

GLOBALIZATION: THE DESTRUCTION OF THE RULE OF LAW...

by Connie Fogal, Nov 18, 2001

"There will be deliberate and incremental changes to Canadian Law. ...Bill C 36 is dramatic and complex. ...We need the authority of it in order to implement twelve (12) international treaties that Canada has entered respecting terrorism." Stephen Owen, Member of Parliament, Vancouver Quadra, November 14, 2001, public meeting in Vancouver, BC, Canada

This is an admission that these "terrorism " laws are about the completion of globalization (read corporatization, read fascism), not the elimination of terrorism. The WTO commands are that there will be a liberalization and harmonization of domestic laws to accommodate the WTO agenda. That means Canadian laws have to be changed according to the WTO agenda, not the needs of Canadians for Canadian interests. The twelve international treaties Owen talks of referred to in Bill C 36 already have sufficient attention in existing Canadian laws. We do not need the Draconian measures of Bill C 36 to meet Canada's commitments in those United Nations covenants. To find the United Nations Conventions in issue see <http://untreaty.un.org/English/Terrorism.asp>

The 9/11 events in New York are being used to frighten us into accepting the imposition of a punitive inquisitorial system of law in replacement of the Rule of Law; law that has been developed over centuries since the Magna Charta, the Great Charter of English personal and political liberty, obtained from King John in 1215. In my view, Bill C36, Bill C 35 and other bills in the works intended to change our law, including dramatic changes to Immigration and refugee law, customs and border protection law, destroy both the rule of law and democracy in Canada. We are destroying the laws that protect Canadians in order to satisfy the dictates of George Bush, the instrument of the New World Order.

On November 13, 2001, President Bush declared an "extraordinary emergency" that empowers him to order military trials for suspected international terrorists and their collaborators, bypassing the American criminal justice system, its rules of evidence and its constitutional guarantees. The presidential directive, signed by Bush as commander in chief, applies to non-U.S. citizens arrested in the United States or abroad. The president himself will decide which defendants will be tried by military tribunals. Defence Secretary Donald H. Rumsfeld will appoint each panel and set its rules and procedures, including the level of proof needed for a conviction. There will be no judicial review. (Reported by George Lardner Jr. and Peter Slevin, Washington Post, 11/14/01)

The New York Times reported November 14, 2001 that the Justice Department has asked law enforcement authorities across the (U.S.A.) to pick up and question 5,000 men, most from Middle Eastern countries, who entered the country legally in the last two years. This is part of a sweeping U.S.A. government effort to expand the investigation into Al Qaeda's network and clear the way for the more aggressive prosecution of anyone

charged with terrorism. Under the order, the president himself is to determine who is an accused terrorist and therefore subject to trial by the tribunal. The order states that the president may "determine from time to time in writing that there is reason to believe" that an individual is a member of Al Qaeda, has engaged in acts of international terrorism or has "knowingly harbored" a terrorist.

The same New York Times article said the names of 5000 people that the U.S. Justice department wants to interview were compiled from Immigration and State Department records of people who entered the U.S.A. since Jan 1, 2000, on tourist, student, or business visas. Only men aged 18 to 33 with those visas that are living in the U.S are on the list.

There are about 800 people arrested and detained in Canada as suspects who have been denied access to lawyers and family. (Rocco Galati, submissions to Justice and Human Rights Committee on behalf of the Canadian Islamic Congress, Nov.5,2001) <http://www.canadianliberty.bc.ca/liberty-vs-security/>

President Bush is talking of sending suspected terrorists to countries that sanction torture for investigation. U.S.A. media is openly talking about using torture as an investigative technique. "The legitimacy of torture as an investigative tool is the latest in a progression of disturbing and horrific topics the news media is now presenting to its audience," New York Times <http://www.nytimes.com/2001/11/05/business/media/05TORT.html?todayshheadlines>

Nowhere in international law or in western democracies is torture sanctioned. The highest court in Israel denounced the use of torture in Israel and forbade it. It has come to a sorry state that in the year 2001 such a sick concept as torture is contemplated.

In Canada, our Parliament is preparing new laws on immigration and customs and border protection to harmonize with the US laws. Our sovereign right and entitlement to make laws in our tradition and according to our social ethic is being thrown away by Parliamentarians who know no history nor law, or who are cowards cringing and cowering before a bully, or who are themselves culpable.

What is the Rule of Law?

Margot E. Young and Donald J. Sorochnan Q.C. give us helpful definitions and explanations in *Pepper in Our Eyes, the Apec Affair*, Wesley Pue, editor, UBC Press 2000, Vancouver, Toronto ISBN 0-7748-0780-6 paperback

Margot E Young in her article "Relax a Bit in the Nation" Constitutional Law 101 and the APEC Affair says there are two unwritten elements of Canada's constitution, two principles that are implicit and essential. They are the Rule of Law and Democracy. (p45) She boils down the rule of law to two simple notions:

1. The rule of law requires that individuals be protected from arbitrary power.

2. The rule of law means that all persons- ordinary citizens or members of the government- are equally subject to the law: one law for all. (P47)

She sets out the connections of the rule of law in our constitution (pp45-46):

- * The Supreme Court of Canada states that the principle of the rule of law is clearly a principle of our constitution and democracy.
- * The rule of law lies in the preamble (the interpretive guide) to the Charter of Rights and Freedoms "Whereas Canada is founded on principles that recognize the supremacy of God and the rule of law".
- * The preamble to the Constitution Act, 1867 imports into Canadian constitutional structure the principles and postulates of the United Kingdom where the rule of law has long been understood to be the basis of British law.
- * The Supreme Court of Canada has held that the rule of law is implicit in the nature of a constitution.

Donald J. Sorochnan Q.C. at p.57 The Apec Protest, the Rule of Law, and Civilian Oversight of Canada's National Police Force wrote "The rule of law means that everyone is subject to the ordinary law of the land. This is so regardless of public prominence or governmental status. It requires the law to be applied equally to all, without fear or favour and in an evenhanded manner between government and citizen. It ensures that all are equal before the law. The rule of law is not the law of the ruler. There is no exemption from the ordinary law of the state for agents of government, and no one, no matter how important or powerful, is above the law."

So, ask Canada's Parliamentarians why they (except the NDP caucus) are creating a new law (Bill C 35) that would exclude known state terrorists from the application of Bill C 36, Canada's anti-terrorism law? See BILL C-35, An Act to amend the Foreign Missions and International Organizations Act
<http://www.parl.gc.ca/37/1/parlbus/chambus/house/bills/government/C-35/C-35_1/C-35TOCE.html>

See article written by Richard Saunders, Coordinator, Coalition to Oppose the Arms Trade. " Bill C -35: Granting Diplomatic Immunity to State Terrorists" at <http://www.canadianliberty.bc.ca/liberty-vs-security/richard_sanders-bill-c35.html> or at Web site <<http://www.ncf.ca/coat>>

There are principles of justice that form the basis of the Rule of Law. These principles have been defined by the Conference on Security and Cooperation in Europe (CSCE) attended by all the European countries, Canada, and the United States in Paris (1989), Copenhagen (1990), and Moscow (1991) (Referred to by Donald J. Sorochnan Q.C in Pepper in Our Eyes, aforesaid at page 59.) At page 60 Sorochnan refers to the broader principles of justice recognized by the conferences. Bill C 36 violates the following principles:

- *Everyone will be presumed innocent until proven guilty according to law.

- *Any person arrested or detained on a criminal charge will have the right to be brought promptly before the judge or other officer authorized by law to decide the lawfulness of the arrest or detention.
- *Everyone will be entitled to a fair and public trial.
- *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.
- *The government and the public authorities have a duty to comply with the constitution and to act in a manner consistent with law.
- *Human rights and fundamental freedoms will be guaranteed by law.
- *Everyone will have an effective means of redress against administrative decisions.
- *Judges will be independent, and the public judiciary will operate impartially.
- *The independence of the legal profession will be protected.
- *Everyone will have the right to defend himself or herself in court in person or through prompt legal assistance, which will be given free if the person does not have sufficient means to pay for it.
- *Domestic legislation will comply with international laws relating to human rights, including guarantees for the freedom of information and communication, travel, thought, conscience and religion, right of peaceful assembly, and demonstrations, associations, private property, etc

Antiterrorism bills are being passed in various western former “democracies”, including the US, Britain, Australia, Canada. They do far more than eliminate civil liberties. They eliminate justice. They return to an inquisitorial system of arbitrary arrest and detention (the "disappeared"). Summarized police allegations replace evidence (proof). The concept of evidence (proof) is gone. Accusation equals guilt. The concept of innocent until proven guilty is gone. The two essential elements of criminal law to establish guilt, mens rea and actus reus, are gone. (Mens rea is intention to do a crime and actus reus is the fact of doing the crime.) If the state decides a terrorist act was committed and you were in anyway connected or associated, you are guilty whether or not you intended to do the criminal act or whether or not you did the act. The right to remain silent is gone. The principle of confidentiality between lawyer and client is gone (akin to forcing a priest to reveal the contents of the confessional). The concept of a fair trial and the right to a full defence is gone. People or organizations accused of being a terrorist are put on a list. Anyone who associates with listed person or organization can be by association defined as a terrorist. Hence lawyers who defend people accused of being a terrorist face being defined themselves as terrorists. Property and bank accounts can be frozen and confiscated by accusation of being a terrorist. Punishments are excessive and severe (life imprisonment in many cases). These are some of the horrors of Bill C 36.

Rocco Galati, lawyer for the Canadian Islamic Congress, in submissions re Bill C 36 to Canada's Justice and Human Rights Committee on November 5, 2001 said "... the Muslim and Arab communities will be directly affected. You just have to witness the approximately 800 illegal detentions in this country currently going on in the correctional centres before you even have Bill C-36, where Muslims and Arabs have been directed not

to be able to phone their lawyers, see their lawyers, phone their families, see their family as of September 11. That's going on right now. I see it in the jails every day."

"This bill is, in my humble submission, obscene in the net it casts. You might as well have deleted the constitution from our landscape. This bill is so overbroad, it catches socio-economic and political offences. It creates them: strikes, work stoppages, boycotts, protests, association, assembly, and free speech."

"What's insidious about this bill, if you read section 27 and the definition of what is 'a prejudicial act to the safety or interest of the state', there are various economic crimes in here that relate back to the definition of terrorism which would catch, (boycotts for environmental and ethical reasons) would catch any legal strike against the financial markets. This is as much about stomping anti-globalization, anti-poverty, anti-logging protest as it is about terrorism. In fact, if it were just about terrorism, this bill would be 10 to 15 pages long. You are invoking extraordinary measures that we haven't since June 21, 1941 and October 1970 in terms of secret trials, secret trial mechanisms, the abrogation of the right to remain silent, self-incrimination, the 72-hour detention without charge. You have investigative hearings that do away with all charter rights, and then you have seizure of property, and then to charge, convict and sentence someone even without knowledge if he's a facilitator with secret trials."

"I'm probably the only one in the room who's actually conducted these secret trials under the Immigration Act (An existing act without Bill C 36). They are the substance of a dictatorship, of a police state. You don't get to see the evidence, ever. It's all dealt with by the judge, it's covered. The accused person never gets to see it. "

....

"The problem with our legislation (Bill C 36) that makes it stand out like a sore thumb is, how do you get an alleged terrorist convicted and how do you have his assets seized? It's in the mechanisms of the 72-hour detention, the investigative hearings, and the secret trials before the trial court that this legislation is unprecedented anywhere in the world. "

...

"...it's the way people are arrested without cause or need for a probable cause, and held for 72-hours. They can, in theory, be out the door and back in for another 72, and another 72. There's nothing that stops that. We saw that during the FLQ crisis. Secondly, it's hauling people in for investigative hearings. If you don't answer a question, that's an offence, and you can go to jail, even if they ask you, do you have marijuana at home. There's nothing that protects against self-incrimination of non-terrorist acts in the bill, for instance. Thirdly, when you get to court, and this is unprecedented, the star chamber proceedings that you've mirrored from the immigration terrorist certificates that we've seen for the last twelve years, are unprecedented. They're medieval; they're inquisitorial. I've done them. I, in fact sir, won one in Mr. Jabala's xxx case in 1999. CSIS did not like the result. He has been re-arrested on the same allegations in 2001. You can be re-arrested and re-arrested even if you're acquitted. That is unprecedented anywhere in the world. As you know, Italy had its terrorism nightmare in the seventies. Germany had its terrorism nightmare in the seventies and eighties. "

....

“... this, in my humble view and no offence to who drafted it, is a reptilian piece of legislation because it's really conniving in the way it works.”

(Mr. Galati illustrates how you have to jump from one part of Bill C 36 to another to follow what it actually does, and to show how tinkering with it will not fix it.) “You have to deal with Section 27 of the bill (of the Official Secrets Act part of the bill) that amends what is ‘prejudicial to the safety and interest of the state’, which then feeds in to subparagraph (83.01)(b)(1)(B) because (B) talks about ‘something that in whole or in part with the intention of intimidating the public or a segment of the public with regard to its security,’ and I underline, ‘including its economic security.’”

“Now, you have to then go to the amendment under Section 27 of the Official Secrets Act, that defines that as a ‘prejudicial safety interest’, and then you have to go to subparagraph (S27)3(1)(d),(f),(j),(k), and (l) and that covers...you can't do anything to adversely affect the financial markets, treaty negotiations for instance, in Quebec City, or APEC.”

“That amendment to the Official Secrets Act, coupled with ‘economic security interests’, means that political and economic dissent are still acts of terrorism under this law. And I'll read you some of those subparagraphs that are there. If you do anything that ‘adversely affects the stability of the Canadian economy, the financial system or any financial market in Canada without reasonable economic or financial justification’. So the French farmer who wants to boycott McDonalds and maybe dump something with a dump truck is a terrorist under this provision.”

“Sub (l) (if you do anything that) ‘impairs or threatens the capability of the Government of Canada to conduct diplomatic or consular relations or conduct and manage international negotiations.’ So Quebec City, all the protesters would be terrorists and, in fact, RCMP Commissioner Zaccardelli was asked publicly a few weeks ago could he have used Bill C-36 in Quebec City and he said he might probably not, but yes he could have used it to arrest those as terrorists.”

“So (in answer to a question put by a member of the committee whether deleting section 83.01(E) would resolve the concerns against the Bill) deleting the lawful protest part of (83.01)sub (E) does not do it. You have to go to (b) in 83.011(b)(i)(B) and you have to, unless you delete the amendments to the Official Secrets Act, now (named) the Security of Information Act, you have to delete that reference to ‘economic security’ because then that in turn makes all civil protests for anti-globalization, anti-logging, antipoverity, anti anything that doesn't have an economic or financial justification an act of terrorism and that's why I referred to this as reptilian before because it really is a slivery piece of legislation.”

“It's not clear in the definition of terrorism (that civil protests are terrorist acts). It's by reference to ‘economic and financial security’ and when you go over to the Official Secrets Act you see that anybody who voices an opinion converse to the government of the day is a terrorist under this (Bill C 36).”

(End of reference to Galati submissions)

The system is already operating as if Bill C 36 was in place. It is using existing law (sufficiently Draconian in its own right) to effect it. Protestors are already being affected. A US citizen social activist, Lisa Fithian, was arrested in Ottawa, Canada November 13, 2001 in advance of the G20 economic summit of finance ministers. She was being held by Citizenship and Immigration authorities awaiting deportation. She was in Canada to teach peaceful protest techniques for the G20 economic meetings. She has been in and out of Canada several times during the past year. Grounds for detention include being a flight risk before a deportation hearing can take place, or being deemed a risk to Canadians. (The Canadian Press, Wednesday November 14, 2001.)

At the protest against the G20 economic summit November 17, 2001 in Ottawa, Canada, where thousands demonstrated, the police unleashed police dogs that attacked peaceful protestors. (The good news is that simultaneous to the G20 protests in Ottawa, in 60 cities in Europe tens of thousands of protestors were demonstrating against the G20 summit as they were in other parts of Canada. Source: C.B.C radio, Sunday Morning, November 18, 2001)

Despite the classic crushing process rampant in the commands of the WTO, the World Bank, and the IMF, which process is being institutionalized in these dramatic changes to domestic laws around the western world, protestors are not submitting. The intention of these Draconian laws is to terrorize protestors, drive them into submission, and bend them to the will of the new Iron Heel. These laws are being implemented precisely because of the success of the masses of demonstrators around the world who understand freedom versus oppression. The indoctrination tactic of a Stephen Owen repeatedly trying to frighten the audience and blame Bin Laden and 9/11 as justification to destroy democracy just could not fly before an informed educated audience.

Just as the government of Canada is determined to destroy our democracy ("We will bring in legislation to stop terrorism Bill C36 is aimed at political, ideological, and religious motivations and perversions that intimidate and move governments," Stephen Owen November 14, 2001), so the citizens of Canada are determined to save it. We are not so weak as Goering said. (Goering was Adolph Hitler's #2 man. He commented on how to generate public acceptance and enthusiasm for the mass slaughter that is war):

"Why of course the people don't want war. Why should some poor slob on a farm want to risk his life in a war when the best he can get out of it is to come back to his farm in one piece? Naturally the common people don't want war neither in Russia, nor in England, nor for that matter in Germany. That is understood. But, after all, it is the leaders of the country who determine the policy and it is always a simple matter to drag the people along, whether it is a democracy, or a fascist dictatorship, or a parliament, or a communist dictatorship. Voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked, and denounce the peacemakers for lack of patriotism and exposing the country

to danger. It works the same in any country." Goering. See VETERANS SPEAKERS ALLIANCE! <http://www.vsasf.org/>

The following is information on contacting Members of Parliament:

To send a form letter or your own letter to Cabinet, and Senators, and Leaders, and relevant committee members go to the home page of www.canadianliberty.bc.ca

To find the email addresses for all other MPs and all Senators click on the following link <http://www.canadianliberty.bc.ca/contact/mp-addresses.html>

To get fax numbers for your Member of Parliament or other Canadian MPs go to http://www.canada.gc.ca/directories/direct_e.html . Once onto the site, double click on the line you want. i.e., if you know the name of your MP or if you do not. When the MP names come up, double click on the name you want. A picture of the MP and all contact info will come up on the individual MP, i.e. e-mail, fax, regular mail addresses.

Other ways to contact your MP:

- * To obtain constituency address, telephone, and fax details about any Member of Parliament and to find out who is your MP call 1-800-667-3355.
 - * Write your MP at House of Commons, Ottawa, Ontario, K1A086 (no stamp needed to mail MP).
 - * Senators' telephone numbers & addresses 1-800-267-7362;
 - * House of Commons, information 1- 613-992-4793
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Now more than ever it is the time to speak out, to write to your MP, MLA, municipal councillor, and to every community organization, church, and leader in your community, and to the media.

"First They Came For".....
by Reverend Martin Niemoeller

"In Germany, the Nazis first came for the communists, and I didn't speak up because I wasn't a communist.

Then they came for the Jews, and I didn't speak up because I wasn't a Jew.
Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist.

Then they came for the Catholics, but I didn't speak up because I was a protestant.
Then they came for me, and by that time there was no one left to speak for me."

Reverend Niemoeller, a German Lutheran pastor, was arrested by the Gestapo and sent to Dachau in 1938. He was freed by the allied forces in 1945

"Anyone who trades liberty for security deserves neither liberty nor security"
...Benjamin Franklin

"Fascism should rightly be called corporatism as it is a merge of state and corporate
power"
...Benito Mussolini

"A nation that forgets its past is doomed to repeat it"
... Winston Churchill

"The constitution of Canada does not belong either to Parliament, or to the Legislatures;
it belongs to the country and it is there that the citizens of the country will find the
protection of the rights to which they are entitled" Supreme Court of Canada A.G. of
Nova Scotia and A.G. of Canada, S.C.R. 1951 pp 32

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