

Obama Grabs Repressive Tools

Whistleblowers and solidarity activists beware: The Obama Administration may be coming after you. It is using the repressive powers of the state to try to send a chill down the backs of many people who might dream of opposing U.S. policy.

The WikiLeaks revelations fell like a hammer on the repressive reflex of those in power. God forbid that in a democracy the citizenry actually knows what its government is up to, but pundits and politicians alike viewed the publication of Pentagon documents and State Department cables as the gravest possible assault.

The Pentagon tossed Private Bradley Manning, who is suspected of spilling documents to WikiLeaks, into solitary confinement for the last half year “for no discernable reason other than punishment,” said Psychologists for Social Responsibility. The group added that “solitary confinement is, at the very least, a form of cruel, unusual, and inhumane treatment in violation of U.S. law.”

That was just the beginning. Attorney General Eric Holder opened a criminal investigation of Julian Assange and threatened to charge him under the Espionage Act of 1917. And both houses of Congress introduced bills to amend that oppressive act to make it even more oppressive. Anyone would be guilty of violating the Espionage Act if that person knowingly and willfully disseminated any classified information about U.S. human intelligence activities “in any manner prejudicial to the safety or interest of the United States.”

Note the immense sweep of “in any manner.” And who would define “the safety,” much less the “interest,” of the United States?

“I call on all American citizens to rise up and insist on repeal of the Espionage Act immediately.”

—*Naomi Wolf*

Under this elastic language, *The New York Times* and *The Washington Post* would have committed a crime when they published the Pentagon Papers.

The dusting off and polishing of the Espionage Act should fill you with great alarm. As Naomi Wolf has argued so well, members of Congress and the

White House “are manipulatively counting on Americans to have no knowledge or memory of the dark history of the Espionage Act, a history that should alert us all at once to the fact that this Act has only ever been used—was designed deliberately to be used—specifically and viciously to silence people like you and me.” She reminds us that Eugene Victor Debs was sentenced to ten years in prison “for daring to read the First Amendment in public,” and that “E. E. Cummings spent three and a half months in a military detention camp under the Espionage Act for the ‘crime’ of saying that he did not hate Germans.”

But don’t be surprised if the revision of the Espionage Act goes through. Senators Scott Brown, John Ensign, and Joe Lieberman introduced it in the Senate, and the Republicans control the House. So we may see bipartisanship in the service of repression.

Meanwhile, according to an Office of Management and Budget memo that NBC got a hold of, federal agencies are supposed to develop an “insider threat program.”

Under this program, federal supervisors would be on the watch for “behavioral changes” that somehow would suggest that employees may be leakers.

Agencies are also supposed to hire psychiatrists to gauge the “despondence or grumpiness” of their employees as an indicator of “trustworthiness.”

Polygraphs are coming back. What’s more, supervisors are supposed to “capture evidence” of “post-employment activities.”

So if you’re a federal employee, you may become a perpetual suspect—even when you retire. That’s enough to make anyone grumpy or despondent.

But it’s not like President Obama waited for the WikiLeaks controversy to start clamping down. The most ominous assault had nothing to do with WikiLeaks.

On September 24, Obama’s FBI descended on the homes and workplaces of fourteen socialists and solidarity activists working on Palestinian and Colombian issues in the Midwest. Many of the activists had

helped organize protests against the Republican National Convention in Minneapolis in 2008.

Twenty-five FBI agents came to the door of long-time Chicago activists Joe Iosbaker and Stephanie Weiner at 7:00 in the morning.

The feds stayed for ten hours, rummaging through their house, and then leaving with thirty boxes of their belongings.

The agents even went through their son's T-shirt drawer and separated those that they considered controversial from those they didn't, says Weiner.

At one point, the agent in charge was called in to evaluate one of the shirts because it said "Hellboy" on it, she recalls.

The pretext for this raid, and others that followed, was that the activists were "providing material support" or "attempting to provide material support" or "conspiring to provide material support" to groups that are listed by the State Department as terrorists.

Providing "material support" became a crime as part of Bill Clinton's Antiterrorism and Effective Death Penalty Act of 1996. Under the Patriot Act, the law was amended to define "material support" as providing "any property, tangible or intangible, or service," and that service includes providing "expert advice or assistance."

The Obama Administration defended the statute before the Supreme Court last June in a case called *Holder v. Humanitarian Law Project*. Then-Solicitor General Elena Kagan argued that even if human rights activists were urging groups on the terrorist list to dispense with their violent activities, the activists would still be guilty of providing "expert advice" and therefore could face fifteen years behind bars. Kagan and the Obama Administration prevailed in a 6-3 decision by the Court.

"The Court ruled—for the first time in its history—that speech advocating only lawful, nonviolent activity can be subject to criminal penalty, even where the speakers' intent is to discourage resort to violence," said Georgetown law professor David Cole, who represented the Humanitarian Law Project, in an article for *The New York Review of Books*.

This decision represents an astonishing assault on our First Amendment rights to freedom of speech and freedom of assembly.

The FBI continues to use brass knuckles against the solidarity activists. It has empaneled a grand jury in Chicago. But the fourteen activists all signed a letter to federal prosecutor Patrick Fitzgerald asserting their Fifth Amendment rights and advising him that they would not cooperate with his investigation. Fitzgerald has now subpoenaed a total of twenty-three people to appear before the grand jury, and he seems to be focusing on those who visited with Pales-



tinians in the Occupied Territories.

Sarah Smith is one of them. The FBI came calling on her on December 3.

"I took a trip last summer to Israel and Palestine. I am Jewish and wanted to see firsthand what life is like for Israelis and Palestinians," she said. "I went with two Palestinian American friends. You would think Jews and Palestinians going together to visit Israel and Palestine is something the U.S. government would encourage. Instead, all three of us are now being ordered by the FBI to go before a grand jury for going on that trip."

Fitzgerald has also resubpoenaed three of the activists who asserted the Fifth: Tracy Molm, Anh Pham, and Sarah Martin. Organizers worry that Fitzgerald will compel the three to testify by issuing them immunity, and if they refuse to do so, he can then toss them in jail.

These strong-arm tactics must stop.

The man who ran for President as a professor of constitutional law and a restorer of civil liberties is now dragging out some of the most repressive tools at his disposal. And he's using them to go after not suspected Al Qaeda terrorists but whistleblowers and leftwing solidarity activists. That should serve as a warning to us all.

—Matthew Rothschild

"It's like the bad old days of Richard Nixon."

—Chuck Samuelson, executive director of the Minnesota ACLU