

The Son of Patriot Act and the Revenge on Democracy by Dr. Steve Best (<http://utminers.utep.edu/best>)

In October 2001, one month after the 9-11 attack, the Bush administration forced through Congress an assault on civil liberties perversely titled the "USA Patriot Act" (a surreal acronym for "Uniting & Strengthening America Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act"). Exploiting the new climate of fear, the Bush team claimed that a free nation must give way to a secure nation. From the offices of a stolen Presidency, we now have neither.

The Patriot Act violates numerous constitutional rights, such as the First Amendment right to free speech and freedom of assembly, the Fourth Amendment right to be secure from unreasonable search and seizures, and the Fifth and Sixth Amendment rights to basic protections during criminal proceedings. Among other things, the Bush administration arrogated to Executive government the power to demand from librarians and bookstores lists of material checked out or purchased, to undertake clandestine sneak and peek operations in homes and workplaces, to monitor citizen communications by phone or the Internet, and to detain foreigners indefinitely without legal counsel. In the new Surveillance State, all government agencies can collect and share information on anyone without judicial review, as the Executive office minimizes the information citizens can collect on it and corporations through Freedom of Information requests.

Perhaps most alarmingly, the Patriot Act created a new legal category of "domestic terrorist" that is defined broadly enough to have a chilling effect on free speech and political activity. Casting its dragnet across the land, the Patriot Act states that the crime of "domestic terrorism" occurs when a person's action "appears to be intended to intimidate or coerce a civilian population [or] to influence the policy of government by intimidation or coercion." Interestingly, through this new form of citizen coercion the Patriot Act falls under its own definition and by logic should annul itself. Instead, civil disobedience and virtually any protest activity meets the definition of "terrorism" and could easily land one on the radar screen of the state. In a democracy, the role of citizens precisely is to influence government policy, but now this is considered coercion and so in Bushspeak, citizen = terrorist.

In the era of the Patriot Act, the Executive branch of government usurps ever more power, and thereby destroys the checks and balances among the three branches of government crucial for the functioning of liberal "democracy," such as it is. When the Executive branch makes important legal and policy decisions, Congress often is ignored and the courts are stripped of independent review and decision-making power. Consequently, one can expect more state repression and less accountability to Congress, the courts, and citizens alike. As stated by the Center For Constitutional Rights in their "Erosion of Civil Liberties in the Post 9/11 Era" report, "Executive Order and agency regulations violate the laws of the U.S. Constitution, the laws of the United States, and international and humanitarian law. As a result, the war on terror is largely being conducted by Executive

fiat and the constitutional liberties of both citizens and non-citizens alike have been seriously compromised.”

“Shock and Awe” Attacks on Democracy

The Patriot Act set back the struggle for civil liberties by decades, but it was only the opening volley of the Bush administration as it launches another front in its war -- the blitzkrieg on democracy. Every bad horror movie has its sequel, and it is no different in this case. Whereas the Patriot Act was enacted to hurt foreigners and non-citizens the most (after 9-11, as many as 2,000 people, mostly foreigners, were rounded up and jailed for months without formal charges and the right to legal counsel), its potential successor is designed to come after American citizens themselves. The Son of Patriot Act authorizes increases in domestic intelligence gathering, surveillance, and law enforcement prerogatives that are unprecedented in U.S. history.

In February 2003, a watchdog group called the Center for Public Integrity reported that they obtained a leaked copy of draft legislation – dated January 9, 2003 and stamped “confidential” -- the Bush administration told the Senate Judiciary Committee did not exist. The legislation is titled the “Domestic Security Enhancement Act of 2003,” or as it is unaffectionately known, Patriot Act II. Like the opportunistic debut of Patriot Act I that exploited the 9-11 tragedy and widespread fears of additional terrorist attacks, Patriot Act II reveals that the Bush administration was waiting for the next terrorist attack or its war with Iraq to spring more booby trapped legislation on Congress requiring emergency approval. If approved, Patriot Act II will plant dangerous landmines in the path of every activist and nonconformist in the land. Many members of Congress, however, are more circumspect and skeptical this time around and are challenging further efforts to erode the Constitution.

In addition to increasing secret surveillance and requiring even less juridical or political oversight of Executive power, Patriot Act II creates new crimes and punishments for nonviolent activities. It calls for fifteen new death penalty categories for “terrorism.” It authorizes secret arrests for anyone involved with an organization deemed “terrorist” and it makes giving donations to such a group a criminal action. As the government and sundry industries involved in animal exploitation try to make the “terrorist” tag stick to groups like PETA and Greenpeace, contributors to those organizations risk being identified as “terrorists.” If Patriot Act II is passed, moreover, the government will keep a DNA base on all “terrorists” and put their pictures and personal information on a public Internet site. Most alarmingly, the government could strip Americans of their citizenship and deport them if they belong or give “material support” to a “terrorist” group.

These blood-curdling measures far transcend anything established in Patriot Act I. They assail legal forms of protest and dissent, while threatening to exile all the “terrorists” who belong to organizations like PETA and Greenpeace. They subvert the very principles and logic of democracy in the name of patriotism. With a broad brush, the state intends to paint a scarlet letter on the forehead of every activist, who will then be treated like a common sex offender once their picture is posted on the Internet. Laws previously

created to curb organized crime, hooliganism, and sex offenses are now being used against animal rights and environmental activists, and these activists are being demonized accordingly in a war of public perception.

Lobbying for Tyranny: The Texas Eco-Terrorism McBill

The assault on animal rights and environmental organizations is happening from the top down and the bottom up, from both the federal level and from new initiatives of individual states. The bills currently debated in various states are the result of alliances between corporations and professional lobbying groups, and their goal is to thwart any challenge to industry rights to predation.

Deepening a dynamic as old as our nation, corporations are finding new methods and resources to gain access to politicians and policy makers. Powerful corporate lobbying organizations such as American Legislative Exchange Council (ALEC) operate as think tanks and policy makers that charge corporate clients thousands of dollars a year to join. Membership earns corporations privileged access to policy meetings that invite their input in drafting new laws and that bring them into direct contact with politicians. Corporations and trade organizations can dictate laws and public policy while hiding their tracks behind lobbying organizations. ALEC has been in the business of corporate policy prostitution for 30 years and currently operates with an annual budget of nearly six million dollars.

One key function of groups like ALEC is to draft model bills that advance corporate interests and then float them in state legislatures across the country. ALEC has drafted over 3,100 bills and passed 450 into law. Not coincidentally, as they push legislation criminalizing dissent, ALEC has over a dozen corporate clients involved in the prison industry and it has played a crucial role in passing dozens of tough anti-crime bills such as the three strike laws. The group has, consequently, helped to significantly increase incarceration rates in the U.S. and it intends to add animal rights and environmental activists to their client list.

This is obvious if one considers Texas House Bill 433, a recent draft legislation that seeks to capitalize on federal efforts to criminalize animal rights and environmental activism, and is being applied in Pennsylvania, Maine, and New York, with other states to follow. Texas HB 433 involved a partnership with ALEC and the U.S. Sportsmen's Alliance (USSA). The USSA is a militantly anti-animal rights organization comprised of hunters, fisherman, trappers, and "scientific wildlife management professionals." They defend their right to kill animals through grassroots coalition support, ballot issue campaigning, and direct lobbying efforts. In August 2002, Rob Sexton of USSA spoke to ALEC's Task Force on Criminal Justice about the growing "terrorist threat" of animal rights groups. In December 2002 the committee, headed by Representative Ray Allen (R-Dallas), voted to accept HB 433, and in February 2003 the "Animal and Ecological Terrorism Act" was sent to the Texas legislature.

As evidence of the interests sponsoring the bill, it singles out animal and environmental industries alone for special legal protection. HB 433 defines an “animal rights or ecological terrorist organization” as “two or more persons organized for the purpose of supporting any politically motivated activity intended to obstruct or deter any person from participating in any activity involving animals or an activity involving natural resources.”

Like the Patriot Act and its bastard offspring, the language here is willfully vague, but the purpose is quite specific: to cripple the animal rights and environmental movements by kneecapping their right to dissent. With HB 433 and its numerous clones, you can be labeled a terrorist if you leaflet a circus, protest an experimental lab, block a road to protect a forest, or potentially impede industry profits in any fashion. Consequently, following measures that have been attempted in Illinois and Missouri, the bill defines another “terrorist” action to be photographing or videotaping animal abuse in a facility such as factory farm or slaughterhouse. Thus, the terrorists are not the monsters who club pigs to death with metal pipes, but rather the activists, whistleblowers, or investigative reporters trying to document such sadistic abuse. Like Patriot Act II, the Texas eco-terrorist bill aims to criminalize donating money to any group smeared as terrorist, and requires that all guilty individuals supply their names, addresses, and a recent photograph to post on a public Internet database.

The USSA claims that they only seek to protect “wildlife” interests and prevent illegal actions, and do not intend to inhibit the constitutional rights of their critics. This lie is contradicted, first, by the fact that Texas already has law in place to prohibit criminal actions against property and, second, the bill unambiguously attacks basic rights. The real agenda of the USSA clearly is not to stop actions that already are illegal, but to criminalize any currently legal activities such as protests or demonstrations that pose threats to their bloodletting.

After being slammed with criticism from outraged citizens and groups including the Humane Society of the United States, the American Society for the Prevention of Cruelty to Animals, the Texas Humane Legislative Network, the Sierra Club, and the American Civil Liberties Union, Allen backed off HB 433. But he did not disavow his mission to help his friends in industry, for he resubmitted a similar bill, HB 1516, which aims to escalate criminal penalties for actions against animal and natural resource industries. Clearly, animal rights and environmental activists are becoming a threat and corporate exploiters will go to any lengths, including shredding the Constitution, to protect their profits. Michael Ratner, a human rights lawyer and vice-president of the Center for Constitutional Rights, claims that the Texas bill is unprecedented in its draconian assault on freedom. “This is unique. Even under the definition of domestic terrorism in the Patriot Act, you have to at least do something that arguably threatens people’s lives, The definitional sections of this legislation are so broad that they sweep within them basically every environmental and animal rights organization in the country.”

Creeping Fascism

As the U.S. government moves closer to tyranny, it collapses differences between foreign and domestic-born, between violent and nonviolent protest, between terrorist and citizen, between the Al Qaeda and PETA. Patriot Act I was just the first incursion in the new war against democracy, and the enemy is quickly advancing on our positions.

We are all under attack -- not just the Animal Liberation Front, but mainstream groups too – and it is important the diverse tendencies within the movement respect one another's place in the struggle and stay as unified as possible. It is absurd to blame the ALF for the new state repression. The industries and state are responding to the strength of the movement as a whole, and mainstream groups like HSUS enjoy the credibility they do specifically because the ideas and actions of more radical activists make theirs seem more moderate in comparison.

The new concept of patriotism is marketed with as much truth and logic as the packaging of happy meals. The government talks in Orwellian doublespeak that defines peace as war and war as peace, (corporate) criminality as principled moral action and principled moral action as criminal behavior. But one needs to stop expecting truth from the government and begin to see the state for what it really is – a professional bureaucracy that monopolizes the means of violence and exists largely as a political tool for the economic interests of ruling elites.

Just as the CIA's purpose abroad has been to stop democracy through any means necessary, so the FBI's function at home always has been to impede civil liberties and halt all radical movements dead in their tracks. The stories of heroes fighting to protect American democracy against gangs, the mafia, and sundry evil types are but the fables (always encouraged and pre-approved by the FBI) of comic books and television shows. The reality is otherwise. Since its inception the FBI has monitored domestic radicalism and dissent, and it has jailed, beaten, murdered, and executed radicals in this country. As evidenced by their infamous counter-intelligence program (COINTELPRO) during the 1960s and 1970s, the FBI has infiltrated, disrupted, and destroyed radical social organizations, using techniques ranging from surveillance and agent provocateurs to framing and murder. To the extent the animal rights, environment, and anti-war movements grow strong, they will do it to us too.

The current climate is one of hysteria and intense repression. National media conservatives routinely brand anti-war protestors as traitors who should be jailed. Neil Cavuto of the conservative Fox News channel that boasts "fair and balanced" coverage said to critics opposing the "liberation of Iraq" that "you were sickening then; you are sickening now." Cavuto is a news anchor, not a commentator. The yellow-ribbon-tying masses equate patriotism with blinkered jingoism, as Paleolithic "America, Love It or Leave It" cries ring throughout the wasteland of talk radio. The shrill attack on the Dixie Chicks (much of it organized by conservative media giant Clear Channel Communications) for voicing their right to a viewpoint about President Bush is a clear indicator of the barbaric impulses stirring in the nation, irrationally oblivious to the fact that if the troops in Iraq were fighting for anything, it was precisely for the Dixie Chicks to have the right of dissent. In the current neo-McCarthyist climate, blacklisting is back in

Hollywood as outspoken critics of Bush's war against Iraq (Susan Sarandon, Tim Robbins, Martin Sheen, and others) are being banned from events and suffer retaliation for their views. For some time now, conservative organizations in academia have been monitoring what "liberal" professors say about topics such as the war and the Israel-Palestine conflict. Lynne Cheney, wife of Vice President Dick Cheney, founded a new conservative group, the American Council of Trustees and Alumni, which blasted dozens of professors for not showing sufficient patriotism after 9-11. Cheney considers college and university faculty to be "the weak link in America's response to the attack."

Throughout the country people have been questioned by the FBI for expressing anti-war views. In February 2003, a man was arrested in a New York shopping mall for refusing to remove an anti-war T-shirt he was wearing, following earlier events in 2002 where FBI and police questioned a college student for an anti-Bush poster hanging in her dorm room and an activist who refused to use stamps bearing the image of the American flag. Many such outrageous incidents result from one person reporting another to authorities. In 2002, John Ashcroft tried to implement Operation TIPS (Terrorist Information Prevention System) whereby individuals were asked to monitor their fellow citizens and to report suspicious behavior. The program was not approved ultimately, but its website claimed that over 200,000 tips have been filed since September 11. Here as abroad, police monitor and gather intelligence on anti-war demonstrations that are violently subdued. Delta airlines is the first to institute a new computer system that conducts background checks on all passengers and assigns them a threat level – red, yellow, or green – to determine if they should be subjected to increased levels of security or even refused boarding. The newly created Transportation Security Administration has put over 1,000 citizens on a "no-fly" list, targeting "security risks" such as Greenpeace activists.

Increasingly, animal rights activists are being brought before grand juries and charged with violations of the RICO – Racketeer Influenced and Corrupt Organizations – Act of 1970 originally designed to fight organized crime. Grand juries are nothing but repressive mechanisms of the state that try to coerce activists to supply them with information under the penalty of 18 months in prison for non-compliance. In the wake of the controversial Fresno State "Revolutionary Environmentalism" conference in February 2003 that featured former representatives and spokespersons of the ALF and Earth Liberation Front, Virginia Tech's Board of Visitors unanimously approved a resolution to ban from the campus any group or individual that has advocated or participated in "illegal acts of domestic violence or terrorism." In a March 2003 presentation to Minnesota law enforcement officers and emergency management officials, Capt. Bill Chandler noted that although his state harbored violent neo-Nazi and right-wing militia groups like the Aryan Nation and Posse Comitatus, ALF and ELF cells are the most dangerous threats and in fact are "more dangerous in Minnesota than Al-Qaeda."

During the same time, the FBI interrupted a University of Minnesota meeting of the Student Organization for Animal Rights, asking for the names of all members of the group during the past few years. On the same day in late April 2003 the FBI raided the New Jersey office of the animal rights group Stop Huntingdon Animal Cruelty (SHAC) and the Seattle home of ALF-supporter Josh Harper. In the UK and New Jersey, SHAC

now has to contend with new “exclusion zone” laws that severely inhibit their controversial protest tactics. And in May 2003, the FBI successfully subpoenaed Fresno State University for the tape of the direct action panel that addressed a public audience of over 500 people. In May 2003, the Rocky Mountain Animal Defense group, a mainstream animal advocacy organization in Boulder, Colorado, learned that the University of Colorado police had been monitoring them as suspected “extremists” and forwarded documents about group activities (such as organizing yard sales) to Denver police. At the May 16-17 World Agricultural Forum in St. Louis, Missouri, police raided buildings housing activists and indiscriminately harassed and arrested people. On a local cop chat room, one officer wrote salivated over the kind of stun gun technology he desired to deal with the protestors: “I want that 220 Volt model that blows the teeth out of their head, just before they crap their pants.”

These are dangerous times for speaking one’s mind and for the preservation of civil liberties. If one analyzes the key defining criteria of fascist regimes in Italy, Germany, and elsewhere -- such as militarism, jingoism, national security obsessions, disdain for human rights, state controlled mass media, disdain for human rights, and bogus elections – the comparisons to the U.S. during the reign of the Patriot Act are uncanny. A crucial element in fascist systems of domination is the loss of privacy. Clearly we live in an advanced surveillance society – what some call the “transparent society” -- where our every move and word is potentially monitored by computers, cameras, recording devices, retinal and facial recognition systems, and fingerprints. Some of these measures protect us from assault or identity theft, but they also erode our privacy rights and supply personal information to businesses and the government. Bush’s Total Information Awareness System is already operating, as it develops special data mining techniques that collect all the informational footprints an individual leaves behind, ranging from doctor visits and travel plans to ATM withdrawals and email correspondence. Reversing the logic of a sound justice system, everyone is now guilty until proven innocent. In its war on Iraq, foreigners, and U.S. citizens, the Bush administration resembles the “Pre-Crime” strike force in the movie *Minority Report*, which aimed to preempt every potentially criminal thought before it became an action.

The Patriot Act has not been around for long, but it has already changed the political landscape. On March 24 2003, the Washington Post reported that since 9-11, Attorney General John Ashcroft personally has signed more than 170 “emergency foreign intelligence warrants,” three times the number authorized in the preceding 23 years. In the aftermath of the terrorist attacks, the FBI and Justice Department have issued dozens of “national security letters” that require business to turn over all electronic records on finances, phone calls, emails, and other personal information. The story makes no mention of surveillance on political activists, although from the government’s perspective they may well fall under the vague category of “other national security threats” Ashcroft and crew can target at will.

Congress will re-examine the Patriot Act in 2005, but by then inertia may have ossified the new security culture and the “war on terrorism” may still be considered the nation’s top priority. On May 8 2003, Senator Orrin Hatch, Chairman of the Senate Judiciary

Committee, tried to pass a bill that would make the “anti-terrorism” powers of the Patriot Act permanent, and thereby abolish the “sunshine” review of 2005. Fortunately, Hatch was firmly checked by both Democrats and Republicans who are increasingly alarmed about the Bush agenda to erode civil liberties in the name of national security. Still, a compromise bill passed in the Senate by a vote of 90 to 4 that expands government power to use secret surveillance against “terrorist suspects.”

Beginning with the Reagan administration in the 1980s, conservatives labored to roll back the clock on the environmental and social gains of the 1960s, and the social welfare policies dating back to the 1930s. Indeed, Bush’s time machine reaches back centuries, not decades, as he and his cronies try to annul the Constitution itself. The Bush administration, corporate lobbying groups like ALEC, and pro-violence organizations such as USSA are exploiting fear and paranoia of terrorism for their own advantage in order to justify their assault on freedom. They are shamelessly trying to gain from the tragedy that took the lives of thousands of innocent civilians on 9-11 in order to advance their agendas and protect their profits, while they shield themselves from public scrutiny. Indeed, the current wave of tyranny is part of a larger class war where Bush is subverting liberties, destroying social programs, and creating tax programs to benefit the super-wealthy. Bush has quickly distinguished himself as one of the most insane and dangerous individuals to emerge in recent history and he is hell bent on resurrecting the glory days of the Roman Empire to fulfill what he takes to be God’s plan for him and American imperialist power. The differences between Osama Bin Laden’s terrorism and George W. Bush’s terrorism are difficult to discern.

Clearly the stakes of fighting for animal rights are higher, and this should prompt new reflection on tactics. We must not be afraid or intimidated, but we also need to know our rights, or what is left of them, and to exercise particularly high levels of security. Words define reality, so we must resist being defined as violent and extremists. We must defend ourselves rhetorically and philosophically, establishing a sharp distinction between animal liberation, property destruction, protests, and demonstrations on one side, and bona fide terrorism – the willful harming or taking of life for profit or a political purpose – on the other side.

We need to spread awareness about the history and nature of state repression, from the first Red Scare of the 1920s to COINTELPRO operations in the 1960s and 1970s to today’s neo-McCarthyism. It is important to know what murderous crimes the U.S. government has committed against radical individuals and groups in the past in order to understand what it is capable of doing today.

Although the U.S. has every right to stop genuine terrorists who pose threats to the nation and its citizens, it can and must do this without violating the Constitution, basic human rights, and international law. The state cannot hide its own crimes under the mantle of national security. The government wants us to believe that security not liberty must be our overriding national goals for the indefinite future. If we let them, they will deploy this false dualism from now on to keep chipping away at our liberties until none are left. There is one sign of hope, namely that across the U.S., over 100 towns and cities have

passed resolutions against the Patriot Act. Sometimes the opposition is merely symbolic, but in some cases such as Amherst, Massachusetts, local governments are actually resisting federal mandates.

The war on freedom does not advance the war on (real) terrorism one iota; it only creates more terror within our own borders. Liberty is security: how secure do you feel knowing that Big Brother might be watching you, that you might go to jail for protesting animal abuse, that Ashcroft alone can authorize secret warrants for wiretaps and searches on you, and that all power is being centralized in the executive branch and an increasingly few number of corporations? How secure do you feel as the economy teeters on disaster, as bombs rain down on Iraq, and as the blowback against the U.S. is about to increase?

One Struggle, One Fight

If it is not already obvious, the struggle for animal rights is intimately connected to the struggle for human rights -- for free speech, freedom of association, freedom from search and seizure, and so on. The animal rights community can no longer afford to be a single-issue movement, for now in order to fight for animal rights we have to fight for democracy. It is time once again to recall the profound saying by Pastor Martin Niemoller about the fate of German citizens during the Nazi genocide: "First they came for the Jews and I did not speak out -- because I was not a Jew. Then they came for the communists and I did not speak out -- because I was not a communist. Then they came for the trade unionists and I did not speak out -- because I was not a trade unionist. Then they came for me -- and by then there was no one left to speak out for me."

Attacks on foreigners are preludes to attacks on U.S. citizens, which are overtures to assaults on the animal rights community. In the world of Bush, Ashcroft, Powell, the FBI, and corporate conglomerates, we are all becoming aliens, foreigners to their pre-modern barbarity by virtue of our very wish to uphold modern liberal values and constitutional rights. The war on terrorism is a front for the war on democracy.

It is urgent, of course, that our movement create as many vegans and animal rights activists as possible, and it is significant that conservative Matthew Scully's excellent book *Dominion* has reached a new constituency among the Right. But while Scully -- special assistant and senior speechwriter to Bush -- goes off to write more justifications for the warmongers whose policies kill human and nonhuman animals alike, unaware of the palpable contradiction between his ethics and economic policies and affiliations, we ought to consider who our real allies are.

Instead of pandering to the likes of "compassionate conservatives" the animal rights movement should forge alliances with other peace and justice movements. If we want to grow in strength and numbers we need to interface with current movements opposing patriarchy, racism, war, violence, corporate globalization, environmental destruction, exploitation, injustice, and prejudice of any kind.

All peace and justice movements have one foe in common – capitalism and the pernicious effects of its profit logic and inherent disregard for life. This means that we need to position animal rights as a progressive social movement. As the animal rights community awakens from its political slumbers, it needs to engage in a mutual education dialogue with progressive movements. They can teach the animal rights community a few things about capitalism and social injustice, and the animal rights community can educate them about animal rights, the limitations of humanism, and the need to adopt a vegan diet.

Human rights, animal rights – it truly is one struggle.