

# Fear into Fascism: The Rule of Martial Law

The 109<sup>th</sup> US Congress, like a story right out of a Roman History textbook, last week crowned the President, George W. Caesar. The militaristic, "commander-in-chief" doctrine has wrestled the rule of law from the hands of our "lackey Congress" in favor of executive fiat. The President, with the stroke of his pen, will soon wield the "legal authority" to kidnap, torture, force confessions and fix the trials of any person he deems an "unlawful enemy combatant." Cloaked in the legitimacy of a submissive and obedient Congress the American Republican gets legislated away.

Consider the dictatorial power handed to the President in the language of the Military Commissions Act of 2006 by throwing out previous standards in the Uniform Code of Military Justice (UCMJ):

"The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require."

The language of the bill takes pains to point out that the UCMJ does not apply to military commissions for "unlawful enemy combatants" when it states, "Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter."

The Military Commissions bill then goes on to relieve the President and Secretary of Defense from the obligation to adhere to the the 4<sup>th</sup> Amendment protection from unreasonable search and seizure, 5<sup>th</sup> Amendment, rights to due process, and protection from self-incrimination, and the 6<sup>th</sup> Amendment right to a speedy trial. It states in fact, "(d) Inapplicability of Certain Provisions- (1) The following provisions of this title shall not apply to trial by military commission under this chapter:

- (A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.
- (B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.
- (C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation."

President Bush and Secretary Donald Rumsfeld now possess unilateral power to designate any person who is not a citizen an "unlawful enemy combatant." And with that declaration comes the right of Bush or any future President to capture and detain, as long as forever, any person deems to have committed "hostilities" against the United States. Reports from Iraq and Afghanistan reveal this often amounts to US/Coalition Forces kicking in the door of a home, rounding up entire families and taking the fighting age men into custody. I like to call this plain old fashion kidnapping. Mind you these "arrests" are often based on nothing more than hearsay evidence from local people.

Furthermore there is no requirement to a speedy trial and no limits on the detention of prisoners. They will be released as soon as the American people are safe from terrorism. This means the US will be holding prisoners indefinitely in the absence of a real crime and the prosecution to prove it. I am not holding my breath, at least, not as long as [Khalid Sheik Mohammed](#), who reportedly withstood [water boarding](#) by his American captors for a full 2 minutes. He and many more "unlawful enemy combatants" of the future will have lots of time

now to improve their hold your breath underwater time thanks to the now more legitimate US torture regime. I wonder if old Rumsfeld could withstand longer than 2 minutes of his coveted water boarding technique?

Not worried about the growing threat of these dictatorial powers? Think about the bill's definition of enemy combatant and who you know that may be eligible? It states, "The term 'unlawful enemy combatant' means--"

(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

(B) CO-BELLIGERENT- In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy."

The President and Secretary of Defense alone will decide what "[hostilities](#)" means and how it applies to the "[unlawful enemy combatant](#)" status of detainees. A plan and policy of unending war may continue for generations, without review or challenge by the courts or Congress. One individual, George W. Bush, possesses the unconstitutional powers to declare martial law, take human beings to secret prisons never to be seen again all in pursuit of his "Global War on Terror." Are you feeling the chill down the spine? Will we leave our children and the world a legacy of American dictatorship and war?

President Bush and Secretary Rumsfeld have both made much ado about the fascist threat we face from our enemies in the so-called, "Global War on Terror." In fact Rumsfeld compared protesters and critics of the Iraq War with Nazi sympathizers. Now does he mean IBM, Ford Motor Co., McDonnell-Douglas and other Americans who never saw a war profit they didn't like, even from Hitler? Perhaps Bush and Rumsfeld should actually read the telling words of Benito Mussolini's essay, *The Doctrine of Fascism*.

"Above all, Fascism . . . believes neither in the possibility nor in the utility of perpetual peace. It thus repudiates the doctrine of Pacifism." Hmmm? Does that sound more like Rocky Anderson and Iraq War protesters or Bush, Rummy and Republi-Co.? Mussolini goes on, "War alone brings up to their highest tension all human energies and puts the stamp of nobility upon the peoples who have the courage to meet it. All other trials are substitutes, which never really put a man in front of himself in the alternative of life and death." Ahhh yes, the glory of war, it doesn't get any better for the Mussolini's and Bush's of the world. The fantasy of a heroes war that President Bush often imagines in his speeches was shared by Mussolini too.

A question remains, when and where will the next state of martial law be declared? New Orleans, New York? Just how and why will "circumstances require" the next military occupation? Iranian Nuke scare, Syrian assistance to Hezbollah? As the Military Commissions Act of 2006 becomes a formal part of US policy, I wonder who the "unlawful enemy combatants" of the not so distant future might be? Lawful immigrants, Muslim men? The voting record of Congress is shameful in turning Constitutional powers over to the President for the last 5 years. The vote on the Military Commissions Act of 2006 was no exception. Below is the recorded vote for the House and Senate in favor of the bill. Democrats are in italics.

## House of Representatives

Aderholt Akin Alexander <i>Andrews</i> Bachus	King (IA)
Baker Barrett (SC)	King (NY)
<i>Barrow</i> Barton (TX)	Kingston Kirk Kline Knollenberg Kolbe
Bass Bean Beauprez Biggert Bilbray	Kuhl (NY)
Bilirakis <i>Bishop</i> (GA)	LaHood Latham Lewis (CA)
Bishop (UT)	Lewis (KY)
Blackburn Blunt Boehlert Boehner Bonilla	Linder LoBiondo Lucas Lungren, Daniel E.
Bonner Bono Boozman <i>Boren Boswell</i>	Mack Manzullo Marchant <i>Marshall</i>
Boustany Boyd Bradley (NH)	Matheson McCaul (TX)
Brady (TX)	McCotter McCrery McHenry McHugh
<i>Brown</i> (OH)	<i>McIntyre</i> McKeon McMorris Rodgers Mica
Brown(SC)	Miller (FL)
Brown-Waite, Ginny Burton (IN)	Miller (MI)
Buyer Calvert Camp (MI)	Miller, Gary <i>Moore</i> (KS)
Campbell (CA)	Murphy Musgrave Myrick Neugebauer
Cannon Cantor Capito Carter Chabot	Northup Norwood Nunes Nussle Osborne
<i>Chandler</i> Chocola Coble Cole (OK)	Otter Oxley Pearce Pence <i>Peterson</i> (MN)
Conaway <i>Cramer</i> Crenshaw Cubin <i>Cuellar</i>	Peterson (PA)
Culberson Davis (AL)	Petri Pickering Pitts Platts Poe Pombo
Davis (KY)	<i>Pomeroy</i> Porter Price (GA)
<i>Davis</i> (TN)	Pryce (OH)
Davis, Jo Ann Davis, Tom Deal (GA)	Putnam Radanovich Ramstad Regula
Dent Diaz-Balart, L. Diaz-Balart, M.	Rehberg Reichert Renzi Reynolds Rogers
Doolittle Drake Dreier Duncan <i>Edwards</i>	(AL)
Ehlers Emerson English (PA)	Rogers (KY)
<i>Etheridge</i> Everett Feeney Ferguson	Rogers (MI)
Fitzpatrick (PA)	Rohrabacher Ros-Lehtinen <i>Ross</i> Royce
Flake Forbes <i>Ford</i> Fortenberry Fossella	Ryan (WI)
Foxx Franks (AZ)	Ryun (KS)
Frelinghuysen Gallegly Garrett (NJ)	<i>Salazar</i> Saxton Schmidt Schwarz (MI)
Gerlach Gibbons Gillmor Gingrey Gohmert	<i>Scott</i> (GA)
Goode Goodlatte <i>Gordon</i> Granger Graves	Sensenbrenner Sessions Shadegg Shaw
Green (WI)	Shays Sherwood Shimkus Shuster
Gutknecht Hall Harris Hart Hastings (WA)	Simmons Simpson Smith (NJ)
Hayes Hayworth Hefley Hensarling Herger	Smith (TX)
<i>Herseth</i> Higgins Hobson Hoekstra <i>Holden</i>	Sodrel Souder Spratt Stearns Sullivan
Hostettler Hulshof Hunter Hyde Inglis (SC)	Sweeney Tancredo <i>Tanner Taylor</i> (MS)
Issa Istook Jenkins Jindal Johnson (CT)	Taylor (NC)
Johnson (IL)	Terry Thomas Thornberry Tiahrt Tiberi
Johnson, Sam Keller Kelly Kennedy (MN)	Turner Upton Walden(OR)
	Walsh Wamp Weldon (FL)
	Weldon (PA)
	Weller Westmoreland Whitfield Wicker
	Wilson (NM)
	Wolf Young (AK)
	Young (FL)

## U.S. Senate

Alexander (R-TN)	Kyl (R-AZ)
Allard (R-CO)	Landrieu (D-LA)
Allen (R-VA) Bennett (R-UT)	Lautenberg (D-NJ)
Bond (R-MO)	Lieberman (D-CT)
Brownback (R-KS)	Lott (R-MS)
Bunning (R-KY)	Lugar (R-IN)
Burns (R-MT)	Martinez (R-FL)
Burr (R-NC)	McCain (R-AZ)
Carper (D-DE)	McConnell (R-KY)
Chambliss (R-GA)	Menendez (D-NJ)
Coburn (R-OK)	Murkowski (R-AK)
Cochran (R-MS)	Nelson (D-FL)
Coleman (R-MN)	Nelson (D-NE)
Collins (R-ME)	Pryor (D-AR)
Cornyn (R-TX)	Roberts (R-KS)
Craig (R-ID)	Rockefeller (D-WV)
Crapo (R-ID)	Salazar (D-CO)
DeMint (R-SC)	Santorum (R-PA)
DeWine (R-OH)	Sessions (R-AL)
Dole (R-NC)	Shelby (R-AL)
Domenici (R-NM)	Smith (R-OR)
Ensign (R-NV)	Specter (R-PA)
Enzi (R-WY)	Stabenow (D-MI)
Frist (R-TN)	Stevens (R-AK)
Graham (R-SC)	Sununu (R-NH)
Grassley (R-IA)	Talent (R-MO)
Gregg (R-NH)	Thomas (R-WY)
Hagel (R-NE)	Thune (R-SD)
Hatch (R-UT)	Vitter (R-LA)
Hutchison (R-TX)	Voinovich (R-OH)
Inhofe (R-OK)	Warner (R-VA)
Isakson (R-GA)	
Johnson (D-SD)	