

Constitutional Ennui?

BY RACHEL GILLETT

I do not need to explain why I say things. That's the interesting thing about being the president. Maybe somebody needs to explain to me why they say something, but I don't feel like I owe anybody an explanation. — George W. Bush

The administration of George W. Bush is currently under the limelight for authorizing wiretaps of ordinary citizens. It paints the issue as one of the difficulties America faces in balancing civil liberties and national security during times of terror, and the mainstream media has followed along with the official line. But the real issue is far more troubling.

In his State of the Union speech on January 31, 2006, Bush claimed that he used the authority given by “the Constitution and by statute” to authorize his so-called terrorist surveillance program in order to prevent future attacks. “If there are people inside our country who are talking with al-Qaida, we want to know about it,” Bush continued, “because we will not sit back and wait to be hit again.”

But Bush's excuses and fearmongering don't actually address the issue. If al-Qaida is calling, of course the government should know. And the government has the right to eavesdrop on such calls as long as a warrant has been issued by the secret court established under the Foreign Intelligence Surveillance Act (FISA) of 1978—a warrant easily obtained. The government can even eavesdrop *without* such a warrant for up to seventy-two hours if it's really in a hurry. Thus the administration clearly has no need to engage in illegal wiretapping or any unconstitutional surveillance to pursue terrorists.

Yet the Bush administration has been violating the FISA laws and has had the National Security Agency (NSA) engage in domestic spying, including the “data mining” of millions of phone calls. Bush insists that this program is applied only to a limited number of people, those with known links to al-Qaida or similar terrorist organizations. But why would his administration need to completely ignore the laws that protect citizens' rights and enable him to obtain warrants quickly? We can only assume—in fact, we must assume—that the administration is bypassing these laws because it *wouldn't* be able to obtain warrants for the surveillance it's currently engaged in. This means the administration is probably spying illegally for political reasons on non-terrorist groups and individuals.

To add insult to injury, we find out that the *New York*

Times waited over a year to print the warrantless wiretapping story. Frequent *Humanist* contributor Norman Solomon in his December 27, 2005, article “Where Was the *New York Times* When It Mattered?” points out that the *Times* had earlier been completely uninterested when, in early March 2003, the *London Observer* revealed that the NSA had been spying on the delegations of the United Nations Security Council in New York. The NSA had intercepted phone calls and e-mails of those delegations whose votes the administration sought in its push for the invasion Iraq—an obvious attempt to manipulate them into voting for the pro-war resolution. This spying had nothing to do with preventing a terrorist attack. And, as Solomon notes, “the most powerful U.S. news outlets gave the revelation the media equivalent of a yawn.”

Since those in the administration got away with illegal spying before, why would they stop now? Given their track record of ignoring *habeas corpus*, the right to legal representation for so-called enemy combatants, and international conventions against torture, they must have concluded it was unlikely that their mere violation of U.S. citizens' privacy rights would be reigned in by the public they had made ever fearful of another 9/11. And given the scant media attention to previous violations of the FISA law, there would be no trouble from that quarter, either.

Sadly, their conclusion is largely correct. The public and the media really don't seem sufficiently concerned about this abuse of executive power. “I don't feel like I owe anybody an explanation,” Bush said. And it's likely that he won't be forced to provide one—allowing his administration to continue to pick and choose which laws to obey.

If we don't impeach this president and hold him accountable for those laws broken by him and his cronies, will there be any laws left to hold him in check—or any of our fundamental rights he can't violate? We have the power to call our representatives and demand such action—if we care.

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