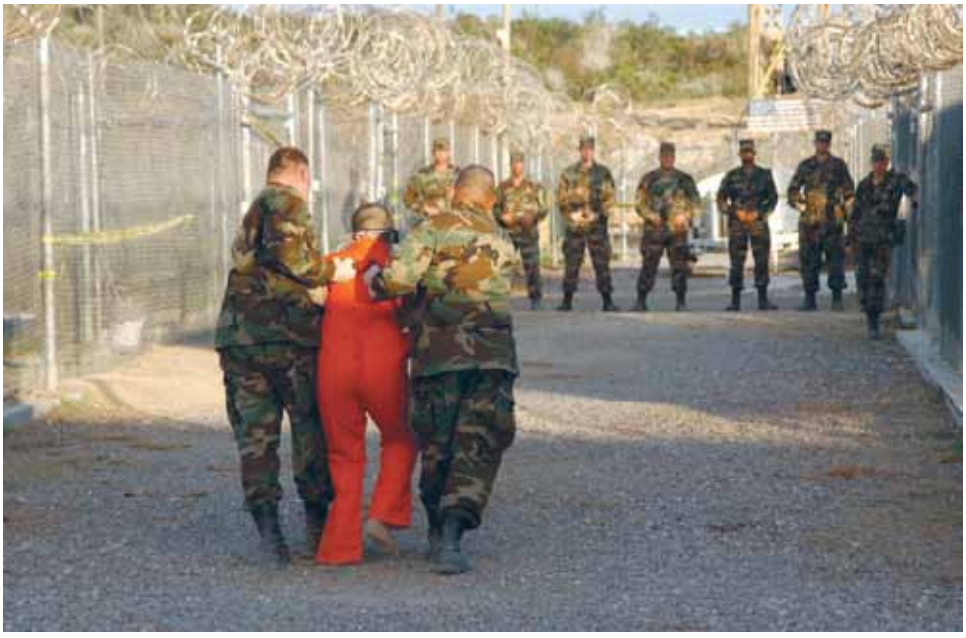
While the Bush-Cheney plans did not meet with total success, the Obama Administration, itself functioning as a tool of the British financial establishment, determined to finish the job. Obama's history of unconstitutional expansion of Executive powers—from expanded surveillance, to the extrajudicial murder of American citizens, to the launching of war without Congressional authorization—has been stunning. And it has by no means stopped.

Where is the opposition? In addition to the LaRouche movement, which has demanded impeachment of the President for cause since 2010, it has come primarily from groups of civil libertarians across the political spectrum, while the putative leaders of the Democratic and Republican parties fall into line with the Administration. Over the course of the last few months, however, a Federal judge in New York State has weighed in to try to block the consolidation of Obama's police-state powers.

The NDAA

On Sept. 12, Judge Katherine B. Forrest of the Southern District of New York State, defied the legal firepower of the Federal government, and issued a *permanent injunction* against the section of the National Defense Authorization Act for 2012 (NDAA) which permits indefinite detention of any American "who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces." Judge Forrest had previously issued a clarification that her ruling would apply not only to the plaintiffs in the case (a grouping of journalists and civil libertarians), but to all Americans.

This particular provision of the NDAA had been an issue long before the passage of the legislation, and its signing by President Obama on Dec. 31, 2011. Along with civil liberties groups, a large swath of intelligence and military professionals stepped forward to oppose what was obviously a dictatorial overreach by the President. Amendments were issued to remove the par-



U.S. Navy/Shane T. McCoy

Journalist Christopher Hedges wrote that Obama now "wants the right to use the armed forces to throw U.S. citizens into military prisons, where they will have no right to a trial and no defined length of detention." Shown: Guantanamo prison camp, Cuba.

ticular section at issue [1021(b)(2)] from the legislation, and at one point, it was actually excised—only to be reintroduced, according to the statements by Sen. Carl Levin (D-Mich.), at the explicit insistence of Obama.

In defending the provision, Administration partisans and others argued that the particular section did not *mandate* indefinite detention, and Obama himself, in a signing statement, asserted that he did not "intend" to use the power. *But he had insisted that it remain.*

On Jan. 13, journalist Christopher Hedges, who publishes regularly on the truthdig.com website, filed a lawsuit (with others) in New York Federal District Court seeking to overturn the indefinite detention provisions. Hedges' basic argument is that, as a journalist, he has traveled in many conflict areas of the world, including the Middle East and Ibero-America and, in the course of pursuing his work, has interviewed and otherwise communicated with many individuals and groups who have been deemed to be at war with the United States or otherwise deemed terrorist groups or terrorist supporting entities, including the Iranian Revolutionary Guard, Hamas, Islamic Jihad, the PLO, the Salvadorean FMLN, and many others. Under the language of the bill, Hedges could be deemed to have "substantially supported," or "directly supported" these groups or "associated forces," all terms that are undefined in the statute, and therefore could be subjected to indefinite detention without trial, put before a military commission, or even rendered into the custody of a foreign government.

In his court filing, Hedges argued that the indefinite detention provision violates the due process provision of the 5th Amendment, the judicial recourse provisions of Article III, the free-speech provisions of the First Amendment, as well as statutory requirements that those subject to arrest be given adequate notice of the crimes for which they are being held; and he asked that the court find that provision unconstitutional and prohibit its enforcement.

In a blog entry at the time of filing, Hedges commented: "If this law is not revoked we will be no different from any sordid military dictatorship. Its implementation will be a huge leap forward for the corporate oligarchs who plan to continue to plunder the nation and use state and military security to cow the population into submission."

De Facto Admission

On May 16, Judge Forrest preliminarily enjoined the enforcement of the section of the NDAA which allowed for indefinite military detention of U.S. citizens. She clearly did not do so lightly. The court had actually questioned all the defendants on the matter of what kinds of activities they were involved in which led them to believe that they might be targets ("covered persons") of the Act's provisions for indefinite detention. Those activities, they believed, fell under the terms of the Act identified as "substantially supporting, "directly supporting," of being "associated" with persons designated as terrorists. Then the Judge questioned the government attorney as to what the criteria were, or what some examples were, which defines these designations.

To her expressed surprise, the attorney constantly responded on behalf of the Justice Department that he had "no specific example."

At the conclusion, Forrest declared:

"It must be said that it would have been a rather simple matter for the Government to have stated that as to these plaintiffs and the conduct as to which they would testify, that [section] 1021 did not and would not apply, if indeed it did or would not. That could have eliminated the standing of these plaintiffs and their claims of irreparable harm. Failure to be able to make such a representation given the prior notice of the activities at issue requires this Court to assume that, in fact, the Government takes the position that a wide swath of expressive and associational conduct is in fact encompassed by [section] 1021.

Indeed, one can only conclude that such vague language is intended to be a cover for the police-state intent—leaving the decision as to who is the enemy, not up to the law, but to the Führer.

Not surprisingly, the Obama Administration immediately asked for a reconsideration by Judge Forrest, which she refused to grant. Then, on Sept. 12, she turned her preliminary injunction into a permanent injunction against implementation of that section of the law.

Obama Fights Back

The Federal government immediately went into action, attempting to stay the implementation of the injunction while it appealed, and filing a notice of appeal. Its argument leaned strongly on Obama's "war powers" as commander-in-chief. Judge Forrest denied the stay summarily.

The Obama Administration then went straight to the Second Circuit of the U.S. Court of Appeals, which, on Sept. 17, did issue a temporary stay pending a hearing on both the appeal, and on a permanent stay, scheduled for Sept. 28.

Lead plaintiff Hedges had the following comment on the Administration's relentless efforts to restore a section of a bill which the President claims he would not use:

"If the administration is this anxious to restore this section of the NDAA, is it because the Obama government has already used it? Or does it have plans to use the section in the immediate future?"

"The decision to vigorously fight Forrest's ruling is a further example of the Obama White House's steady and relentless assault against civil liberties, an assault that is more severe than that carried out by George W. Bush," Hedges wrote. "Obama has refused to restore habeas corpus. He supports the FISA [Foreign Intelligence Surveillance Act] Amendment Act, which retroactively makes legal what under our Constitution has traditionally been illegal—warrantless wire tapping, eavesdropping and monitoring directed against U.S. citizens. He has used the Espionage Act six times against whistle-blowers who have exposed government crimes, including war crimes, to the public. He interprets the 2001 Authorization to Use Military Force Act as giving him the authority to assassinate US citizens, as he did the cleric Anwar al-Awlaki. And now he wants the right to use the armed forces to throw U.S. citizens into military prisons, where they will have no right to a trial and no defined length of detention."

No Local Matter

Just as the Obama Administration's refusal to prosecute violations of the Geneva Convention by the Bush Administration, and its own violations of international law through drone strikes against civilians, have become an international scandal, so the NDAA matter has implications far beyond the United States. The Administration itself called Judge Forrest's ruling an "extraordinary injunction of worldwide scope," and it is determined to smash it.

As in the case of the torture at Abu Ghraib, patriotic military leaders have been among the most aggressive in opposing Obama's policy. Indicative is an open letter signed by 27 flag officers in May, in support of an amendment to the NDAA which would nullify the provision for indefinite detention of Americans.

"As retired general and flag officers, we do not make this request lightly," they wrote. "However, we strongly believe that sound national security policy depends on faithful adherence to the rule of law. Though it is lawful for the military to detain those engaged in hostilities in an armed conflict, the armed forces should not supplant our law enforcement and intelligence agencies at home. Those detained in the U.S. should not be held indefinitely without charge or trial or forced into military custody."

Among the signers, all retired officers, are Gen. Joseph Hoar (USMC); Gen. Charles Krulack (USMC); Lt. Gen. Harry Soyster (USA); Brig. Gen. John Johns (USA); and Maj. Gen. Antonio Taguba (USA).