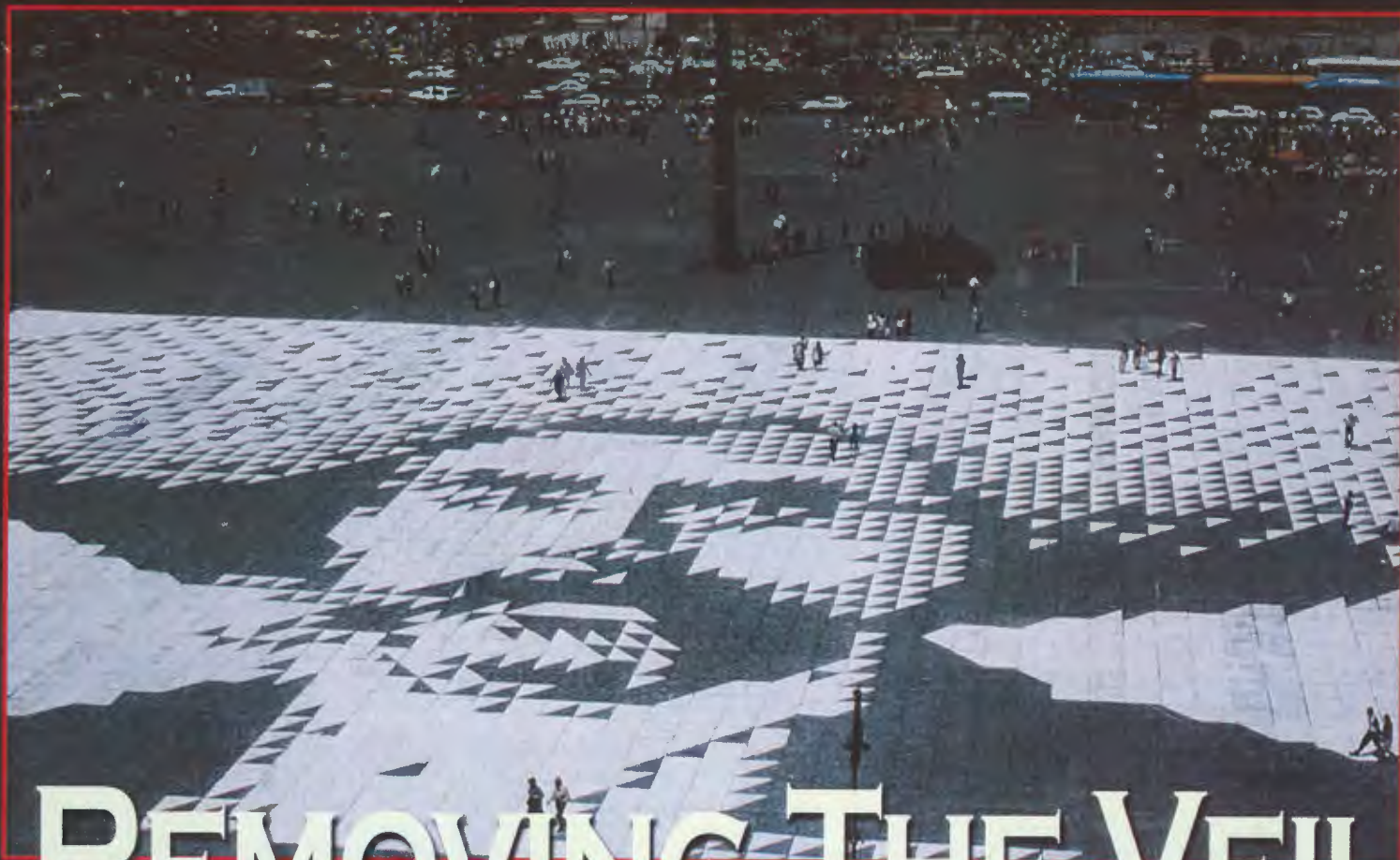


# CovertAction

## QUARTERLY



# REMOVING THE VEIL

## U.S. INTELLIGENCE & THE ORIGINS OF 911

SAMIR AMIN: POLITICAL ISLAM

NANCY CHANG: TRAMPLING ON THE BILL OF RIGHTS

REZEQ FARAJ: ISRAEL AND HAMAS

DAVID NEIWERT: ANTHRAX TERRORISM

MICHAEL PARENTI: THE TERRORISM TOTALITY

MICHAEL SPRINGMANN: CIA'S VISA MACHINE

PHILIP WHEATON: BLUEPRINT FOR GENOCIDE

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# The Terrorism Totality

The really compelling politico-economic issues, the central imperatives that afflict our nation and much of the world, are regularly shut out of public discourse. No one in the corporate media dares to dwell on how the undemocratic powers of corporate America create injustices for working America, how wealth for the few creates poverty for the many. No critical examination is offered concerning the inequities of the tax system and the gross inadequacies of our human services. The threats to the world's ecology posed by transnational globalization, and the monopolistic "free trade" treaties like NAFTA, GATT, and FTAA that undermine our democratic sovereignty earn hardly a glance. And never do official circles or corporate media acknowledge how U.S. military forces (or their U.S.-supported surrogates) have repeatedly delivered mass terrorism upon unarmed civilian populations in Vietnam, Laos, Cambodia, Guatemala, El Salvador, Panama, Grenada, Indonesia, Angola, Mozambique, Iraq, Yugoslavia, Afghanistan and scores of other countries, at a cost of millions of lives.

With all these central issues systematically suppressed, a void is created in the life of the polity, which the media attempt to fill with endless puffery and stories about Monica Lewinsky, O.J. Simpson, etc. What the terrorist attacks of September 11 gave the opinion makers is an issue of compelling centrality, equal to any of the ones they have suppressed, but one that could be selectively treated with *conservative effect*, an issue that rallies everyone around the flag and points a finger at a fanatical Islamic sect rather than at corporate America or the U.S. national security state.

So for several months the media have been consumed by the tragedy of September 11 and its aftermath. Every panel of pundits, hosted TV show, newspaper editorial, letter to the editor, syndicated column, guest column, and every news story dwelled on the terrorist attacks, offering a seemingly infinite constellation of spin-off stories. And not just the news media. The editor of a poetry magazine worried that in the "...profoundly changed world..." created by September 11, "...will we now say that poetry is even more irrelevant?" Predictably, he concluded that poetry was *more* important than ever.

In similar spirit, stand-up comedians announced that humor was needed more than ever. Movie reviewers wrote that this or that film was a welcome antidote to the horrific events of September 11. And travel writers reassured us that a good vacation was all the more a healing experience. Sporting events began with militaristic patriotic commemorations. All the mail that crossed my desk, including subscription and fund-raising appeals from every organization imaginable—from the Yale Alumni Association to the Center for Cuban Studies—felt compelled to reference September 11 before launching into their pitch. Friends wrote to tell me that they were "doing as

well as might be expected in this post-911 world." Almost as if one's credibility depended upon it, nothing could be communicated without referencing September 11.

President George II announced that "...our nation can never go back to what it was on September 10." A tearful TV anchorman appeared on a late night show and blubbered about how this "...wound has changed America forever." The drumbeat carried across the political spectrum. A statement from the Communist Party, USA, issued in mid-November began: "Our world changed on September 11." And others wrote that "...the indelible images of the World Trade Center will remain with us forever."

Those who fear that our world or our nation has changed irretrievably should think again. Very little has changed. President Bush proposes billions in tax cuts for the rich just as he did when the World Trade Center stood tall. The White House pushes an "economic stimulus" package of \$100 billion—really nothing more than the usual corporate subsidies, bailouts, and retroactive tax cuts—to help poor little struggling businesses like IBM, Ford, GE, and GM, while doing nothing for the tens of thousands of workers who have been laid off. The Bush gang readies itself to drill for oil in the Arctic National Wildlife Refuge. And a compliant Congress pumps billions more into an already bloated military budget. Unfortunately, here is a nation profoundly *unchanged* by the recent terrorist attacks.

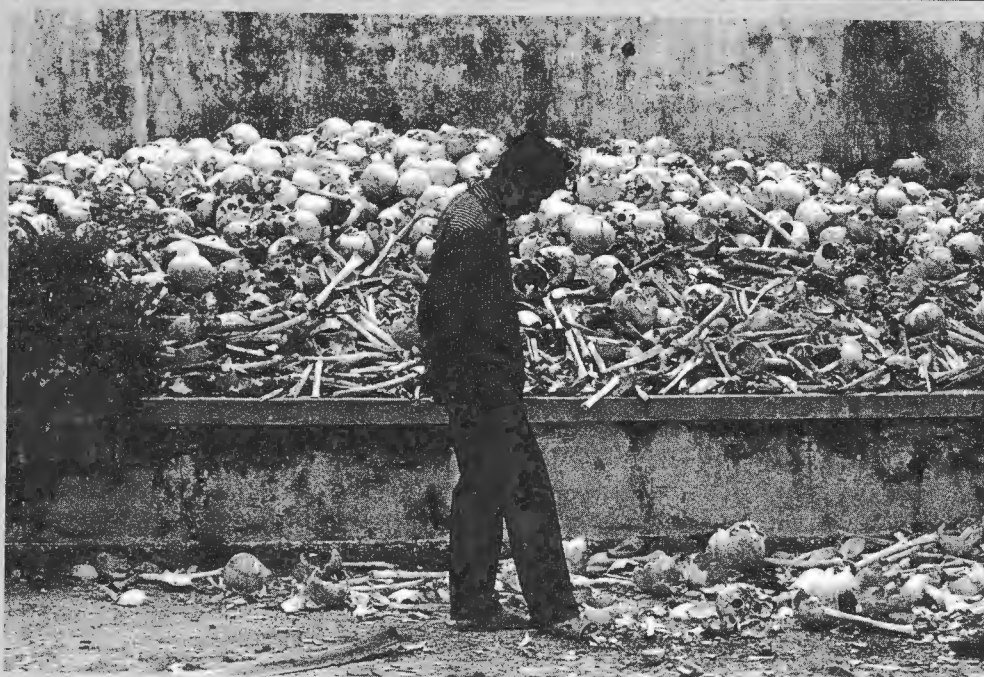
Other things in the newly "transformed" America seem dreadfully familiar. As in previous decades, our fearless leaders continue to wage devastatingly one-sided aerial wars against small weak impoverished nations, while loading the media with jingoistic hype. They continue to deny the terrorist role they themselves have played around the world. And they continue to neglect human services and loot the Social Security surplus in order that they might claim that Social Security is "going broke" and must be eventually eliminated.

Still other things remain the same. As they have done during every crisis, liberal legislators supinely line up with conservatives to vote the president absolute powers. Media lapdogs talk about how this same president has "risen to the challenge" and "grown in office." Flag-waving yahoos call for blood, believing that their government only opposes terrorism and never practices it. Meanwhile, thousands of U.S. residents are subjected to ethnic profiling. African-American communities are terrorized by trigger-happy cops. And fanatical Christian fundamentalists commit terrorist acts against abortion clinics, while law officials seem unable to stop them.

So the struggle to inject reality and justice into the national dialogue continues as always. It feels very much like September 10 to me.

—Michael Parenti





Richard Vogel/AP

A reminder to those who cling to the notion that the U.S. has mainly benign, democratic and neighborly intentions in its international relations: behold the monumental human catastrophe of Cambodia.

In this issue, Gregory Elich reviews U.S. policy in Indonesia, Iran, Cambodia and Yugoslavia as a corrective to the usual historical distortions. Page 19.

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# CovertAction

QUARTERLY

Number 71 • Winter 2001

**Publisher:** CovertAction Publications, Inc., 1500 Massachusetts Avenue NW, Suite 732, Washington, DC 20005, USA.

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## CovertAction Quarterly

(ISSN 1067-7232) is published quarterly by CovertAction Publications, Inc., 1500 Massachusetts Avenue NW, Suite 732, Washington, DC 20005, a District of Columbia not-for-profit corporation. Member of the Independent Press Association. Indexed by *Alternative Press Index*, University Microfilms. Copyright©2001. All rights reserved. No article may be reproduced, in part or whole, without the written permission of the editor.

**COVER:** White paint on the pavement of the Zocalo, Mexico City's central plaza, portrays Emiliano Zapata, hero of the Mexican Revolution. Led by artists Alhelí Pérez de la Vega, Iria Gómez Concheiro, Mauricio Gómez Morín, Pablo Valero Pombo, Taniel Morales Martínez and Violeta Romero Granados, 150 people produced the mural April 7-8, expressing support for indigenous Zapatista leaders who arrived in the plaza March 11 from the state of Chiapas. Photo: Mauricio Gómez Morín.

**BACK COVER:** Women of Chiapas visit Mayan ruins at Toniná, Ocosingo, Chiapas, 1998. Photo by Julio Candelaria.

# DEPLETED URANIUM

## A personal account

By SIEGWART-HORST GUNTHER

Since the Second World War, I believe that there have been at least one hundred scientists, many of them alive today, whose knowledge of the bio-medical aspects of atomic energy make them candidates for a trial similar to the ones in Nuremberg. By their carelessness and irresponsibility they have committed great crimes against humanity.

In the mid-1970s, research by E.J. Sternglass demonstrated that human exposure to low radioactivity can result in hereditary defects, cancer and leukemia, and significantly increases risk for a variety of diseases. The eminent molecular biologist P.H. Duesberg, discoverer of the retrovirus, has even suggested a possible relationship between HIV-AIDS and the steady rise in background radiation.

The U.S. is not alone in using radioactive material in warfare. Germany used uranium-tipped shells against Soviet tanks in WWII, and in the early sixties devoted considerable espionage efforts to an attempt to learn the design of Soviet anti-tank grenades believed to contain uranium.

In April of this year *Der Spiegel* revealed that the German arms firm Rheinmetall was developing and testing Depleted Uranium ammunition in the 1970s. Messerschmidt was involved in similar research and development for at least 17 years.

Although DU ammunition has in the last 30 years become a standard anti-tank weapon, to the best of my knowledge it was not extensively used until the Gulf War. According to media reports, approximately 300 tons of DU ammunition were spent against Iraqi forces. The radioactivity of one cigar sized projectile I found in an Iraqi combat area measured 11 microSv per hour. Accept-

able exposure is 300 microSv per year. Just over one day near this projectile is equivalent to the annual acceptable dose.

My examination of one of these strange bullets has caused me and my family in Germany a great deal of trouble. I brought one of them home for closer examination, without imagining the physical and legal consequences. In July of 1992, the projectile was seized by a large command of German police in protective clothing and transported to an isolated area for disposal. Some weeks later, I was arrested and charged with causing the release of ionizing radiation. After almost a month on hunger

strike, I was released in very poor condition.

For a year I was under police surveillance, and had to report twice weekly to my local police station. I was summoned to a regional court, and was informed that I might be committed to a psychiatric prison.

My humanitarian assistance to the people of Iraq was ended, including my assistance to the Jewish people of Baghdad. My small old age pension was incorrectly calculated and cut off several times during the period of my humanitarian work in Iraq, so that I sometimes had difficulty getting the necessities of life for myself and my three children.

Since 1991, I have been assaulted three times, and one of the attacks left me badly wounded. I am denied the right to health insurance and full pension benefits, although I am ill with cancer as a result of my exposure to DU ammunition.

**Note:** Dr. Gunther's account of the health consequences of the Gulf War for the people of Iraq was published in *CovertAction* No. 69. As a result of his work, Dr. Gunther is gravely ill. Persons interested in helping him may contact Freimut Seidel at [FrmSeid@aol.com](mailto:FrmSeid@aol.com), or visit the website [www.sdn.nl/gunther.htm](http://www.sdn.nl/gunther.htm), which has information on his situation.



*Iraqi infant photographed by Dr. Gunther during his work in Iraq in the early 1990s. The child shows the effects of exposure to DU radiation, so-called "Gunther Syndrome."*



# POLITICAL ISLAM

*Samir Amin shines much needed light on a dimly understood phenomenon*

By SAMIR AMIN

What is the nature and function, in the contemporary Muslim world, of the political movements claiming to be the one true Islamic faith? These movements are commonly designated "Islamic fundamentalism" in the West, but I prefer the phrase used in the Arab world: "Political Islam." We do not have religious movements, *per se*, here—the various groups are all quite close to one another—but something much more banal: political organizations whose aim is the conquest of state power, nothing more, nothing less. Wrapping such organizations in the flag of Islam is simple, straightforward opportunism.

Modern Political Islam was invented by the orientalist serving British colonialism in India and was adopted intact by Mawdudi of Pakistan. It consisted mainly in "proving" that Muslim believers may only live under the rule of an Islamic State—anticipating the partition of India—because Islam cannot permit separation of Church and State. The orientalist conveniently forgot that the English of the 13th Century held precisely such ideas about Christianity.

## MERCILESS ADVERSARY OF LIBERATION

Political Islam is not interested in the religion which it invokes, and does not propose any theological or social critique. It is not a "liberation theology" analogous to what has happened in Latin America. Political Islam is the adversary of liberation theology. It advocates submission, not emancipation. Mahmoud Taha of Sudan was the only Islamic intellectual who attempted to emphasize the element of emancipation in his interpretation of Islam. Condemned to death by the authorities of Khartoum for his ideas, Taha's execution was not protested by any Islamic group, "radical" or "moderate." Nor was he defended by any of the intellectuals identifying themselves with "Islamic Renaissance" or even by those merely willing to "dialogue" with such movements. It was not even reported in the Western media.

The heralds of "Islamic Renaissance" are not interested in theology and they never

**Political Islam is the adversary of liberation theology. It advocates submission, not emancipation.**

refer to classical theological texts. For such thinkers, an Islamic community is defined by inheritance, like ethnicity, rather than by a strong and intimate personal conviction. It is a question of asserting a "collective identity" and nothing more. That is why the phrase "Political Islam" is the appropriate designation for such movements.

Of Islam, Political Islam retains only the shared habits of contemporary Muslim life—notably rituals for which it demands absolute respect. At the same time, it demands a complete cultural return to public and private rules which were practiced two centuries ago in the Ottoman Empire, in Iran and in Central Asia, by the powers of that time. Political Islam believes, or pretends to believe, that these rules are those of the "real Islam," the Islam of the age of the Prophet. But this is not important. Certainly Islam permits this interpretation as legitimation for the exercise of power, as it has been used from Islam's origin to modern times.

In this sense Islam is not original. Christianity has done the same to sustain the structures of political and social power in pre-modern Europe, for example. Anyone with a minimum of awareness and critical sense recognizes that behind legitimizing discourse stand real social systems, with real histories. Political Islam is not interested in this. It does not propose any analysis or critique of these systems. Contemporary Islam is only an ideology based on the past, an ideology which proposes a pure and simple return to the past, and more precisely, to the period immediately preceding the submission of the Muslim world to the expansion of capitalism and Western imperialism. That religions—Islam, Christianity, and others—are thus interpreted in a reactionary, obscurantist way, does not exclude other interpretations, reformist or even revolutionary.<sup>1</sup> Not only is the return to the past not

desirable (nor actually desired by the peoples in whose name Political Islam pretends to be speaking); it is, quite simply, impossible. This is why the movements which constitute Political Islam refuse to offer a precise program, contrary to what is customary in political life. For its answer to concrete questions of social and economic life, Political Islam repeats the empty slogan: *Islam is the solution*. When pushed to the wall, the spokesmen for Political Islam never fail to choose an answer harmonious with liberal capitalism, as when the Egyptian parliament grants absolute freedom of maneuver to landowners and nothing whatsoever to the peasant farmers who work their land. In their unhappy effort to produce an "Islamic Political Economy," the authors of manuals on the subject (financed by Saudi Arabia) have only succeeded in applying a coat of religious whitewash to the most banal tenets of American liberalism.<sup>2</sup>

## A TURBANED DICTATORSHIP IN IRAN

The Islamic Republic of Iran proves the general rule, despite the confusions that contributed to its success: rapid development of the Islamist movement in parallel with the secular, socialist struggle waged against the socially reactionary U.S.-aligned dictatorship of the Shah. Following the Shah's overthrow, the extremely eccentric behavior of the Mullahs was offset by their anti-imperialist positions, from which they derived a powerful popular legitimacy which echoed well beyond the borders of Iran. Gradually the regime showed that it was incapable of providing the leadership required to stimulate vigorous and innovative socioeconomic development. The turbaned dictatorship of the men of religion, who took over from that of the "Caps" (military and technocrats), resulted in a fantastic degradation of the country's economic machinery. Iran,

1. See for instance my discussion of the topic in *Social Compass*, Fall 1999.

2. See: Samir Amin, *La deconnexion*, "Y a-t-il une économie politique du fondamentalisme islamique," *La Découverte*, 1986.

which boasted about "doing the same as S. Korea, "now ranks among the group of "Fourth World" countries.

The indifference of the regime's hard right wing to the social problems facing the country's working class gave rise to the "reformers" whose aim has been to moderate the harshness of the theocratic dictatorship, but without renouncing its basic principle—the monopoly of political power. Recognizing the extent of the Islamic Republic's economic disaster, the "reformers" have made the pragmatic decision to gradually revise their "anti-imperialist" postures. They are in the process of reintegrating Iran into the commonplace comprador world of capitalism on the peripheries. The system of Political Islam in Iran has reached deadlock. The political and social struggles into which the Iranian people have now been plunged might soon lead to rejection of the very principle of "*wilaya al faqih*" which places the clergy above all other institutions of political and civil society.

The Islamic Republic of Iran has conceived no other political system than that of a one-party dictatorship monopolized by the Mullahs. False comparisons are frequently made between the Islamist parties and the Christian Democratic parties of Europe (i.e., if the Christian Democrats have governed Italy for 50 years, why shouldn't an Islamist party govern Algeria or Egypt?). But once in power, an Islamist government immediately and definitively abolishes any form of legal political opposition.

#### NEOLIBERAL THEOCRACY

If Political Islam is only a version of neoliberalism, extolling the virtues of the market—completely unregulated, naturally—it is also an absolute refusal of democracy. According to Political Islam, religious law (the *Shari'a*) has already given the answer to every question, thereby relieving humanity of the difficulty of inventing laws—a basic definition of democracy—and allows us at most to interpret the nuances

of divine law. This kind of ideological talk ignores reality, ignores the actual history of Muslim societies, in which it has obviously been necessary to invent laws, although this was done without saying so. It meant that only the governing class had the right, and the power to interpret the *Shari'a*. The extreme example of this kind of autocracy is Saudi Arabia, a country without a constitution, whose rulers claim that the Qur'an is a satisfactory substitute. In actual practice, the House of Saud has the power of an ab-

peoples concerned since the violence of the "radicals" only serves to destabilize the State, impeding the installation of a new comprador power suitable to the designs of the "moderates" beloved by the West (those of Iran are a good example). The constant support offered by the pro-American diplomacies of the Triad countries (U.S., Europe and Japan) toward finding this "solution" to the problem is absolutely consistent with their desire to impose the globalized neoliberal order in the service of dominant transnational capital.

The combination of neoliberal economy and political autocracy is perfectly suited to the dominant comprador class charged with management of societies at the contemporary capitalist periphery. The Islamist parties are all instruments of this class. This is true not only of the Muslim Brotherhood and other organizations considered moderate, and whose close ties to the bourgeoisie are well known. It is equally true of the small clandestine organizations which practice "terrorism." Both are useful tools of Political Islam, and the division of labor is highly complimentary between those using violence and those infiltrating state institutions (especially education, the judiciary, the mass media and, if possible, the police and military). For all

such groups and activities, there is one objective: seizure of state power, although on the morning after the anticipated victory, the "moderates" will put an end to the excesses of the "radicals." Immediately after the Iranian revolution, the Mullahs massacred the left-wing militants (Fedayin and Mojahedin) who had attempted to make common cause between their populist, revolutionary aims inspired by Socialism and the deeper mobilization of Political Islam. Without the Fedayin and Mojahedin, the triumph of the "Islamic" revolution would not have been possible. Since then, the Mullahs have recruited and trained millions of political terrorists from among the lumpen proletariat in order to enforce its rule.\*

The existing power structures against which the movements of Political Islam are



*Soccer stadium, Kabul, Afghanistan, November 17, 1999. Taliban execution of an Afghan woman before crowd of 10,000. Under Shar'ia, someone sentenced to death must be spared if forgiven by the family of the victim. The family forgave in this case, but the Islamist authorities declined to spare the woman's life.*

solute monarchy or tribal chiefdom.

Contemporary Political Islam is not the outcome of a reaction to the so-called abuses of secularism, as often purported, unfortunately. No Muslim society of modern times, except in the former Soviet Union, has ever been truly secular, let alone offended by the daring innovations of any atheistic and aggressive power. The semi-modern States of Kemal's Turkey, Nasser's Egypt, Baathist Syria and Iraq, merely subjugated the men of religion (as often happened in former times) to impose on them concepts aimed solely at legitimizing the State's political options.

Political Islam is in fact nothing other than an adaptation to the subordinate status of comprador capitalism. Its so-called "moderate" form therefore probably constitutes the principal danger threatening the



hurling themselves are the compradors, the national bourgeoisie of the region, fully subordinate to the diktats of neoliberal globalization. The comprador classes are not particularly democratic, even when they offer the gift of parliamentary elections which they call "multi-party," and they often rely on the pretext of Islamic terrorism to justify their refusal of meaningful democracy (as in Algeria).

What this means is that the contest between the compradors and the Islamists is only a conflict between factions of the ruling class—a struggle for power, nothing more, between opposing leaders and their clients. Depending on the circumstances, the shape of the conflict varies from extreme violence, as in the case of Algeria, to dialogue, as in Egypt, where the government holds direct talks with the Muslim Brotherhood. Both sides in the conflict utilize Islamist demagoguery in their attempts to capture for their own benefit the allegiance of a politically confused populace. Contemporary popular political confusion closely resembles that which followed the failure of hopes based on the populist nationalisms of the previous era (Nasser, Boumedienne, Le Bass). This time it results from widespread recognition of the social destruction wrought by the neoliberalism of the ruling comprador classes.

Popular political confusion in the Islamic world is in no small part due to the extreme timidity of the critique that the left had addressed in the previous period to the ruling forces of national populism. Yet the bourgeoisie in power is by no means secular. It pretends to be as "Islamic" as its adversaries, for example by enforcing many of the precepts of Islamic law—especially in the domain of the family—thus gradually making the ruse into reality. The resulting "compromise" solutions inevitably augment the dominant neoliberal and antidemocratic order. Thus the dominant international political and economic powers, led primarily by the U.S., see no inconvenience in the exercise of power by Political Islam. This says a great deal about the hypocrisy of Western

advocacy of "democracy" and demonstrates that, contrary to the Western ideological equation of "market" and "democracy," the two principles are in fact in direct conflict.

#### IDEOLOGICAL COMPLEMENTARITY

The two discourses of globalized neoliberal capitalism and Political Islam do not conflict, but are complementary. The ideology of American "communitarianisms" being popularized by current fashion overshadows the conscience and social struggles and substitutes for them so-called collective "identities" that ignore them. This ideology is

Islam inspires—the Taliban for instance—are not drifts at all, but actually fall within the logic of their programs, and can be exploited whenever imperialism finds it expedient to intervene brutally, if necessary. The "savagery" attributed to the peoples who are the first victims of Political Islam is likely to encourage "Islamophobia" which may facilitate the acceptance of a "global apartheid," the logical and necessary outcome of an ever-polarizing capitalist expansion.

Western support for Political Islam has thus gone to the grotesque extreme of furnishing weapons, financial backing and mili-

tary training to the agents of Political Islam. In the case of Afghanistan, the pretext was "fighting communism," but the odious behavior of these Islamists (closing schools for girls opened by the terrible "communists") apparently gave no cause for regret—neither to the Western governments supporting them, nor to Western feminist organizations.

**"Afghan freedom fighters"  
(hoodlums trained by the CIA)  
nowadays fill decisive roles in  
military-terrorist actions  
around the globe.**

therefore perfectly manipulated in the strategy of capital domination because it transfers the struggle from the arena of real social contradictions to the imaginary world that is said to be cultural, trans-historical and absolute, whereas Political Islam is precisely a "communitarianism."

The diplomacy of the G7 powers, particularly that of the U.S., knowingly chooses to support Political Islam. The G7 lends such aid and assistance from Egypt to Algeria. In Afghanistan, U.S. support took the form of describing Afghan Islamists as "freedom fighters" against the horrible dictatorship of communism, which was in fact an enlightened, modernist, national and populist despotism that had the audacity to open schools for girls. Western leaders know that Political Islam has the virtue—for them—of making the peoples concerned helpless and consequently ensuring their compradorization without difficulty.

Given its inherent cynicism, the American Establishment knows how to take a second advantage of Political Islam. The barbaric "drifts" of the regimes that Political

Those the West called "Afghan freedom fighters" (in fact, hoodlums trained by the CIA) and "volunteers" (Algerian, Egyptian and other Muslims), nowadays fill decisive roles in military-terrorist actions around the globe, including major U.S. cities. Support for Political Islam has included the illusory rubric of "political refugee" status, offered by the U.S., Britain and Germany, which has given the militants of Political Islam the power to organize and command their operations from abroad, thus maximizing efficiency and minimizing risk.

The ideological accompaniment to this alliance between the Western powers and Political Islam is an endless campaign of legitimization in the Western mass media, usually turning on an illusory distinction between "moderates" and "radicals," or a pious chant of praise for the virtues of multicultural diversity, so dear to Americans, as everyone knows. Such forms of "respect" for diverse "communities" are very useful for the management purposes of neoliberalism and globalization, because they do not imply any confrontation on the terrain of real chal-



*Tehran, Iran, March 2001. Two men and a woman hang from cables on cranes in a public execution. Cases of public hangings and floggings have increased throughout Iran since the re-election of "moderate" President Mohammad Khatami.*

lenges. The "communities" in question play the game of neoliberalism, shifting the debate, if and when it occurs, from the real and practical problems of the here and now into the harmless celestial regions of the cultural imaginary.

Political Islam is thus in no way the adversary of imperialism, but is, quite the contrary, its perfect servant. This fact does not prevent Western ideologues and opinion-managers from resorting, whenever necessary, to the fairytale formulae of Islam as an implacable enemy of Western modernity, the

"clash of cultures" so dear to Samuel Huntington and his CIA patrons. Such wars occur only on the imaginary plane, whereas in the real world, the victims of the "communities" represented by Political Islam suffer terribly under very real blows. The ideological war, furthermore, provides yet another cover for military-political intervention by the U.S. and its subaltern "allies" when and wherever the need might arise.

We should not be surprised that the U.S. is pleased by the services that Political Islam renders to its project of world hegemony.

With the exception of Hamas in Palestine and Hizbollah in Lebanon (pre-911) and the Taliban (post-911), no movement of Political Islam is designated as an enemy by Washington. The pre-911 designation of Hamas and Hizbollah by the U.S. State Department as "terrorist organizations" was clearly an accident of political geography, since both are opposed to the state of Israel, which evidently takes precedence in U.S. considerations over everything else. Hamas and Hizbollah are the only manifestations of Political Islam fighting a foreign military occupation, whereas the others direct their violence only at their compatriots. Double standards and hypocrisy—can we expect anything else from the imperialists?

### 911 AND BEYOND

Will the attacks of September 11 oblige Washington to revise its alliance with Political Islam? Diplomatic and intelligence cooperation with Iran and Sudan suggests otherwise. But we cannot help noticing that the events of 911 occurred at precisely the right moment to permit the U.S. to install itself in petroleum-rich Central Asia, a region well-situated to allow another turn of the geostrategic vice which the West has clamped around Russia, China and India. This has been the openly proclaimed strategic objective of the U.S. for over 10 years. Saddam Hussein has served well as justification for permanent U.S. military installations in the Gulf. Osama bin Laden could well do the same for U.S. policy in Central Asia. One cannot exclude the hypothesis that machinations of the CIA and its faithful ally Mossad may have been involved in some way.

In order to sustain and extend its hegemony the United States must always give supreme importance to its military interventions. We forget this at our peril.

**Samir Amin** was born in Egypt in 1931 and received his Ph.D. in economics in Paris in 1957. He is director of Forum Tiers Monde, a research institute in Dakar, Senegal. He is the author of numerous books, including *Accumulation on a World Scale: A Critique of the Theory of Underdevelopment* (1974); *Maldevelopment, Anatomy of a Global Failure* (1990); *Empire of Chaos* (1992); *Re-Reading the Postwar World: An Intellectual Itinerary* (1994); *Spectres of Capitalism; A Critique of Current Intellectual Fashions* (1998).

Gabi Christov helped with translation of this article.

\*For an analysis of the Iranian Revolution and its aftermath, see *CovertAction*, No. 37, pp. 52-60.



# THE PLAN vs. THE PEOPLE

## Vicente Fox's Puebla-Panama Plan

By WENDY CALL

On a white-hot day in February 2001, a few thousand people gathered in a vast triangle of parched grass and leafless bushes at the intersection of the Inter-oceanic and Pan-American highways in Mexico's Isthmus of Tehuantepec. Hundreds of ragged plastic bags, brought by the stiff wind that nearly always blows here, fluttered from brittle branches. Usually, they are the primary movement and color in this neglected space near the town of La Ventosa, Oaxaca. A brass band played the polka-like music of the indigenous Mixe people. Demonstrators put up huge banners and stood in the scant shade they created. As the afternoon wore on, the scattered clusters of people grew tighter as the strips of shade contracted into narrow slits. The crowd had come from dozens of villages and towns throughout the thin sliver of land that connects the Yucatan Peninsula to the rest of Mexico. Sometime that afternoon, the Zapatista caravan would pass by, on its way from the highlands of Chiapas to Mexico City. When the Zapatista leaders finally arrived, the crowd began to shout, surging toward the small, rough stage where three Zapatista leaders—comandantes Tacho and David and subcomandante Marcos—stood.

Speaking on behalf of the Association of Indigenous Communities of the Northern Zone of the Isthmus (UCIZONI), Zoila José Juan took the microphone to welcome the Zapatistas and told them, "We have come down from the mountains, we have come from the jungle, we have traveled hours to be here with you and to tell you that you are welcome in our home." The Zapatistas were headed to the nation's capital to press for the implementation of the 1996 San Andrés accords, the agreement on indigenous rights and culture that they had signed with the Mexican government. Zoila concluded, "We want to tell you that our land is in grave danger, because the rich and their government want to impose a Megaproject on us—which means the loss of our lands and more poverty. We ask for your support, and that our struggle in defense of the isthmus may also be your struggle."

Subcomandante Marcos answered Zoila's

appeal immediately. He repeated the phrase lettered in stark black and flapping in front of him, declaring: "We agree with that banner, the isthmus is not for sale!" He told the people gathered that he would take their message to Mexico City.

### A MUCH-COVETED ISTHMUS

The British came nearly a century ago to build the railroad that slices across the isthmus, connecting the Atlantic and Pacific Oceans—separated by less than 200 miles at this point. Five years ago, the Mexican government announced the Trans-Isthmus Megaproject, the latest incarnation of the trans-oceanic corridor dream. With the Panama Canal now extremely overburdened and out of U.S. hands, global capital is searching for new routes. Mexico, Nicaragua, Honduras and El Salvador have all put out proposals for highway, rail, and even water-based trans-oceanic connections. In July 2000, ex-Coca-Cola of Mexico CEO Vicente Fox ended the seven-decade rule of the Institutional Revolutionary Party (PRI) by winning the presidential election. Fox has made Mexico's Trans-Isthmus Project, or "dry canal," a central part of what the *Financial Times* calls his "revolutionary plan"—the Puebla-Panama Plan (PPP).<sup>1</sup>

The first hint of Fox's plans for southern Mexico appeared three months before his inauguration. The article announced that he would travel to Central America to promote the Free Trade Area of the Americas (FTAA) and to "lobby for an ambitious regional development proposal."<sup>2</sup> A week later in Guatemala City, Fox named his new proposal: "The Three P, Puebla-Panama Plan," named for the geographic region it would encompass: all seven Central American countries and the Mexican states of Campeche, Chiapas, Guerrero, Oaxaca, Puebla, Quintana Roo, Tabasco, Veracruz, and Yucatan.<sup>3</sup> On November 30, the day before he was inaugurated, Fox announced that the budget for the PPP during his administration would be four billion dollars. He anticipated funding from the World Bank, Inter-American Development Bank and the Central American Development

Bank. The funds would be invested in new highways, port and airport expansion, telecommunications, and gas and oil pipelines.<sup>4</sup> The PPP works hand-in-hand with the FTAA, providing the physical infrastructure and cheap labor force needed for the post-FTAA pried-open markets of the Americas. At a June 2001 summit meeting of the presidents of all eight PPP nations, the director of the Inter-American Development Bank, Enrique Iglesias, agreed to head the effort to seek funding for the plan.<sup>5</sup> To date, the results of this fundraising effort have not been made public.

Subcomandante Marcos has insisted, "There will be no plan nor project, by anyone, that does not take us into account. No Puebla-Panama Plan, no Trans-Isthmus Project, nor anything else that means the sale or destruction of the indigenous peoples' home." He added, "I am going to repeat this so they can hear us all the way in Cancun."

The message did reach the tourist resort where Vicente Fox was attending the meeting of some of the world's most powerful government and corporate leaders. A Mexican state governor who participated in the meeting later wrote, "Without being present, Marcos set the framework for the meeting of the [World] Economic Forum in Cancun, and the topics of Chiapas and the EZLN passed like ghosts through the hallways of the Westin Regina Hotel."<sup>6</sup>

Marcos' message also reached Mexico City. The PPP staff had planned a public an-

1. "Fox addresses regional development," *Financial Times* (London), March 26, 2001, <http://globalarchive.ft.com/globalarchive/articles.html>.

2. "Presenta Fox Programa de Desarrollo Sur Sureste," *Noticias: Voz e Imagen de Oaxaca*, September 5, 2000.

3. "Mayor respeto a derechos de migrantes de CA, ofrece Fox," *La Jornada*, September 12, 2000, [www.jornada.unam.mx](http://www.jornada.unam.mx).

4. "Avalan bancos el proyecto Puebla-Panamá," *Reforma*, November 30, 2000, [www.reforma.com/nacional/articulo/052882](http://www.reforma.com/nacional/articulo/052882).

5. Press conference at PPP summit meeting, San Salvador, El Salvador, June 15, 2001.

6. "Marcos enmarca Cancún," *Milenio Diario*, February 27, 2001, p. 22.



February 2001, La Ventosa, Oaxaca, Mexico. Zoila Jose Juan, Women's Commission of the Association of Indigenous Communities of the Northern Zone of the Isthmus, welcomes Zapatista marchers enroute to Mexico City.

nouncement of the program at the presidential palace on March 12. Marcos' condemnation three weeks before this date forced them unexpectedly into the public eye, caught a bit off guard.<sup>7</sup> When the March 12 announcement finally came, the Mexican media were still focused on the Zapatista caravan and relegated news about the PPP to the back pages. *El Financiero*, Mexico's business newspaper of record, published a biting image with its article. A thin woman dressed in indigenous clothing sits on the ground, a begging hand raised in the air. A landing strip stretches across her outstretched palm, with a tiny plane taking off.<sup>8</sup>

In many ways, southern Mexico has more in common with Central America than it does with central and northern Mexico. Oaxaca has almost the same illiteracy rate as Honduras—nearly one quarter of the adult popu-

lation. In El Salvador, the infant mortality rate is 16.5 per thousand live births. In the state of Yucatan, it is 17.1.

The plan includes new superhighways along the Pacific and Gulf coasts of the country, connecting southern Mexico to the north and also to Central America. These two new routes will be linked by an expanded highway across the Isthmus of Tehuantepec. Zoila José Juan and her neighbors in the isthmus are concerned about this new highway, wondering how a four-lane toll road will affect their communities. The superhighway will divide the people and the animals that live on one side from those on the other with pedestrian overpasses only every couple of miles. Zoila laughs at this provision, pointing out that they won't be able to teach their burros how to climb the stairs of the overpasses. Very few of the region's residents

will be able to afford the highway's access fees.

At a public debate in Mexico City several days after the March 12 announcement, Federal Senator Daniel López Nelio, an indigenous Zapotec from the isthmus, concluded his speech by saying "This Foxista plan intends to apply the policies of the International Monetary Fund, the World Bank, and the World Trade Organization to complete the second phase of neoliberal economic reform, and in doing so, continue to exploit the oil, rivers and forests of the southeast."<sup>9</sup>

Also speaking at the debate, economist Andrés Barreda asserted that the PPP is not a Mexican plan, but one that responds to "the needs of North America in a global economy."<sup>10</sup> In a later speech, he observed, "The highway routes are not only conceived as the base for urban industrial development and agro-industrial development, but also as the base for the extraction of raw materials and urbanized corridors for the retention of workers (including foreigners) that today migrate from the entire country [to the United States]."<sup>11</sup>

The government's use of the PPP to deal with the conflict in Chiapas is precisely why guarantees of indigenous political autonomy and control of natural resources were stripped from the indigenous "rights" law that the Mexican Congress finally ratified in August 2001. The PPP depends upon corporate access to land and natural resources in Mexico's south—the opposite of what the government promised in the San Andrés accords.

#### PRIVATIZING PROFITS, SOCIALIZING LOSSES

In its essence, the PPP has three goals: (1) increase the transit and industrial infrastructure of the region, improving the capacity for export industries, (2) catalyze a shift of the region's economy from agriculture to assembly plant maquiladoras and manufacturing, and (3) expand private control over the vast natural resources in the region. Land privatization is key to all of these goals and underpins the PPP.

7. Tomás Tenorio, Director of Communications, Plan Puebla Panamá, March 13, 2001, interview with the author.

8. "Arranca el Plan Puebla-Panamá con inversión de 4 mil 200 mdp," *El Financiero*, March 13, 2001, p. 14.

9. "Plan Puebla-Panamá, antitesis de acuerdos de San Andrés: analistas," *La Jornada*, March 18, 2001, p. 5.

10. Dr. Andrés Barreda, speech at the Casa Lamm, Colonia Roma, Mexico City, March 16, 2001.

11. Dr. Andrés Barreda, "Geoeconomía y Geopolítica del Plan Puebla Panamá," speech given in Tapachula, Chiapas, May 11, 2001.



The PPP is based on an essay by PRI official Santiago Levy, called "The South also Exists." Levy prepared the document before the July 2000 elections, hoping to convince PRI candidate Francisco Labastida to make it part of his national program. When Labastida lost the election, Levy turned, successfully, to Fox.<sup>12</sup> One of the essay's key points is that the government's certification program for communal land rights (PROCEDE) must operate more efficiently.<sup>13</sup> PROCEDE converts communal lands into individual, private holdings. This often means any title holder can sell to people outside the community, or, indirectly, to foreigners. As it becomes harder and harder to earn a living as a small-scale farmer in rural Mexico, privatization becomes more likely, as farmers give up and sell off their land to eager foreign corporations.

Ninety-three percent of Mexico's current exports go to the United States. Of this huge portion, only one percent comes from Mexico's southern and southeastern states (the PPP region, excluding Puebla). Another 4.5% of this total comes from the hundreds of maquiladoras in Puebla.<sup>14</sup> Southern Mexico still is not really part of the nation that joined NAFTA in 1994. Economically, the region's most important export is probably the thousands of young people that migrate to northern Mexico and the United States in search of work each year. Under extreme pressure from the U.S. government, Fox hopes to start shifting the maquiladora sector south, stemming the human flood and reducing the social and environmental problems that plague the U.S.-Mexico border region.

Mexican businessman Alfonso Romo exemplifies the big investors ready to snap up this land. He plans to expand monocropped tree plantations in southern Mexico. Government plans reflect Romo's desires. Romo is a PPP adviser and chairperson of Grupo Pulsar, one of Mexico's most important transnational corporations. These chemical-intensive, non-labor-intensive operations will irreparably damage the land, employing few people to produce a commodity already glutted on the world market.

#### FIRST PEOPLE RESPOND TO GLOBAL CAPITAL'S AGENDA

The PPP's success depends upon indigenous Mexicans' willingness to abandon their rural homes, something they may well refuse



February 2001, La Ventosa, Oaxaca, Mexico. Anticipating the arrival of Zapatistas marching to Mexico City, indigenous Mixe people gather at the intersection of the Pan American and Inter-oceanic highways. The banner reads "Fox, understand this: the isthmus is not for sale!"

to do. The Zapatistas rebelled precisely to defend their rural way of life. In an interview published in one of Mexico's largest newspapers, Zoila José Juan asserted, "We are still on our land because we fight for it. The Trans-Isthmus Megaproject disappeared and turned into the Puebla-Panama Plan. They are changing the name so that the indigenous people won't understand it. But we understand it; we understand why we are fighting for our land."<sup>15</sup>

Two months after the PPP was officially presented, more than 250 residents from the PPP region gathered in Tapachula, a city on the Chiapas-Guatemala border. The meeting's goal was to develop a coordinated response. Zoila José Juan attended with several other representatives from UCIZONI, one of 131 organizations that participated in the meeting. At the end of the three-day gathering, the representatives from all over southern Mexico, as well as Guatemala, Nicaragua and El Salvador, issued a joint statement. It read, in part: "Given that any development plan must be the result of a democratic process, and not an authoritarian one, we firmly reject the Puebla-Panama Plan.... We condemn all strategies geared toward the destruction of the national, peasant and popular economy, [and] food and labor self-sufficiency."<sup>16</sup>

Bush and Fox are drafting grandiose, arrogant, anti-democratic plans, but the First

Peoples to inhabit the Isthmus of Tehuantepec have survived 17 centuries. They are not about to vanish without a fight.

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12. "Fondo y trasfondo del Plan Puebla Panamá," *Proceso* #1271, March 11, 2001, p. 41.

13. Enrique Dávila, Georgina Kessel, and Santiago Levy, "El Sur También Existe: Un ensayo sobre el desarrollo regional de México," July 2000, p. 49.

14. "Las maquiladoras 'no son el diablo que se nos mete' al sur: Florencio Salazar," *La Jornada*, April 25, 2001, p. 47.

15. "Esta lucha, se las recomendamos," *Ojarasca*, A supplement to *La Jornada*, April 28, 2001.

16. "Declaración del Foro de Información, Análisis y Propuestas: El Pueblo es Primero Frente Globalización," Tapachula, Chiapas, May 12, 2001.

#### RESOURCES:

For links (in Spanish) to government and opposition information and analysis regarding the PPP, see: [www.ciepac.org/ppp.htm](http://www.ciepac.org/ppp.htm)

# BLUEPRINT FOR GENOCIDE

## Vicente Fox's Plan Puebla-Panama

By PHILIP E. WHEATON and COMMITTEE OF INDIGENOUS SOLIDARITY (CIS)

**P**lan Puebla-Panama (PPP) is the centerpiece of Mexican President Vicente Fox's neoliberal development project and, as his Secretary of State, Jorge Castañeda stated, a logical corollary of PAN's program of 'peace' in Chiapas. More importantly, the PPP is one of the two major Latin American strategies for implementing Free Trade in the Americas (FTAA): the Andean Initiative and Plan Colombia in South America and Plan Puebla-Panama, which links Mezoamerica to Mexico, a two thousand mile long development-transportation corridor spanning the Isthmus separating the Pacific from the Caribbean.

Known in Mexico as the Mega-Project, the PPP will consist of three elements: a dry canal across the Isthmus of Tehuantepec, which will transship huge cargo containers from East to West to facilitate rapid transport of manufactured parts from the Pacific to the Caribbean; several new maquiladora centers in Southern Mexico; and a modern rail and vehicular transportation infrastructure to speed the movement of products from Panama in the South to the city of Puebla in the North (capital of the State of Puebla, Mexico) and then on to the U.S. border. But the heart of this Isthmian strategy is the dry canal which will link the markets of Asia and the United States, an alternative to the already inadequate Panama Canal facilities. Specifically, the PPP will:

*...facilitate the movement of manufactured goods and parts from the Pacific Rim, commodities from Latin America destined for population centers on the [U.S.] East Coast and Midwest... Disassembled manufactured goods produced in the Pacific Rim... (where wages average less than 15 cents an hour) would be shipped to this region, where cheap maquila labor would assemble the parts into finished products for sale*

*in the U.S....[But the] project would displace hundreds of indigenous communities, force small farmers into the maquiladora workforce and threaten areas of high biodiversity."<sup>1</sup>*

**PPP would displace hundreds of indigenous communities, force small farmers into the maquiladora workforce and threaten areas of high biodiversity.**

Together with the leaders of seven Central American countries, President Fox has already signed a joint declaration in favor of the Plan, which he says "... could end the backwardness of the region in order to incorporate it fully into the corridors of world commerce." Salvadoran President Francisco Flores declared that the Plan opens up "...a new era for our countries and [marks] a vision we all share—a vision of integration."<sup>2</sup> This statement came on the second day of Fox's three-day trip to Central America to promote the Plan Puebla-Panama, which will include nine of Mexico's poorest states and seven of Latin America's poorest countries, including Nicaragua, Guatemala and Honduras. Flores stated that the Plan would become an important source of jobs over the next two decades for the 65 million people who live in this impoverished region. Rodger Scott, export promoter at British Trade International, an arm of the UK government, said: "It [the PPP] is one of the biggest infrastructure projects the world has seen in years."<sup>3</sup>

Mexico has already signed free trade agreements with Costa Rica and Nicaragua and recently President Fox accompanied Panamanian President Mireya Moscoso to

Panama, where the two leaders agreed to reactivate stalled negotiations toward a free-trade agreement. Many discussions have been held and plans are already drawn up for a new highway across Panama linked to Colombia and a second transisthmian dry canal across Nicaragua. Why then did Subcomandante Marcos blast this little-known Puebla-Panama Plan in March of this year during the Zapatista caravan to Mexico? The Zapatistas are questioning whether this pro-market development plan might not be, in fact, a plot to exterminate Indian cultures by selling their land to foreign companies. On June 15, 2001, more than 20,000 teachers in Chiapas demonstrated against the Plan, rejecting it in its entirety. Fox's coordinator for the Plan, Florencio Salazar, countered by saying that in addition to the economic infrastructure plans, the PPP will include programs "...to improve education and health services, within the next five years."<sup>4</sup>

### TRANSNATIONAL CAPITAL AND THE PPP

Like all economic globalization programs today, the FTAA, an extension of its predecessor, the North American Free Trade Agreement (NAFTA), is motivated by the same goals: corporate profits and personal greed based upon the exploitation of cheap labor and rapid transit. Because the Panama Canal is saturated with cargo ships and limited to smaller-sized cargo vessels, causing many-day delays for passage, the demand for a new transisthmian passage became essential and urgent. The answer was a dry canal across the narrowest stretch of land between the two oceans, from the ports of Coatzacoalcos on the Gulf of Mexico to Salina Cruz on the Pacific coast, across the

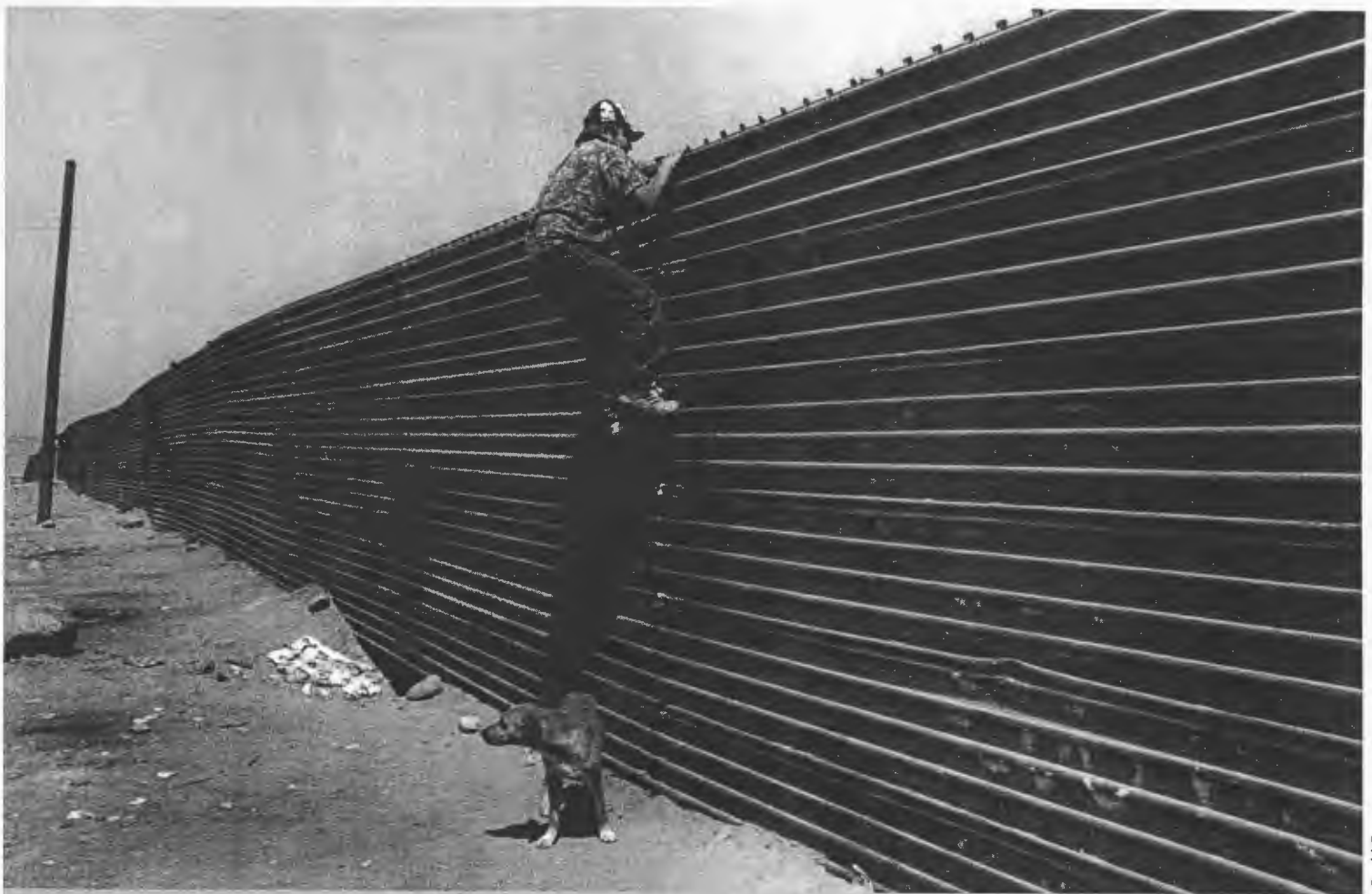
1. Mexico Solidarity Network Weekly News Summary, Washington, D.C., March 29, 2001.

2. Associated Press, June 16, 2001.

3. *Financial Times*, London, March 26, 2001.

4. Associated Press, June 16, 2001.





David Bacon

*Tijuana, Mexico, April 1999. A worker peers over the wall separating Mexico and the U.S., preparing to gamble his life on the possibility of escaping persecution and/or obtaining such work as will at least maintain the minimum requirements for subsistence.*

Tehuantepec Isthmus. Corporations, banks and international financial agencies are fully behind the PPP as the following four points make clear.

- Financial backers for the PPP include the U.S. Treasury Department, the World Bank and the World Trade Organization. The first hard money came from the World Bank, an "\$8 billion mega-project to create a development corridor."<sup>5</sup> In addition, the Plan is backed by the Inter-American Development Bank and various huge corporations, like the Pulsar Group, one of the largest transgenic seed companies in the world, headed by Mexican multimillionaire Alfonso Romo, a close ally of Vicente Fox and key promoter of the PPP. The World Bank sees Chiapas as "...an interesting trial area for genetic engineering."<sup>6</sup> Such financially powerful players and huge financial investments will have an enormous impact upon this impoverished region, affecting the lives of the hundreds

of thousands of poor people, forcing them off their land, creating mass migration and opening the way to further privatizations.

- The new dry canal will serve a double market and dual purpose. On the one hand, the Tehuantepec canal, which will serve both the East and West coasts of the U.S. (eliminating the longer sea travel to Panama and avoiding the rocky mountain terrain) will serve a dual purpose. First, it will enable Asian manufacturers (particularly the Chinese) to ship component parts to the Americas while the finished products will be assembled in Southern Mexico and then shipped North. The key issues are cheap labor and cutting transport time. Moreover, a major crisis has developed over the years in the Rio Grande maquiladoras (along the U.S.-Mexican border) where labor struggles, crime and violence, and rising wage demands have caused foreign corporations to threaten to leave the area for other countries. Fox's al-

ternative is to open new maquilas in southeastern Mexico where companies are assured of cheap labor, with salaries up to 40% less than in the north.

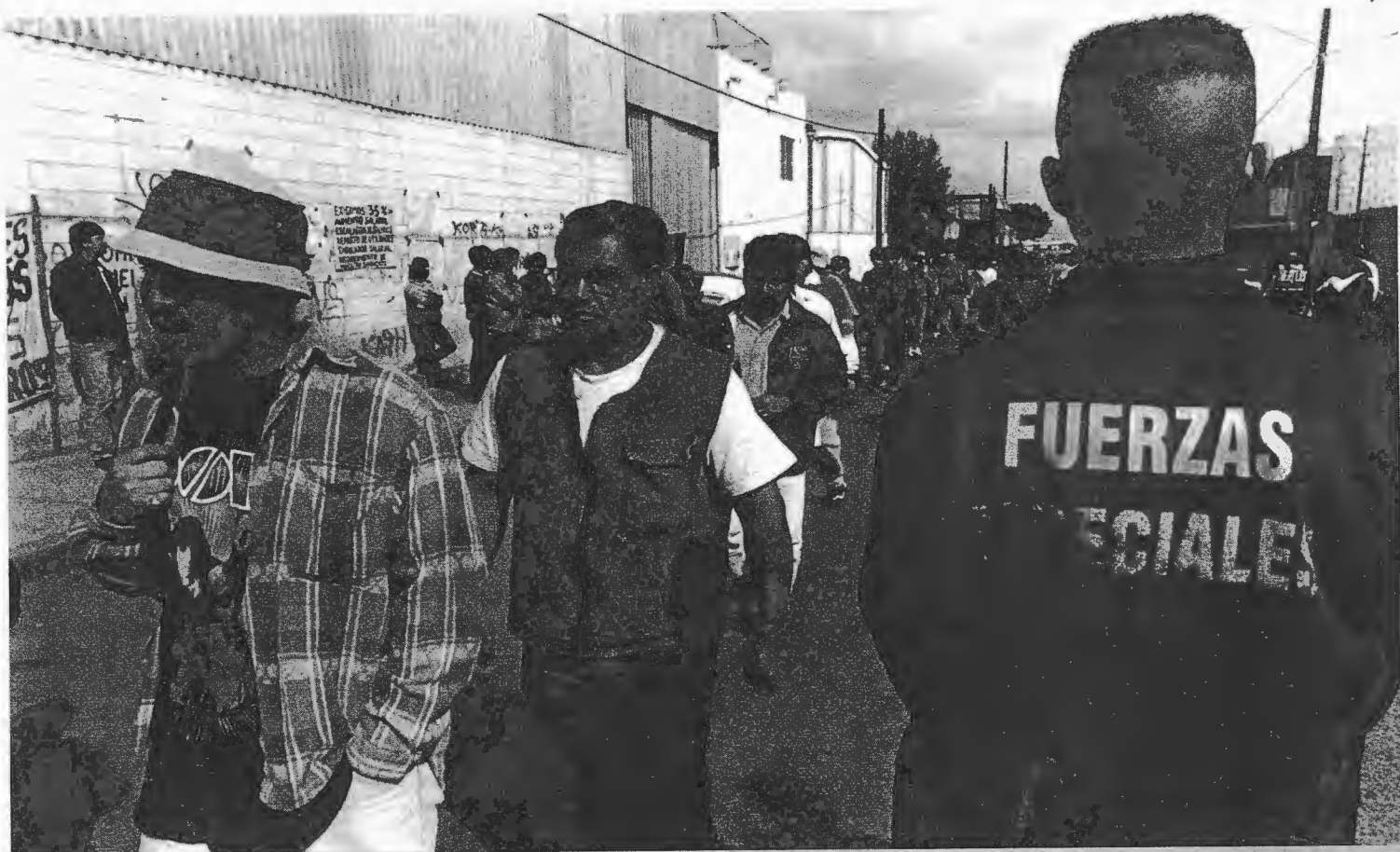
This year, 92 maquiladoras will move to the region, creating 37,000 jobs. A related aspect of the PPP is the drive to turn the countryside into a profitable business where there will be investments of \$65 million in irrigation systems covering 220,000 hectares in the southernmost states of Mexico, primarily for large monocultures.<sup>7</sup>

The movement of these Mexican agricultural products to mid-America would be carried on exclusive corporate-run freight highways and fast railroad systems which would bypass Mexico City and speed up passage across national borders. These new transportation systems would not be open to local

5. *The Ecologist* (London), June 2001.

6. *Ibid.*

7. *Ibid.*



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*Tijuana, Mexico, April 1999. Scabs arrive for illegal strikebreaking at the maquiladora Han Young, under the protection of Tijuana's Fuerzas Especiales (functional equivalent of a U.S. SWAT team).*

traffic and/or would be too expensive for most private travel, just as the extremely expensive high-tariff highway from Mexico City to Acapulco already is.

- PPP focuses on the region's Subsoil Resources and Rich Biodiversity. Mexico's southern states, like Tabasco, Chiapas, Guerrero, Oaxaca and Campeche are of particular interest to the transnationals because of the vast oil and natural gas deposits found there, plus their ability to produce hydro-electric energy (to run the new maquilas and the communities where the cheap labor force will be housed) but, most importantly, because of the great potential for "genetic resources" to fuel biotechnology developments and experiments.

A hidden element of the PPP is the opportunity for gene giants Monsanto, Syngenta, Diversa, Pulsar and others to carry out "biopiracy" in Central America. Under the banner of "biodiversity conservation and management," the World Bank, private investors and so-called environmental NGOs are promoting the creation of nationally protected areas across the South-East in the "Mezoamerican Biological Corridor Project,"

now part of the PPP. There is a growing concern that these alliances are being used to gain access to plants and micro-organisms, without the informed consent of local indigenous populations."<sup>8</sup>

- Herein lies the potential clash with indigenous communities which are already resisting the PPP strategy in Oaxaca (the dry canal), Guerrero (massive logging) and Chiapas (oil and natural gas drilling in the Lacandon jungle). The Zapatistas in Chiapas have declared that these projects represent "...a robbery of our traditional indigenous knowledge and resources."<sup>9</sup> Indigenous communities in Oaxaca are highly organized and already resisting the PPP. As the Zapatistas have said: "For us, Indian peoples, our Mother Earth is sacred and so are all the beings which inhabit her. They are not a commodity which can be bought or sold..."<sup>10</sup>

#### KEYS TO THE KINGDOM: CHEAP LABOR

While at first glance the goals of President Bush and President Vicente Fox in promoting the PPP seem to represent advantages for both the United States and Mexico, as well as the Central American countries, closer

examination reveals the social antagonisms which underlie these complementary and contradictory motivations: exploitation of the poor, enrichment of wealthy elites, and the egotistic advantaging of some nations over others. Just as former President George Bush, Sr. invited Mexico to join the U.S.-Canadian Free Trade Pact in the early 1990s, in order to benefit U.S. corporations moving to Mexico to exploit its cheap labor force, so President Vicente Fox is now planning to use the FTA to benefit Mexican investors by exploiting Central America's cheap labor force. Consider the following four complementary/contradictory issues.

- Mexican Migration (mutually complementary). In Mexico, Fox is sitting atop a time bomb: the huge and growing number of poor and desperate Mexicans who cannot find jobs. Fox must find an escape valve for them and the only feasible option is through migration to the United States. That puts Bush in a political/economic bind: U.S.

8. *Ibid.*

9. *Ibid.*

10. *Ibid.*



agribusiness needs cheap Mexican farm labor but public opinion in the U.S. is opposed to more and more undocumented Mexican migrants entering the States. Two solutions are on the table: long-term work permits for the three million undocumented Mexicans already in the U.S. (excluding the possibility of citizenship), and allowing an increased number of Mexicans to enter the States as contract labor—a longstanding practice—while trying to stop all irregular (illegal) migration. Neither plan seems particularly viable, even less so since 911, and the economic downturn. In the meantime, the poverty time-bomb in Mexico keeps ticking.

- **Natural Resources** (contradictory for Mexico). Since 1994, one of the primary goals of U.S. exploiters-speculators has been to get their greedy hands on the tremendous natural resources in the Lacandon jungle in Chiapas and in other Southern Mexican states. The “political” battles of the Mexican Army against the Zapatistas, and Indians in general, was to get indigenous peoples off their *ejidal* (communitarian) lands in order to get at their topsoil (forests) and subsoil (petroleum) riches. During the six years of President Ernesto Zedillo (1994-2000), the Mexican Army surrounded the Lacandon jungle and drove off nearly all the Indian and Ladino peasants surviving there and now awaits the arrival of the financial and corporate predators from the North, whether Mexican or North American, to exploit these treasures. This policy creates two contradictions: first, as forests are felled, and oil is sucked from the ground (in Tabasco, often spilled on the land or into rivers) and people are driven off their lands, Mexico’s environment will become increasingly ruined, causing more drought, floods and hunger and thus social unrest. Second, when poor peasants are pushed off the land, they are forced to migrate to big cities or to the U.S. border where the maquilas hire only one in 20 applicants. To survive, 19 will turn to prostitution, crime and drugs, or run the risk of an illegal border crossing, often sending most of their earnings home to feed their families in Mexico.

- **Central American Refugees** (complementary to both governments). The PPP strategy is fundamentally based upon exploiting cheap laborers from impoverished Central America while at the same time preventing them from moving North to the U.S. border. This is the heart of the Bush-Fox deal. To accomplish

this goal, Fox intends to allow into Mexico only those Central American migrants willing to remain in Mexico and work in the new southern maquiladoras around the Tehuantepec Isthmus, where they will assemble the manufactured parts arriving from Asia. Just as NAFTA’s maquiladoras, concentrated along the Rio Grande border, have created social disorders among Mexico’s poor, now the PPP will bring together both those impoverished Central American workers and peasants who rebelled against U.S.-backed military forces during the 1980s revolutions and the rebellious poor Mexican campesinos and Indians, creating a new and potentially more explosive mix. Moreover, Mexico’s alienated middle class, which rebelled against the neoliberal policies of NAFTA following the stock market crash in December 1994 (which forced a \$50 billion bailout by President Clinton), joined a radicalized middle class organization called the *Barzonistas*, now a million strong.<sup>11</sup> Crossing class lines, these bankrupt middle class Mexicans are sympathetic both to the plight of Mexico’s Indians generally and the Zapatista movement in particular, and deeply distrust the policies of the New World Order. As a result, the PPP could end up intensifying domestic unrest throughout Mexico.

- **Recent political and social rebellions** (contradictory for both countries). Both NAFTA and the PPP are based upon two anti-social assumptions. First, the economists of globalization assumed that First World nations could successfully control Third World national economies through an alliance with elites in each country. The elites would greatly benefit from ripping off their own societies, and the middle classes and majority poor of those countries would simply go along. Second, if the middle and lower classes refused to go along and rebelled, the globalizers assumed that national armies—funded, trained and armed by the Pentagon—would back the political-economic interests of the United States and the national elites by suppression, and thus keep impoverished and disgruntled societies in check, as the Mexican Army has done to the Zapatistas from 1995 onward, through low-intensity warfare.

Recently a new phenomenon has begun to emerge in Mexico, one quietly coalescing during the NAFTA years (1995-2000), involving the rise of Mexican nationalism. On the one hand, the reactionary Mexican Army, which came to distrust the PRI and espe-

cially President Carlos Salinas de Gortari, does not trust the PAN either.<sup>12</sup> Nor is the Army leadership happy with the Gringos, who are seen as representing foreign interests, trying to impose their own “law and order” upon Mexico. On the other hand, progressive members of political parties are beginning to look beyond party loyalties for common solutions to social problems. For example, recently in Chiapas, the coalition of eight parties which won the state elections in 2000, continue to work together despite individual party opposition in an effort to carry out programs that benefit the whole highland society.<sup>13</sup> Both examples suggest that more and more Mexicans, from the right and the left, are returning to a nationalist perspective—asking what is good for Mexico—a thesis despised by global capitalists and forbidden by the IMF’s structural adjustment policies.

Taken together, these complementary and contradictory policies of Presidents Bush and Fox could easily produce serious problems for both countries, especially in light of the economic downturn since 911. Moreover, President Fox’s PPP strategy of economic development through the exploitation of poor peasants in southern maquilas could become the fuse that sets off Mexico’s poverty time-bomb. Indeed, President Fox, in an interview with the Salvadoran newspaper *La Prensa Gráfica* said: “The PPP is a thousand times more [important] than Zapatismo or [any] Indigenous community in Chiapas.”<sup>14</sup> His elitist attitude and racial innuendos, along with the PPP strategy of removing indigenous peoples from their lands, could well trigger a process of cultural genocide of unknown and unprecedented proportions.

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**Sources compiled by Mexico Information Service.**

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11. John Ross, *Rebellion at the Roots* (Monroe, Maine: Common Courage Press, 1995), p. 177.

12. *La Foja, Editora Mundo Maya, S.C.*, San Cristobal de las Casas, Chiapas, Mexico, Nov. 1, 2001.

13. Author interview with Amado Avendaño, *La Foja*, San Cristobal de las Casas, Chiapas, Mexico, Nov. 2, 2001.

14. *La Jornada*, national daily newspaper, Mexico City, June 15, 2001.

# THE USA PATRIOT ACT

*What's So Patriotic about Trampling on the Bill of Rights?*

By NANCY CHANG

Just six weeks after the September 11 terrorist attacks on the World Trade Center and the Pentagon, a jittery Congress – exiled from its anthrax-contaminated offices and confronted with warnings that more terrorist assaults were soon to come – capitulated to the Bush Administration's demands for a new arsenal of anti-terrorism weapons. Over vigorous objections from civil liberties organizations on both ends of the political spectrum, Congress overwhelmingly approved the USA PATRIOT Act.<sup>1</sup> The House vote was 356-to-66, and the Senate vote was 98-to-1. Along the way, the Republican House leadership, in an unusual display of force, jettisoned an anti-terrorism bill that the House Judiciary Committee had unanimously approved and that would have addressed a number of civil liberties concerns.<sup>2</sup> This hastily drafted, complex, and far-reaching bill spans 342 pages. Yet it was passed with virtually no public hearing or debate and is accompanied by neither a conference nor a committee report.<sup>3</sup> On October 26, a triumphant President George W. Bush signed the USA PATRIOT Act into law.<sup>4</sup>

## VAST AND UNCHECKED POWERS FOR THE EXECUTIVE BRANCH

Although some of its provisions do not appear to be controversial, the USA PATRIOT Act nevertheless stands out as radical in its design. To an unprecedented degree, the Act sacrifices our freedoms in the name of national security and upsets the democratic values that define our nation by consolidating vast new powers in the executive branch of government. Under the Act, the executive's ability to conduct surveillance and gather intelligence is enhanced, prosecutors have a set of new tools to work with, including new crimes, enhanced penalties, and longer statutes of limitations, and the

INS has gained the authority to detain immigrants suspected of terrorism for lengthy, or even indefinite, periods of time. And at the very same time that the Act inflates the powers of the executive, it insulates the exercise of these powers from any meaningful judicial and congressional oversight.

It remains to be seen how the executive will wield its new authority. However, if the two months that have elapsed since September 11 serve as a guide, we should brace ourselves for a flagrant disregard of the rule of law. Already, the Department of Justice (DOJ) has admitted to detaining over 1,100 immigrants, not one of whom has been charged with committing a terrorist act and only a handful of whom are being held as material witnesses to the September 11 hijackings.<sup>5</sup> Many in this group appear to have been held for extended time periods under an extraordinary interim regulation first announced by Attorney General John Ashcroft on September 17.<sup>6</sup> This regulation sets aside the strictures of due process by permitting the INS to detain aliens without charge for 48 hours or an uncapped "additional reasonable period of time" in the event of an "emergency or other extraordinary circumstance." Also, many in this group are being held without bond under the pretext of unrelated criminal charges or minor immigration violations, in a modern-day form of preventive detention. Chillingly, the Attorney General responded to the passage of the USA PATRIOT Act not by pledging to use his new powers responsibly and guard against their abuse, but instead by vowing to step up his detention efforts. Conflating immigrant status with terrorist status, he declared: "Let the terrorists among us be warned[, i]f you overstay your visas even by one day, we will arrest you."<sup>7</sup>

In addition, the administration has made

no secret of its hope that the judiciary will accede to its broad reading of the USA PATRIOT Act just as pliantly as Congress acceded to its broad legislative agenda. In a letter sent to key senators while Congress was deliberating over this legislation, Assistant Attorney General Daniel J. Bryant, of DOJ's Office of Legislative Affairs, openly advocated for a suspension of the Fourth Amendment's warrant requirement in the face of foreign national security threats.<sup>8</sup> The Bryant letter brazenly declares:

*As Commander-in-Chief, the President must be able to use whatever means necessary to prevent attacks upon the United States; this power, by implication, includes the authority to collect information necessary to its effective exercise.<sup>9</sup>*

## WHOLESALE SUSPENSION OF CIVIL LIBERTIES

The administration's blatant power grab, coupled with the wide array of anti-terrorism tools that the USA PATRIOT Act puts at its disposal, portend a wholesale suspension of civil liberties that will reach far beyond those who are involved in terrorist activities. First, the Act places our First Amendment rights to freedom of speech and political association in jeopardy, by creating a broad new crime of "domestic terrorism," and by denying entry to non-citizens on the basis of ideology. Second, the Act will reduce our already lowered expectations of privacy under the Fourth Amendment by granting the government enhanced surveillance powers. Third, non-citizens will see a further erosion of their due process rights as they are placed in mandatory detention and removed from the United States under the Act. Political activists who are critical

1. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law No. 107-56.

2. Adam Clymer, "Antiterrorism Bill Passes; U.S. Gets Expanded Powers," *New York Times*, Oct. 26, 2001, p. A1; Robin Toner and Neil A. Lewis, "House Passes Terrorism Bill Much Like Senate's, but With 5-Year Limit,"

*New York Times*, Oct. 13, 2001, p. B6.

3. *Ibid.*

4. Adam Clymer, "Bush Quickly Signs Measure Aiding Antiterrorism Effort," *New York Times*, Oct. 27, 2001, p. B5.

5. Amy Goldstein, et al., "A Deliberate Strategy of Disruption," *Washington Post*, Nov. 4, 2001, p. A1.

6. See 66 *Federal Register* 48334-35 (Sept. 20, 2001).

7. Dan Eggen, "Tough Anti-Terror Campaign Pledged," *Washington Post*, Oct. 26, 2001, p. A1.

8. This undated letter was sent to Senators Bob Graham, Orrin Hatch, Patrick Leahy, and Richard Shelby. A copy of this letter is on file with the author.

9. Bryant Letter at p. 9 (emphasis added).



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of our government or who maintain ties with international political movements are likely to bear the brunt of these attacks on our civil liberties.

Section 802 of the USA PATRIOT Act creates a federal crime of "domestic terrorism" that broadly extends to "acts dangerous to human life that are a violation of the criminal laws" if they "appear to be intended... to influence the policy of a government by intimidation or coercion," and if they "oc-

cur primarily within the territorial jurisdiction of the United States." Because this crime is couched in such vague and expansive terms, it runs the risk of being read by federal law enforcement agencies as licensing the investigation and surveillance of political activists and organizations based on their opposition to government policies. It also runs the risk of being read by prosecutors as licensing the criminalization of legitimate political dissent. Vigorous pro-

test activities, by their very nature, could be construed as acts that "appear to be intended ... to influence the policy of a government by intimidation or coercion." Further, clashes between demonstrators and police officers and acts of civil disobedience (even those that do not result in injuries and are entirely non-violent) run the risk of being construed as "dangerous to human life" and in "violation of the criminal laws." Environmental activists, anti-globalization

activists, and activists who use direct action to further their political agendas are particularly vulnerable to prosecution as "domestic terrorists."

Also, Section 803 of the Act makes it a crime to "harbor or conceal any person [one] know[s], or has reasonable grounds to believe, has committed, or is about to commit" specified terrorist activities. Through the operation of the "domestic terrorism" and harboring provisions of the Act, political activists may unwittingly find themselves the subject of government surveillance and prosecution.

Careful monitoring of the use the government makes of these provisions will be required in order to ascertain whether individuals and organizations are being targeted selectively for surveillance and prosecution based on their opposition to government policies. The First Amendment does not tolerate viewpoint-based restrictions on speech.<sup>10</sup>

In addition, Section 411 of the Act poses an ideological test for entry into the United States that takes into consideration core political speech which enjoys the protection of the First Amendment. Representatives of a political or social group "whose public endorsement of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities" can no longer gain entry into the United States. Entry is also barred to non-citizens who have used their "position of prominence within any country to endorse or espouse terrorist activity," if the Secretary of State determines that the speech "undermines United States efforts to reduce or eliminate terrorist activities."

### **TOLLING THE DEATH-KNELL ON PRIVACY**

The USA PATRIOT Act launches a two-pronged assault on our privacy. First, the Act grants the executive branch unprecedented, and largely unchecked, surveillance tools, including the enhanced ability to track email and Internet usage, conduct sneak-and-peek searches, obtain sensitive educational and medical records, monitor financial transactions, and conduct nationwide roving wiretaps. Second, the Act permits law enforcement agencies to circumvent the Fourth Amendment's requirement of probable cause when conducting wiretaps and searches that

have, as "a significant purpose," the gathering of foreign intelligence.<sup>11</sup>

By and large, Congress granted the administration its wish list of enhanced surveillance tools, coupled with the ability to use these tools with only minimal judicial and congressional oversight. Congress failed to demand in exchange a showing that these highly intrusive new tools are needed to combat terrorism and that the administration can be trusted not to abuse them.

One of the most far-reaching surveillance tools in the USA PATRIOT Act appears in Sec-

tion 412. It permits the FBI to obtain a court order requiring the production of "any tangible things (including books, records, papers, documents, and other items)" sought for an investigation "to protect against international terrorism or clandestine intelligence activities." The FBI need not suspect the persons whose records are sought of any wrongdoing. Furthermore, the class of persons whose records are obtainable under Section 215 is not limited to foreign powers and their agents, but may include United States citizens and permanent residents. While Section 215 bars investigations of such persons "solely upon the basis of activities protected by the first amendment to the Constitution," it does nothing to bar investigations based on other activities that tie them, no matter how loosely, to an international terrorism investigation. A judge presented with an application from the FBI meeting the requirements of Section 215 is required to enter an order if s/he "finds that the application meets the requirements of this section." Section 215 is scheduled to sunset on December 31, 2005.

Section 412 vastly inflates the Attorney General's power to detain immigrants who are suspected of falling into that class. Upon no more than the Attorney General's

unreviewed certification that he has "reasonable grounds to believe" that a non-citizen is engaged in terrorist activities or other activities that threaten the national security, a non-citizen can be detained for as long as seven days without being charged with either a criminal or immigration violation.

Of particular concern is Section 213 of the Act, which authorizes federal agents to conduct "sneak-and-peek searches," or covert searches of a person's home or office that are conducted without notifying the person of the execution of the search warrant until after the search has been completed. Section 213 authorizes delayed notice of the execution of a search warrant upon a showing of "reasonable cause to believe that providing immediate notification ... may have an adverse result."<sup>12</sup> Section 213 also permits notice of the execution of a warrant to conduct a seizure of items to be delayed where the court finds a "reasonable necessity" for the seizure.

Section 213 runs contrary to Fourth Amendment principles. When notice of a search is delayed, one is foreclosed from pointing out deficiencies in the warrant to the officer executing it and from monitoring whether the search is being conducted in accordance with the warrant. In addition, Section 213, by authorizing delayed notice of the execution of a warrant to conduct a seizure, contravenes Rule 41(d) of the Federal Rules of Criminal Procedure, which requires that, "The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave

10. See *R.A.V. v. St. Paul*, 505 U.S. 377 (1992).

11. Congress has scheduled some, though not all, of these procedures to sunset on December 31, 2005. See USA PATRIOT Act § 224(a).

12. USA PATRIOT Act § 213, amending 18 U.S.C. § 3101a. The definition of the term "adverse result" in Section 213 is borrowed from a statute establishing the standards under which the government may provide delayed notice when it searches stored email and other wire and electronic communications—searches that are not nearly as intrusive as physical searches of one's home or office. The term is defined in 18 U.S.C. § 2705(a)(2) as: "(A) endangering the life or physical safety of an individual; (B) flight from prosecution; (C) destruction of or tampering with evidence; (D) intimidation of potential witnesses; or (E) otherwise seriously jeopardizing an investigation or unduly delaying a trial."

**Section 412 vastly inflates the Attorney General's power to detain immigrants... Upon no more than the Attorney General's unreviewed certification that he has "reasonable grounds..."**



the copy and receipt at the place from which the property was taken."

#### END RUN AROUND THE FOURTH AMENDMENT

Perhaps the most radical provision of the USA PATRIOT Act is Section 218, which amends the Foreign Intelligence Surveillance Act's wiretap and physical search provisions. Under FISA, orders permitting the executive to conduct surreptitious foreign intelligence wiretaps and physical searches may be obtained without the showing of probable cause that is required for wiretaps and physical searches in criminal investigations. Until the enactment of the Act, orders issued under FISA's lax standards were restricted to situations where the gathering of foreign intelligence information was "the purpose" of the surveillance.

Under Section 218, however, orders may be issued under FISA's lax standards where the primary purpose of the surveillance is criminal investigation, and the gathering of foreign intelligence information constitutes only "a significant purpose" of the surveillance. As a result, Section 218 allows law enforcement agencies to circumvent the Fourth Amendment simply by claiming that the gathering of foreign intelligence is "a significant purpose." In doing so, Section 218 gives the FBI a green light to conduct domestic spying on government "enemies"—a program that reached an ugly apex under J. Edgar Hoover's directorship (1924-1972).

Section 218 threatens to upset the delicate constitutional balance that was struck when Congress enacted FISA in 1978. In the seminal *Keith* case,<sup>13</sup> the Supreme Court rejected President Richard Nixon's ambitious bid for the unchecked executive power to conduct warrantless wiretaps when investigating national security threats posed by domestic groups with no foreign ties. The Court recognized that national security cases reflect "a convergence of First and Fourth Amendment values not present in cases of 'ordinary' crime."<sup>14</sup> With respect to the First Amendment, the Court wisely observed that "[o]fficial surveillance, whether its purpose be criminal investigation or ongoing intelligence gathering, risks infringement of constitutionally protected privacy of speech" because of "the inherent vagueness of the domestic security concept ... and the temptation to utilize such surveillances to oversee political dissent."<sup>15</sup>

With respect to the Fourth Amendment,

the Court acknowledged "the President's domestic security role," but refused to exempt the President from the Fourth Amendment's warrant requirement.<sup>16</sup> The Court explained the oversight function assumed by the judiciary in its review of applications for warrants "accords with our basic constitutional doctrine that individual freedoms will best be preserved through a separation of powers and division of functions among the different branches and levels of Government."<sup>17</sup>

Notably, the *Keith* Court specifically declined to examine "the scope of the President's surveillance power with respect to the activities of foreign powers, within or without this country."<sup>18</sup> To fill the vacuum left by *Keith*, in 1978, Congress enacted FISA, which is premised on the assumption that Fourth Amendment safeguards are not as critical in foreign intelligence investigations as they are in criminal investigations. The Supreme Court has yet to rule on FISA's constitutionality. However, the Fourth Circuit has held that "the executive should be excused from securing a warrant only when the surveillance is conducted 'primarily' for foreign intelligence reasons," because "once surveillance becomes primarily a criminal investigation, the courts are entirely competent to make the usual probable cause determination, and because, importantly, individual privacy interests come to the fore and government foreign policy concerns recede when the government is primarily attempting to form the basis for a criminal prosecution."<sup>19</sup>

The constitutionality of Section 218 is in considerable doubt. The extremist position staked out by DOJ in the Bryant Letter, which argues that "[i]f the government's heightened interest in self-defense justifies the use of deadly force, then it certainly would also justify warrantless searches," would undermine the separation of powers doctrine.<sup>20</sup> Until the Supreme Court weighs in on this matter, the government will find itself in a quandary each time it seeks to prosecute a criminal defendant based on evidence that, although properly obtained under the lesser showing required by Section 218, does not meet the probable cause showing required by the Fourth Amendment. Should the government decide to base prosecutions on such evidence, it will run the risk that evidence will be suppressed under the Fourth Amendment exclusionary rule.<sup>21</sup> Section 218 is scheduled to sunset on December 31, 2005.

#### STRIPPING IMMIGRANTS OF CONSTITUTIONAL PROTECTIONS

The USA PATRIOT Act deprives immigrants of their First Amendment and due process rights through two mechanisms that operate in tandem. First, Section 411 of the Act vastly expands the class of immigrants that can be removed on terrorism grounds. Notwithstanding the fact that the term "terrorist activity" is commonly understood to include only premeditated and politically motivated violence targeted against a civilian population, Section 411 stretches the term beyond recognition to encompass any crime that involves the use of a "weapon or dangerous device (other than for mere personal monetary gain)." Under this broad definition, an immigrant who grabs a knife or makeshift weapon in the midst of a heat-of-the-moment altercation or in committing a crime of passion may be subject to removal as a "terrorist."

The term "engage in terrorist activity" has also been expanded to include soliciting funds for, soliciting membership for, and providing material support to, a "terrorist organization," even when that organization has legitimate political and humanitarian ends and the non-citizen seeks only to support these lawful ends. In such a case, Section 411 would permit guilt to be imposed solely on the basis of political associations protected by the First Amendment.<sup>22</sup>

To complicate matters further, the term "terrorist organization" is no longer limited to organizations that have been officially designated as terrorist and that have therefore had their designations published in the *Federal Register*. Instead, Section 411 now includes as "terrorist organizations" groups that have never been designated as terrorist if they fall under the loose criterion of "two or more individuals, whether organized or not," which engage in three specified terrorist activities. In situations where a non-

13. *United States v. United States District Court for the Eastern District of Michigan*, 407 U.S. 297 (1972) (*Keith*).

14. *Ibid.* p. 313.

15. *Ibid.* p. 320.

16. *Ibid.* p. 320.

17. *Ibid.* p. 317.

18. *Ibid.* p. 309.

19. *United States v. Truong Dinh Hung*, 629 F.2d 908, 915 (4th Cir. 1980).

20. See note 9, *supra*, and the accompanying text.

21. The exclusionary rule is a judicially created rule that bars prosecutors from using incriminating evidence obtained in violation of the Fourth Amendment to prove guilt. See, e.g., *Mapp v. Ohio*, 367 U.S. 643, 655 (1961).

citizen has solicited funds for, solicited membership for, or provided material support to, an undesignated "terrorist organization," Section 411 saddles him with the difficult, if not impossible, burden of "demonstrat[ing] that he did not know, and should not reasonably have known, that the act would further the organization's terrorist activity." Furthermore, while Section 411 prohibits the removal of a non-citizen on the grounds that he solicited funds for, solicited membership for, or provided material support to, a designated "terrorist organization" at a time when the organization was not designated as a "terrorist organization," it does *not* prohibit the removal of a non-citizen on the grounds that he solicited funds for, solicited membership for, or provided material support to, an undesignated "terrorist organization" *prior* to the enactment of the Act.

At the same time that Section 411 vastly expands the class of immigrants who can be removed on terrorist grounds, Section 412 vastly inflates the Attorney General's power to detain immigrants who are suspected of falling into that class. Upon no more than the Attorney General's unreviewed certification that he has "reasonable grounds to believe" that a non-citizen is engaged in terrorist activities or other activities that threaten the national security, a non-citizen can be detained for as long as seven days without being charged with either a criminal or immigration violation. This low level of suspicion falls far short of a finding of probable cause, and appears even to fall short of the reasonable and articulable suspicion that supports a brief investigatory stop under the Fourth Amendment.

If the non-citizen is charged with an immigration violation, he is subject to mandatory detention and is ineligible for release until he is removed, or until the Attorney General determines that he should no longer be certified as a terrorist. Until the immigration proceedings are completed, the Attorney General is required to review his certification once every six months. However, the Act does not direct the Attorney General either to inform the non-citizen of the evidence on which the certification is based, or to provide the non-citizen with an opportunity to contest that evidence at an Immigration Judge hearing or other administrative proceeding. Instead, the Act limits the non-citizen's ability to seek review of the certification to a habeas corpus proceeding filed in federal district court, appeals

from which must be filed in the Court of Appeals for the District of Columbia. Since habeas proceedings are civil rather than criminal in nature, the government has no obligation under the Sixth Amendment to provide non-citizens with free counsel in such proceedings.

Even where a non-citizen who is found removable is found eligible for asylum or other relief from removal, Section 412 of the Act does not permit his release. Further, in the event that the non-citizen is found removable, but removal is "unlikely in the reasonably foreseeable future" (most likely because no other country will accept him) he may be detained for additional periods of six months "if the release of the alien will threaten the national security of the United States or the safety of the community or any person."

The Due Process Clause "applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." Yet, the Act exposes immigrants to extended, and, in some cases, indefinite, detention on the sole authority of the Attorney General's untested certification that he has "reasonable grounds to believe" that a non-citizen is engaged in terrorist activities. It remains to be seen what evidentiary safeguards, if any, the Attorney General will build into his regulations implementing the Act. It also remains to be seen how rigorous federal court habeas reviews of such certifications will be and to what extent the courts will demand that the Attorney General base his certification on objective evidence. Nevertheless, it is hard to avoid the conclusion that the Act's certification and mandatory detention provisions will deprive non-citizens of their liberty without due process of law.

### **WILL THE JUDICIARY UPHOLD THE BILL OF RIGHTS?**

Our commitment to the Bill of Rights and to the democratic values that define this nation have been put to the test by the events of September 11. Already, Congress and the administration have demonstrated their eagerness to sacrifice civil liberties in hopes of gaining an added semblance of security. The task of upholding the Bill of Rights (or acquiescing in its surrender) will soon fall to the judiciary, as lawsuits testing the constitutionality of the USA PATRIOT Act wind their way through the courts.

The extent to which the judiciary will defer to the administration's views on the

troubling First and Fourth Amendment issues presented by the USA PATRIOT Act, tolerate ethnic and ideological profiling by the Administration as it implements the Act, and allow the due process rights of immigrants in detention to be eroded remain open questions. Certainly, the more anxious the times become, the more likely the judiciary will be to side with the administration, at least where it is convinced that the measures are vital to the national security, are not motivated by discriminatory intent, and tread as lightly as possible upon civil liberties. The recent words of Supreme Court Justice Sandra Day O'Connor, who so often figures as the swing vote on pivotal decisions, do not hold out hope for a vigorous defense of our political freedoms by the judiciary. Following a visit to Ground Zero, where the World Trade Center once stood, the Justice bleakly predicted, "We're likely to experience more restrictions on personal freedom than has ever been the case in this country."<sup>23</sup>

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**Nancy Chang is the Senior Litigation Attorney at the Center for Constitutional Rights in New York City. Her work at the Center has focused on protecting the First Amendment rights of political activists against government efforts to silence dissent, safeguarding civil liberties against measures taken in the name of national security, protecting the constitutional rights of immigrants, and combating racial profiling. This article is excerpted from a longer piece to be published by Seven Stories Press.**

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22. The Supreme Court has described guilt by association as "alien to the traditions of a free society and the First Amendment itself." *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 932 (1982).

23. Linda Greenhouse, "In New York Visit, O'Connor Foresees Limits on Freedom," *New York Times*, Sept. 29, 2001, p. B5.

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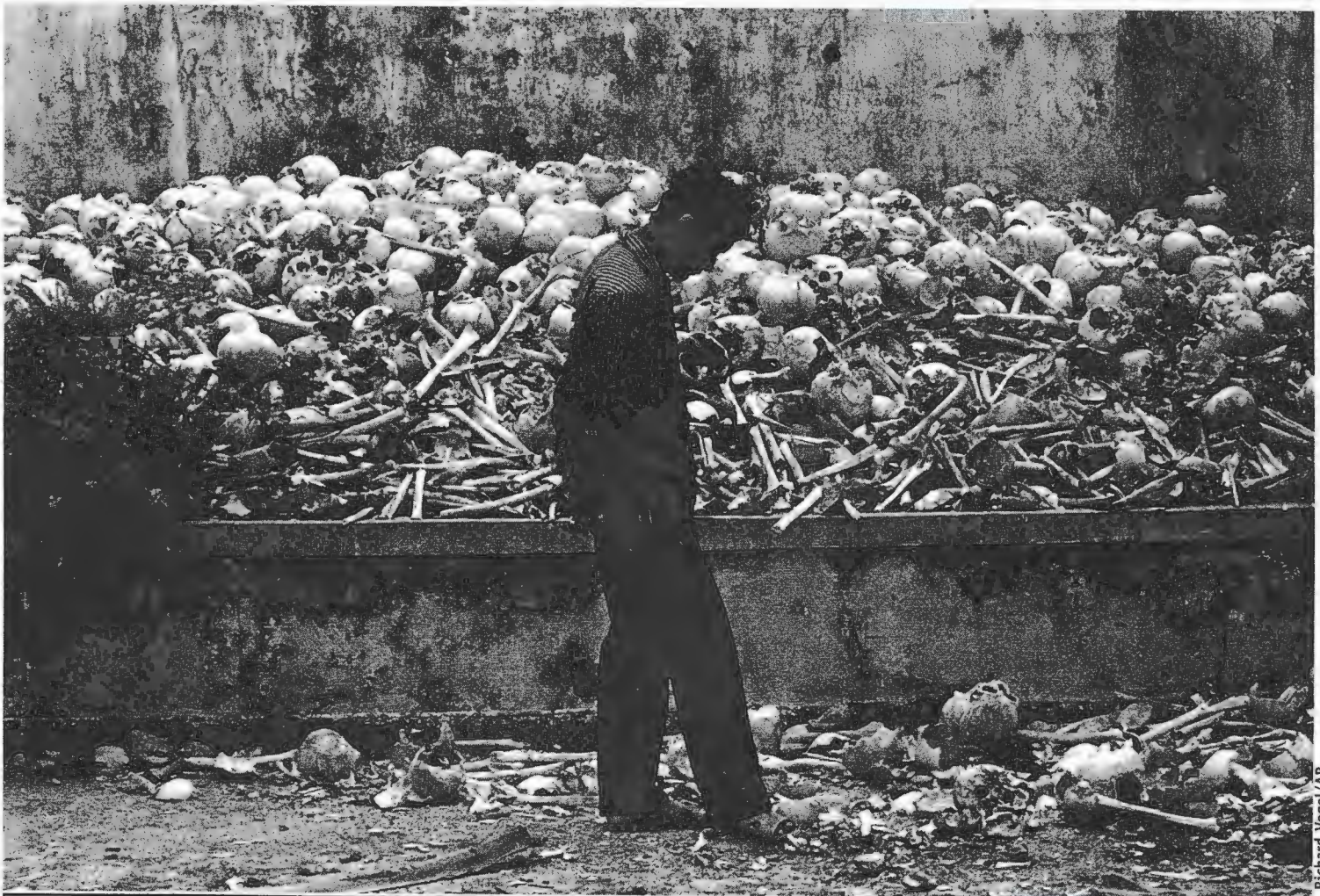


# WAR CRIMINALS, REAL AND IMAGINED

*The weight of the evidence and the usefulness of kangaroo courts*

By GREGORY ELICH

The blare of media fanfare exhorts us to celebrate the abduction and imprisonment of former Yugoslav President Slobodan Milosevic. Though widely touted as a victory in the American crusade for human rights, the arrest of Milosevic in April fits a quite different pattern when seen in the context of post World War II history. Whether waving the banner of freedom or waving the banner of human rights, Western leaders have consistently sought to obscure both their motivations and the often dreadful consequences of their actions. Freedom was never a concern. Nor were human rights, but such rhetorical justifications helped to engage domestic public support for international adventures designed to serve corporate interests. The lure of profit always takes precedence over the lives of millions.



Sunday, July 27, 1997. A Cambodian man walks past one of the many killing fields sites at a school on the outskirts of Phnom Penh. The CIA vigorously supported the Khmer Rouge genocide in Cambodia.





May 7, 1999, Nis, Yugoslavia. Vera Ilic was shopping at the crowded marketplace when NATO jets dropped cluster bombs at 11:20 a.m., the busiest time of the day. She died slowly from her wounds. Her groceries are scattered nearby.

Every year, 40 million people die needlessly of hunger and malnutrition, victims of a global capitalist system that cherishes wealth, but human lives not at all.<sup>1</sup> In terms of dead, this silent holocaust is the equivalent of a Second World War—in which 55 million died—taking place every year and a half. Yet a drop in the stock market evokes more concern. Such a system is monstrous. One can gauge Western commitment to human

rights and justice by examining the record of these self-appointed judges. History is replete with examples, so a few cases will have to serve as a synecdoche.

#### SLAUGHTER IN INDONESIA

Mass murder in Indonesia elicited a response from Western leaders. They supported it. A bloody CIA-backed military coup toppled President Sukarno and brought General

Suharto to power in 1965. Following the coup, an estimated 500,000 to one million trade unionists, peasants, ethnic Chinese and members of the Indonesian Communist Party (PKI), were killed in one of the most barbaric mass slaughters in history. The U.S. government supplied Suharto with a list of several thousand Indonesian communists it wanted to see eliminated. Researcher Kathy Kadane discovered through interviews with

1. "Learn About What Works," [www.netaid.org](http://www.netaid.org). Fidel Castro, citing the UN Food and Agriculture Organization's report to the Club of Rome, "The World Economic and Social Crisis," Publishing Office of the Council of State (Havana), 1983; Eva Cheng, citing U.S. President Clinton, "Fake Debt Write-Off: Rich Nations Tighten the Screws," *Green Left Weekly*, October 20, 1999.
2. Kathy Kadane, "Ex-Agents Say CIA Compiled Death Lists for Indonesia," *San Francisco Examiner*, May 20, 1990.
3. Gabriel Kolko, *Confronting the Third World* (New York: Pantheon, 1988).
4. *Ibid.*
5. Kadane, *ibid.*
6. Ralph McGehee, "The Indonesian Massacres and the

CIA," *CovertAction* No. 35, Fall 1990.

7. Kolko, *op. cit.*

8. Kolko, *op. cit.*

9. Bob Woodward, "CIA Curried Favor with Khomeini, Exiles," *Washington Post*, November 19, 1986. M. Ovidar, [www.tudehpartyiran.org](http://www.tudehpartyiran.org)

10. Woodward, *ibid.*

11. For an analysis of the Iranian revolution, see: *CovertAction*, No. 37, Summer 1991, pp. 52-60.

12. Michael Haas, *Cambodia, Pol Pot, and the United States: the Faustian Pact* (New York: Praeger, 1991). Michael Haas, *Genocide by Proxy: Cambodian Pawn on a Superpower Chessboard* (New York: Praeger, 1991). These two books comprise the most thorough and damning account of Western diplo-

matic involvement in Cambodia.

13. Jack Colhoun, "U.S. Supports Khmer Rouge," *CovertAction*, No. 34, Summer 1990; David Munro, "Cambodia: A Secret War Continues," *CovertAction*, No. 40, Spring 1992. Haas, *Faustian Pact*, *op. cit.*

14. Ben Kiernan, "The Cambodian Crisis, 1990-1992: the UN Plan, the Khmer Rouge, and the State of Cambodia," *Bulletin of Concerned Asian Scholars*, vol. 24, no. 4 (1992).

15. John Pilger, "Reseeding the Killing Fields," *The Nation*, Oct. 2, 1995.

16. *Far Eastern Economic Review*, Jan. 20, 1999.

17. "Hun Sen to Adopt New Formula on KR Trial," *Agence France Presse*, April 28, 2000.

18. "UN, Cambodian PM Agree in Writing on KR Trial Formula," *Agence France Presse*, May 24, 2000.



**Unable to keep up with the pace of killing demanded by Washington, the Army organized Muslim extremists and rightwing death squads and set them loose in a frenzied killing spree. Indonesian generals asked the U.S. Government for more weapons "to arm Muslim and nationalist youths in central Java for use against the PKI," and Washington responded quickly with covert shipments of arms.**

former U.S. embassy personnel that "as many as 5,000 names were furnished to the Army, and the Americans later checked off the names of those who had been killed or captured."<sup>2</sup>

As the Indonesian Army hunted down and butchered its victims, U.S. Secretary of State Dean Rusk cabled the embassy in Jakarta that the "campaign against the PKI must continue," and urged embassy officials to "get across that Indonesia and Army have real friends who are ready to help." The Ambassador to Indonesia, Marshall Green, responded to Rusk that "we have made it clear that Embassy and USG [U.S. Government] generally sympathetic with and admiring of what army doing."<sup>3</sup>

Unable to keep up with the pace of killing demanded by Washington, the Army organized Muslim extremists and rightwing death squads and set them loose in a frenzied killing spree. Indonesian generals asked the U.S. Government for more weapons "to arm Muslim and nationalist youths in central Java for use against the PKI," and Washington responded quickly with covert shipments of arms.<sup>4</sup> One former State Department official told Kadane, "No one cared as long as they were communists that were being butchered."<sup>5</sup> An internal CIA report later noted that it was "extremely proud" of its role in the coup.<sup>6</sup>

As Ambassador Green remarked in a cable to Washington, "Bluntest remark was question of how much is it worth to U.S. that PKI be smashed and trend here reversed, thereby swinging big part of SEA [South-east Asia] from communism."<sup>7</sup> Once Suharto

formally assumed the post of acting president on March 11, 1966, economic aid was forthcoming and U.S. and Western European advisers helped chart economic policy in New Order Indonesia. By 1967, Indonesia had rejoined the IMF and World Bank, passed an investment law favorable to foreign corporations, and was rewarded with a large increase in U.S. aid, rising to \$200 million by 1969.<sup>8</sup> In the years to come, New Order Indonesia would continue to imprison, torture and execute several hundred thousand people. Only in Suharto's last months in office in 1998 did Western support for him wane, due to a people's revolution which threatened to topple him. A shift in the West's support was imperative in order to ensure a cosmetic change of leadership to protect its interests.

#### THE ISLAMIC REPUBLIC OF IRAN

In 1983, the CIA supplied a long list of members of the communist Tudeh Party to the Khomeini government in Iran, branding those identified as "Soviet agents." The expectation was that these people would be arrested and executed, a hope that was not disappointed. The Iranian government sprang into action, arresting hundreds of party members and outlawing the Tudeh Party. More than two hundred Tudeh members were executed during the first wave of arrests. More arrests would follow, including the entire party leadership, who were tortured and forced to make false televised confessions. The British government also supplied information on Tudeh to Iranian authorities. Eventually over 10,000 members

and supporters of Tudeh would be imprisoned and tortured.<sup>9</sup> In 1989, a specially appointed committee swept through the prisons and sentenced thousands to death. At least 5,000 people from various political parties were executed.<sup>10</sup> The U.S. concern was that a post-Khomeini Iran might move to the left. The Western-assisted decimation of the left aimed to forestall that prospect.<sup>11</sup>

#### CAMBODIAN CAULDRON

In 1975, Cambodia fell to the Khmer Rouge; virtually the entire country was turned into a forced labor camp as they implemented a primitive agrarian economy. Over the next four years as many as two million Cambodians perished from starvation, disease and executions. Several hundred thousand people were tortured and murdered. Here was crime against humanity on a grand scale. Following a Khmer Rouge invasion of Vietnam, counter-attacking Vietnamese forces, in conjunction with an uprising of the Cambodian people, drove the Khmer Rouge from power in January 1979. A socialist government led by Hun Sen was established as Cambodia began its long road back to recovery. Khmer Rouge troops, in alliance with right-wing forces, launched a fierce guerrilla war against the new Cambodian government which lasted several years. Prince Norodom Sihanouk and Son Sann joined the Khmer Rouge in forming a Coalition Government of Democratic Kampuchea, which at Western insistence, represented Cambodia at the United Nations in place of the government of Cambodia.<sup>12</sup> This provided a fig leaf of legitimacy for Western support of a movement dominated

19. Chris Decherd, "Cambodia PM Rejects UN Demand," Associated Press, June 29, 2001.

20. Tom Walker and Aiden Laverty, "CIA Aided Kosovo Guerrilla Army," *Sunday Times* (London), March 12, 2000; Tomislav Kresovic, "Numerous U.S. Agents in 'Humanitarian Missions,'" *Politika Ekspres* (Belgrade), April 9, 1998; Peter Muench, "Secret Weapons Aid to Kosovo," *Sueddeutsche Zeitung* (Munich), July 4-5, 1998; "German-KLA Ties," ARD Television Network (Munich), Sept. 24, 1998.

21. Paul Watson, "Contradicting NATO, Refugees Say Serbs Steering Many Toward Home," *Los Angeles Times*, April 21, 1999; Steven Erlanger, "Milosevic Aide on Kosovo Urges Albanians to Return," *New York Times*, May 8, 1999; Jacky Rowland, "The Refugees Who Remained," BBC News, May 18,

1999. "Pristina's Cafes Full, Shops Reopening," *Agence France Presse*, May 16, 1999; "Life in a Pristina Suburb," *Beta* (Belgrade), May 16, 1999; Paul Watson, "In One Village, Albanian Men Are Everywhere," *Los Angeles Times*, May 17, 1999.

22. "Milosevic Defiantly Defends His Role in Kosovo Conflict," Fox News, Aug. 24, 2001. Milosevic: "There are individual crimes, but there was a clear order that any crime has to be punished immediately, and whoever did it, has to be arrested. And the proof that that order was obeyed is the fact that more than 500 different individuals were arrested by the police or the army who were doing so." Interview with Slobodan Milosevic by Arnaud de Borchgrave, "Text of Milosevic Interview with UPI," UPI, Apr. 30, 1999. Milosevic:

"Our regular forces are highly disciplined. The paramilitary forces are a different story. We have arrested those irregular self-appointed leaders." Steven Erlanger, "Milosevic Aide on Kosovo Urges Albanians to Return," *New York Times*, May 8, 1999. At the time this article appeared, 380 paramilitary criminals had been arrested. The final total exceeded 500.

23. "Belgrade's Line-Up for Kosovo Peace Talks," Reuters, Feb. 5, 1999. Interview with Faik Jasari, Albanian member of the Yugoslav delegation at Rambouillet, by author in Belgrade on Aug. 9, 1999.

24. "President Milosevic Addresses Kosovo Polje Rally," Radio Belgrade Network broadcast, December 17, 1992.

25. "Statement of President Slobodan Milosevic on the Illegitimacy of The Hague Tribunal," Aug. 30, 2001.

by the Khmer Rouge. American and British advisers and arms shipments aided Sihanouk's and Sann's forces, which carried out coordinated military operations with Khmer Rouge troops and were often commanded by Khmer Rouge officers. Western arms frequently found their way into Khmer Rouge arsenals as many members of Sihanouk's and Sann's organizations belonged to the Khmer Rouge. U.S. officials pressured humanitarian groups to supply food and aid to help sustain the Khmer Rouge.<sup>13</sup>

After the fall of the Khmer Rouge, Vietnam maintained a troop presence in Cambodia in order to help defend the fledgling Hun Sen government and prevent the return to power of mass murderers. American officials were outraged, and spared no effort to reverse the situation. Western-sponsored peace negotiations in 1989-1990 succeeded in obtaining the withdrawal of Vietnamese troops. The second goal of Western negotiators was to replace or weaken socialist forces in Cambodia. Under pressure, Cambodia was obliged to bring officials from Sann's and Sihanouk's organizations into the government. Cambodia was also compelled to restore the monarchy and place Sihanouk back on the throne. During the peace negotiations, American officials insisted that the Khmer Rouge be given a prominent role in the new governing coalition.<sup>14</sup> As one U.S. negotiator explained, "No Khmer Rouge, no deal."<sup>15</sup> The Khmer Rouge, fiercely anti-Vietnamese, still harbored dreams of seizing territory from Vietnam. This harmonized with U.S. goals in the region, also fiercely anti-Vietnamese. A Hun Sen government in Cambodia friendly to Vietnam was impermissible. Vietnam had to be isolated, even if it meant risking the return to power of executioners in Cambodia. Only Khmer Rouge intransigence failed to bring about the realization of the Western demand for the inclusion of Khmer Rouge officials in the government. Preferring to continue the guerrilla struggle, the Khmer Rouge hoped to grab sole control of governing reins through force of arms.

As Cambodian government troops closed in on the last remnants of Khmer Rouge forces in March 1998, Khmer Rouge warlord Ta Mok communicated an offer through Thai

military channels to turn the Khmer Rouge leader, Pol Pot, over to the United States. Taken by surprise, U.S. officials turned down the offer.<sup>16</sup> No desire for a tribunal here. They didn't want him. But Cambodia wanted him, so the U.S. had to act to prevent that eventuality. The U.S. needed time to structure proceedings, presumably in order to ensure that the American role in support of Pol Pot would not surface during a trial.

Following the final defeat of the Khmer Rouge, the Cambodian government announced that Khmer Rouge leaders would be tried for crimes against humanity. The

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U.S. immediately demanded that any trial be conducted solely under United Nations auspices, in other words, under terms dictated by the U.S. After lengthy wrangling, Western threats and pressure forced Cambodia to relent and seek a compromise in which the trials would be conducted in Cambodia, but with a mix of Cambodian and Western prosecutors and judges. A major sticking point was whether the controlling majority will be Cambodian or Western. In response to a hostile letter sent from UN Secretary General Kofi Annan in April 2000, Hun Sen announced that the Khmer Rouge trials would not be limited to the years in which it held power, but would cover the entire period of 1970 to 1999.<sup>17</sup> This touched directly on the worst fears of U.S. officials, spanning events from the CIA-backed military coup in Cambodia in 1970 through the final years of Western support for the Khmer Rouge. Only a hastily drawn American plan for evenly divided prosecution and judicial teams brought an agreement on the trial, ensuring that only the years of Khmer Rouge power would be considered.<sup>18</sup> The Cambodians also had reason to worry. Their justifiable fear was that a prosecution team with a Western majority would seize the opportunity to seek the arrest of Hun Sen and other leaders of the Cambodian People's Party

(CPP) on trumped-up charges. The elimination of the CPP from the scene and the installation of a government more amenable to Western *diktat* has long been a Western goal. Clearly the U.S. motivation is to steer any trials in a direction favorable to its interests. Despite apparent agreement, Western insistence on majority control continues. When Hun Sen announced that a draft law on the conduct of the trial would be passed by August 2001, Kofi Annan fired off a threatening letter, demanding full adherence to all Western demands. Unbowed, Hun Sen responded, "It seems to me that the UN does not want Cambodia to proceed with the trial, so I want Kofi Annan to be careful with the sovereignty and the independence of a nation, and let's talk straight and be clear with each other. I am afraid of nobody. This is a Cambodian issue. To join us or not is up to you."<sup>19</sup>

#### IN YUGOSLAVIA

In March 1998, the secessionist Kosovo Liberation Army (KLA) was a small force with about 300 members. Turning a blind eye to the KLA's policy of murder and intimidation, the U.S., Germany and Great Britain sent arms shipments and provided training to the KLA, building it up into a major guerrilla army with as many as 30,000 members.<sup>20</sup> Western intervention turned a small conflict into a major crisis. As a pretext, NATO relied on the crisis it had created in order to justify waging a war of aggression against Yugoslavia. Foremost among crimes against humanity is the crime against peace, and for this crime NATO and Western leaders clearly bear guilt. Every town and city in Yugoslavia was the target of their bombs. My travels throughout Yugoslavia shortly after the war confirmed that NATO

26. Steve Galster, "Afghanistan: the Making of U.S. Policy, 1973-1990," National Security Archive, October 9, 2001.

27. Interview with Zbigniew Brzezinski, *Le Nouvel Observateur* (Paris), January 15-21, 1998, translated by William Blum.

28. Steve Coll, "Anatomy of a Victory: CIA's Covert Afghan War," *Washington Post*, July 19, 1992.

29. Philip Bonosky, "Washington's Secret War Against Afghanistan," (New York: International Publishers, 1984).

30. According to bin Laden: "To counter these atheist Russians, the Saudis chose me as their representative in Afghanistan. I set up my first camp where these volunteers were trained by Pakistani and American officers. The weapons were supplied by the Americans, the money by the Saudis." Ahmed Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia* (New Haven: Yale, 2000).



deliberately targeted civilians. Entire residential areas were wiped out. Houses, apartment buildings, factories, schools, hospitals, bridges, power plants, offices and a passenger train were destroyed. Cluster bombs, anti-personnel in nature, were dropped on residential areas, tearing human beings to pieces. Over 2,000 civilians were killed and more than 10,000 wounded by NATO.

Western leaders could not sell the war to their publics by revealing that it was intended to create a market friendly to Western corporate interests, so they concocted the lie of concern for Albanian human rights. When NATO bombs started falling, Serbian extremists became enraged, blaming Albanians for the bombs. Right-wing paramilitary squads formed, venting their rage on Albanian civilians in mainly border areas of Kosovo. Rogue police and criminal gangs, both Serbian and Albanian, took advantage of the chaos to loot homes and drive away occupants. Yugoslav security forces, the target of NATO bombs, struggled to stabilize the situation. By the third week of the war, they were escorting Albanian refugees back to their homes, and within two months order had been restored to most of Kosovo.<sup>21</sup> Yugoslav security forces fought against the terrorism of both the KLA and Serbian paramilitaries, and by the end of the war had arrested over 500 Serbian extremists for crimes against Albanian civilians.<sup>22</sup>

President Milosevic's position was consistent. He advocated ethnic equality. His delegation at the Rambouillet peace talks consisted of members of every ethnic group in Kosovo, including Albanian. Serbs were a minority in the Yugoslav delegation.<sup>23</sup> At the talks, the Yugoslav delegation offered wide-ranging autonomy for Kosovo. Repeatedly, Milosevic stated his commitment to a multi-ethnic society. His words from a 1992 speech are typical: "We know that there are many Albanians in Kosovo who do not approve of the separatist policy of their nationalist leaders. They are under pressure, intimidated, and blackmailed, but we shall not respond with the like. We must respond by offering our hand, living with them in equality, and not permitting that a single Albanian child, woman, or man be discriminated against in Kosovo in any way. We must, for the sake of all Serbian citizens, insist on the policy of

brotherhood, unity, and ethnic equality in Kosovo. We shall persevere on this policy."<sup>24</sup> A monumental propaganda campaign has succeeded in achieving one of the most astounding smear campaigns in history, painting a socialist devoted to democratic ideals as a racist hatemonger.

Milosevic's offense was his opposition to privatization and foreign control of the Yugoslav economy. The U.S.-organized Balkan Stability Pact called for a region under the sway of the free market model. Yugoslavia, strategically positioned along the Danube and astride a major highway transportation route,

**Reagan's favorite Mujahedin leader, Gulbuddin Hekmatyar, had first distinguished himself in early days by leading fellow-students at Kabul University in throwing acid in the faces of women who did not wear the veil.**

stood in the way of the effort to place the Balkans under total Western economic domination. Milosevic points out that Yugoslavia, as "the remaining socialist government threatening capitalist control of Europe," provided "living proof history had not ended, that more than one economic system was possible."<sup>25</sup>

The common thread running through these examples is not a zeal for justice and human rights by the West, but a vindictive urge to seek the imprisonment or murder of its opponents. Nothing can stand in the way of corporate profits. As one man in Yugoslavia told me, "I think our President Milosevic is more of a problem for imperialism than for us."

#### **OF TERRORISM AND 'FREEDOM FIGHTERS'**

It is an interesting exercise to contrast responses to terrorism. When the KLA assassinated Yugoslav citizens, including Albanian, by the many hundreds, President Milosevic sent security forces to fight the KLA and attempt to restore order. It was his duty to protect his country and his citizens, yet NATO responded by continuing to provide arms, reconnaissance and training to the terrorists. NATO also engaged in terrorism itself by bombing those who opposed terrorism, killing and wounding thousands of innocents in the process. When the U.S. itself suffered terrible losses at the hands of terrorists on September 11, 2001, it responded by bombing Afghanistan.

The Al-Qaida network, with cells in 60 countries, remains largely intact. This approach is analogous to battling the Mafia by bombing the entire territory of Italy. Clearly, other interests are being pursued. A Taliban-led Afghanistan did not, Minerva-like, instantly spring forth fully-grown. In April 1979, U.S. officials began meeting with Mujahedin guerrillas and asked a Pakistani military official to recommend Mujahedin organizations deserving of U.S. support. This was seven months before Soviet intervention on behalf of the Afghan socialist government.<sup>26</sup> According to Zbigniew Brzezinski, National Security Adviser at the time, on July 3, 1979, "President Carter signed the first directive for secret aid to the opponents of the pro-Soviet regime in Kabul." Brzezinski explained to Carter that in his "...opinion this aid was going to induce a Soviet military intervention." Although the brutality of the Mujahedin was already evident, Brzezinski reflected years later, "That secret operation was an excellent idea. It had the ef-

fect of drawing the Russians into the Afghan trap."<sup>27</sup> The U.S. secret war in Afghanistan escalated under the Reagan administration, totaling over \$3.8 billion, the largest covert action ever undertaken.<sup>28</sup> The intervention continued long after the withdrawal of Soviet troops, right up until Mujahedin forces captured Kabul three years later, in 1992. Once the socialist government was toppled, U.S. interest faded as Mujahedin warlords fiercely battled each other for supremacy, while thousands died. And yet, no one has asked to try the U.S. for crimes against humanity.

Afghanistan was exactly what the U.S. worked so assiduously to achieve: the most repressive government on the planet, intolerant, misogynist, and murderous. The nature of those the U.S. supported was never a mystery. President Reagan's favorite Mujahedin leader, Gulbuddin Hekmatyar, had first distinguished himself in early days by leading fellow-students at Kabul University in throwing acid in the faces of women who did not wear the veil.<sup>29</sup>

Mujahedin troops routinely tortured and mutilated captured Soviet and Afghan government soldiers. American advisers were often present but ignored the cries of those who were savagely tortured. Mujahedin forces frequently burned down schools and mur-

dered teachers for having the temerity to teach women how to read and write. Among those receiving U.S. weapons, training and assistance was Osama bin Laden.<sup>30</sup> They were "freedom fighters" as long as they murdered leftists. They only became terrorists when those they murdered included Americans.

### SHOW TRIAL

Who can believe that Slobodan Milosevic could possibly receive a fair trial at the hands of the International Criminal Tribunal for Former Yugoslavia (ICTY)? He wasn't even allowed to speak at his arraignment without having his microphone twice switched off. At his later appearance at a status conference, where issues of concern could be raised, his microphone was again turned off and the judges walked out. At Milosevic's third appearance before the Tribunal on October 29, 2001, his microphone was once again switched off. Court officials routinely try Milosevic in the press by feeding emotive lies to Western media. Milosevic, however, remains muzzled even outside of the courtroom. Following Milosevic's brief telephone interview to Fox News, tribunal officials angrily threatened that a repeat would result in the removal of all prison privileges, including the right to mingle with other prisoners and to receive visitors and mail.

For over one month, the tribunal kept Milosevic in solitary confinement, refusing to allow him to consult with his lawyers. Subsequent planned consultations are often frustrated by the denial of visas for his lawyers or disapproval by the tribunal. Tribunal officials, violating the basic right of confidentiality, generally monitor those consultations that do take place. Cameras spy on Milosevic in his cell, round the clock. Milosevic, who insists on representing himself in court, is denied this right, as well. The tribunal has, over Milosevic's objections, appointed three *amici curiae* (friends of the court) to represent him during proceedings. Their task will be to give a false appearance of a fair trial, and prevent Milosevic from challenging the legality of the court and presenting an effective defense. He will be denied say in his own defense. Even the Nazis allowed Bulgarian communist leader Georgi Dimitrov to speak and to conduct his own defense at the Reichstag Fire Trial in 1933. The ICTY cannot match even the low standard of Nazi justice.

The tribunal was created at the behest of the United States. It receives funding and direction from its NATO masters. It cannot

be an impartial judge of events in the Balkans when it is controlled by the nation most responsible for the region's tragedy. It was the U.S. that armed and supported secessionist forces, deliberately wrecked peace negotiations in 1992 and 1993, and participated in the wars itself, most notably by its brutal bombing of Yugoslavia in 1999. The court is a servant of a party to the dispute it judges. Geoffrey Locke, a retired British barrister, points out that the tribunal "makes up its own rules of procedure and evidence and is answerable to nobody." Furthermore, he adds, "the judge is required to call for additional evidence or request modification of the indictment 'in support of any count.' This produces the wholly outrageous situation that a judge of the very court which is to try the case is not merely empowered, but positively directed, to act as counsel for the prosecution in the preparation of the case and suggest how it could be bolstered or improved!"<sup>31</sup>

An ad-hoc tribunal, established to judge events in only one location violates the concept of equality of law. Attempts to create an International Criminal Court, which would have jurisdiction throughout the world, have foundered on the rocks of U.S. insistence on inclusion of a clause exempting U.S. citizens from prosecution. Even the theoretical possibility of a trial for U.S. war crimes must be blocked. In reality, an International Criminal Court would serve the interests of imperialism, just as the ICTY does. Only the victims of Western aggression would be tried. "The United States itself," Milosevic writes, "immune from control or prosecution and above the law, uses its power to cause the persecution of enemies it selects to terrorize and further demonize."<sup>32</sup>

During NATO's war against Yugoslavia, the Tribunal hastily composed its indictment of Milosevic and four other Yugoslav leaders in order to bolster sagging public support for the war. Created and funded by the same Western powers that carried out NATO's war, the ICTY serves its master. The trial is widely, and rightly, seen as setting an important precedent. No longer would international law be an impediment to action. Already the war established that Western powers could wage war without authorization by the United Nations. The trial will establish their right to seize anyone without regard to borders or legal niceties. Anyone resisting Western demands would be threatened with abduction and imprisonment. It will be yet another tool for imposing Western domination over other

nations, and it will be used. The trial of Slobodan Milosevic will be a show trial with a preordained verdict.

The real war criminals are not on trial. They act as judge and jury. We are witnessing the outrageous spectacle of criminals judging their victims. President Milosevic's only crime was that he had the courage to stand up to NATO despite overwhelming odds, to patriotically defend his country against aggression. Shortly after the war, I was a member of a delegation that interviewed Albanian refugees who fled to Belgrade. Among those we interviewed was Fatmir Seholi, Chief Editor at Radio Television Pristina until NATO troops entered Kosovo and expelled him from the province. Unlike those in the West deluded by propaganda, he knew a real war criminal when he saw one. "Every NATO bombing was a big problem," he told us. "There was no purpose relating to the Serbian nation or the Albanian nation. Whether that was their purpose or not, people were killed. The man who could command NATO to bomb people is not human. He is an animal. After the bombing at Djakovica, I saw decapitated bodies. I have pictures of that. It is horrible, terrible. I saw people without arms, without feet." Seholi demanded, "Who is Clinton to accuse another? I would like to say to Hillary Clinton that her husband is an immoral person. That man ruined our state for no reason. What would he say if someone bombed the United States, bombed the White House? Who is the evil man here? Milosevic, who is protecting the territory of Yugoslavia and protecting the people of Kosovo, or Clinton, who bombs us?"<sup>33</sup>

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31. Correspondence forwarded to author, from Geoffrey Locke to Tim Fenton, July 8, 2001.

32. Milosevic, *op. cit.*

33. Interview with Fatmir Seholi, Albanian refugee from Kosovo, by author and members of the North American Solidarity with Yugoslavia Delegation, in Belgrade on Aug. 9, 1999.



# ISRAEL AND HAMAS

## *Dancing the Zionist-Islamist Waltz*

By REZEQ FARAJ

On August 9, a young man loaded with explosives blew himself up at a pizza restaurant on King George Street in downtown West Jerusalem, killing 15, some of them children, and injuring more than 100. Hamas claimed responsibility. One week prior, eight Palestinians were killed, including two children, thanks to the Israeli policy of assassinating "Palestinian leaders."

On August 10, Israel rocketed Palestine Authority (PA) police headquarters in Ramallah and occupied the PA administrative offices, Orient House, and other Palestinian institutions like the governor house in Abu-Dis. Demonstrations by Palestinian and Israeli human rights groups on several occasions from August 11 to August 14 were brutally dispersed. On August 12, Ariel Sharon reaffirmed Israeli policy toward the Palestinian people. Sheikh Ahmed Yassin, head of Hamas, declared on the same day that suicide bombing will stop when the occupation is over.

In the course of the current Al-Aqsa Intifada provoked by Ariel Sharon, more than 800 Palestinians have been killed and over 23,000 injured. The Israeli death toll is around 150. The spiral of violence shows no sign of letup. More people, many of them children, will die before the spiral is ended. Most of the dead and injured will be Palestinian.

Hamas claims credit for most suicide

bombings in Israel. Its tactics inflict most of the Israeli casualties. It is the only Palestinian group which was "officially registered in Israel" and even was tacitly aided by Israel in its early stages. Hamas was registered in 1978 by Sheikh Ahmed Yassin, as an Islamic Association by the name Al-Mujamma Al Islami. The group widened its base of supporters and sympathizers by religious propaganda and social work. Funds for the movement came from the oil-exporting states and directly and indirectly from Israel, according to U.S. intelligence officials. The Palestine Liberation Organization (PLO) was secular and leftist and promoted Palestinian nationalism. Hamas wanted to set up a transnational state under the rule of Islam, much like Ayatollah Khomeini's Iran.<sup>1</sup>

Palestinian nationalism has always been a secular nationalism. The same goes for the PLO and its components. The reason is simple. More than a third of the Palestinian population is Christian, and thus national unity is a matter of survival. So far, Hamas has not been able to change this aspect of Palestinian life, although it is working hard to do so. Hamas is an offshoot of the Muslim Brotherhood, an organization dating back to the 19th century. "This organization was less concerned with the liberation of Palestine than with the establishment of an Islamic State...possibly as part of Jordan where its activities were tolerated by the authorities."<sup>2</sup>

In 1978 Rafat Abu Shaban, the commissioner of the Muslim Waqf (charities) in the Gaza Strip, warned the Israelis against registering and thus officially recognizing the Islamic Congress.<sup>3</sup> Shaban feared that the fundamentalists would infiltrate the Waqf and gain control of its assets. The Israelis, however, preferred to focus on the Brotherhood's abstention from violence and its stress on "winning hearts" through charitable and educational activities. The Brotherhood's ideology of postponing the confrontation with Israel seemed to please the Israelis for different reasons. They were willing to overlook the Brotherhood's doctrine calling for the destruction of the state of Israel when the time comes, and they were also pleased with the rhetoric of Hamas registrant Yassin against Arafat and the PLO leadership. The Israelis were happy to nourish this rivalry and let Hamas flourish; an example of "divide and rule" politics, an old British way of thinking in the colonies.

Within a decade Yassin built the Islamic Congress from a charitable organization to a religious establishment that practically ruled the Gaza Strip under Israeli eyes. Money came from Saudi Arabia, Iran, and many other sources without any intervention from Israel, whereas any money coming to the PLO was blocked or seized. All secular Palestinian organizations were forbidden and their

\*Endnotes for this article begin on page 29.

## The Second Intifada: A Time Line

09.28.00

Sharon enters Temple Mount in Jerusalem with large police escort and several Likud leaders. Army and police fire on Palestinian protesters, killing four and injuring scores.

09.29.00

Israeli riot police storm Al-Aqsa compound where 20,000 Palestinians are worshipping. Police open fire, killing seven and wounding 220. Observers say it was a pre-planned massacre.

10.04.00

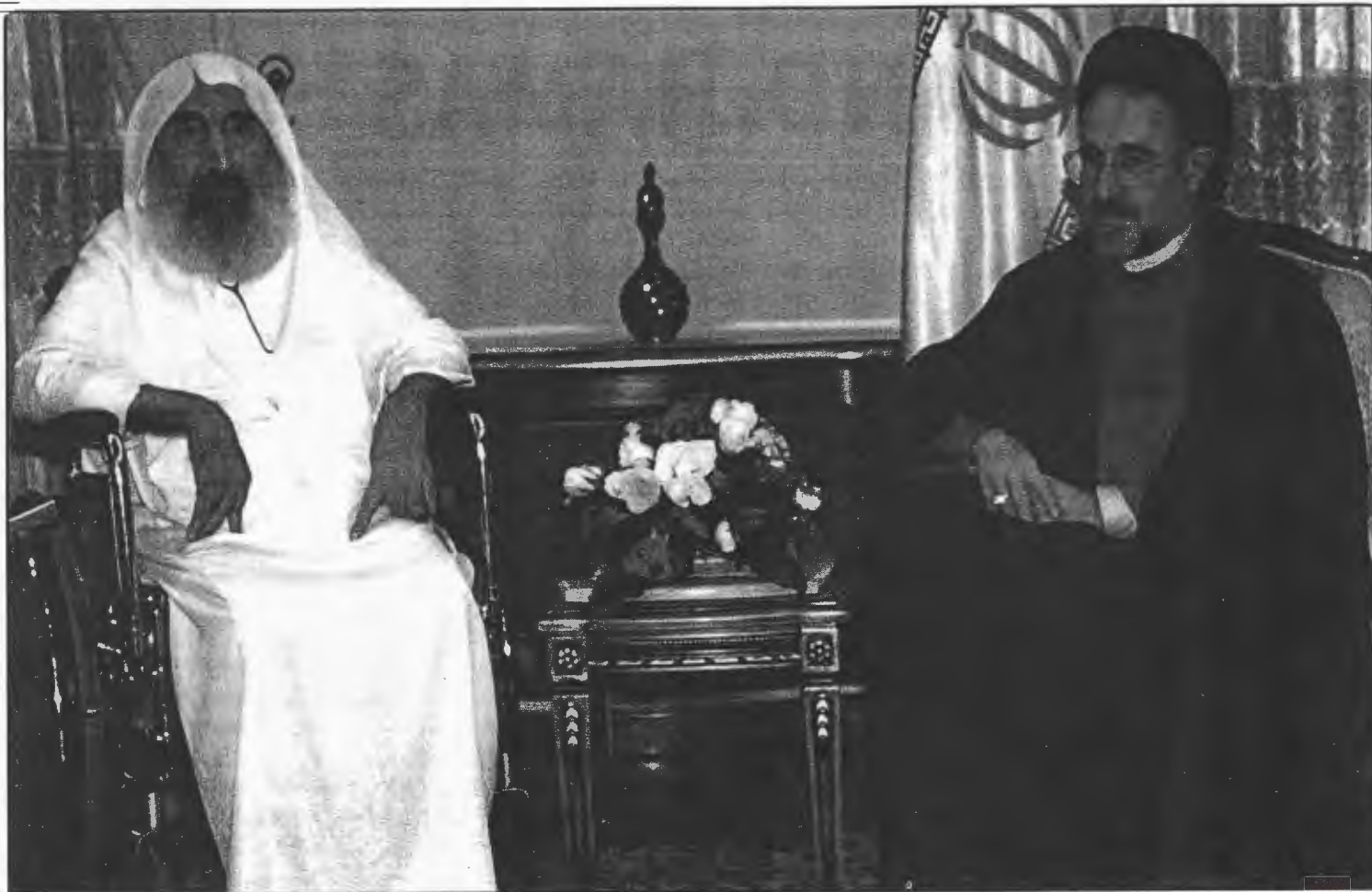
Seventy-one Palestinians killed, 2,657 wounded since 09.28.00. Human rights observers call Israeli actions "a true carnage."

10.06.00

One hundred thousand demonstrate in West Bank and Gaza. Israeli soldiers and snipers fire on protesters in Hebron, Bethlehem, Ramallah, Nablus and Tulkarm.

10.11.00

Israeli occupation forces seal all towns and villages, barring Palestinians from Jerusalem. 45,000 Palestinian work permits canceled.



*Iranian President Mohammad Khatami, right, a "moderate" beloved by the West, meets with Sheikh Ahmed Yassin, head of the Palestinian Islamist group Hamas, in Tehran Saturday, May 2, 1998. Both Hamas and Iran oppose Palestinian-Israeli peace talks, and both have worked for years to undermine the PLO.*

members jailed or simply expelled to Jordan or Lebanon.

During the first Intifada in 1988, a unified command was created. During this period of the uprising, Yassin created the armed Islamic Resistance Movement now known by the acronym HAMAS. In a short time, this new organization became one of the most difficult for Israel to control. According to Israeli analysts Schiff and Ya'ari,

*In large part this scourge was self-*

*inflicted, for the Civil Administration has contributed considerably to the development of the Muslim groups that came to the fore soon after the start of the intifada. Just as President Sadat had encouraged the growth of the Islamic Associations to offset the leftist elements in Egypt, many Israeli staff officers believed that the rise of fundamentalism in Gaza could be exploited to*

*weaken the power of the PLO. Sadat's fate was to die at the hands of the same pious zealots he had allowed to flourish. The upshot in Gaza was similar: the Muslim movement turned on the very people who had believed themselves so clever in fostering it.<sup>4</sup>*

#### **WILLFUL HISTORICAL BLINDNESS**

To have believed that such groups would stay

10.12.00	11.13.00	11.16.00	12.10.00	12.13.00
Israeli helicopters rocket Arafat's residence while Arafat is inside, as well as police stations and broadcast centers.	Israeli tanks and helicopter gunships fire on West Bank Palestinian population centers including Bethlehem, Beit Sahur, Khader, Ramallah and Jericho. Jewish settlers fire at school children in Takou, near Bethlehem, wounding two.	Nighttime helicopter attack kills Harry Fisher, German physiotherapist administering first aid in Beit Jala on West Bank. 10,000 olive trees uprooted by Israeli military and settlers since 09.28.00.	Three hundred eleven Palestinians dead, including 50 children, 11,000+ wounded; 14 Israeli soldiers and settlers killed since 09.28.00.	Israeli forces riddle Fatah military cadre Yousef Ahmed Abu Sawwi, 28, with 22 bullets in front of his house near Bethlehem.



apolitical and harmless was a gross mistake by the Israelis. They forgot that their own State was founded on religion, the Jewish religion (the Jewish state). One has only to read Theodor Herzl and other founding fathers of Israel to undersand that. If a State's laws and rules are based exclusively on a religious ideology, then such a state is an apartheid state by definition.

The Israelis and the Americans should have learned from past experiences like Afghanistan and the use of religion to defeat the Soviet occupation (1979-89). But who runs Afghanistan today? The Taliban are Muslim fanatics and are taking their country to the dark ages. As John Cooley has written: "Knowing your enemy is a first step toward defeating him especially if you helped to create him, as the United States, Israel and some allies unwittingly helped to create the suicide bombers of Hamas and Islamic Jihad."<sup>5</sup> The leaders of the March 1996 anti-terrorist summit in Egypt should have studied beforehand how Islamic movements develop, how they become dangerous to the established order. They become deadly threats to peace and secular regimes (one should remember that Israel is not a secular regime). Here are a few examples:

The brotherhood's branch in Sudan, dating from 1946, was renamed the Islamic National Front in 1985. Its leader is the strongman behind today's Sudanese military regime, Sheikh Hassan Turabi.

It was also in Sudan that Egypt's Islamic preacher, Sheikh Omar Abdel Rahman, obtained a U.S. visa to fly to New York and assist U.S. agencies in recruiting Islamic guerrillas to help expel the Soviets from Afghanistan. What is going on in Afghanistan now is beyond imagination. In short, under the Taliban, Afghanistan is in ruins. Since 911, the West has learned a great deal more about Afghanistan. Omar Abdel Rahman was



**February 1999, the Sudan. A slave retriever, paid to purchase slaves in order to set them free, leads a group of slaves he has purchased in the Sudan. Would a Hamas regime in Palestine follow Sheikh Turabi's regime in the practice of slavery? Mossad wouldn't mind.**

12.15.00	12.19.00	03.28.01	05.14.01	07.11.01
Occupation forces seal off roads linking over 100 Palestinian villages.	Israel and Washington offer new "concessions," ask Arafat to renounce the Right of Return. Arafat rejects the demand.	Helicopters rocket PA police buildings in Gaza and Ramallah. Gunboats shell Gaza City near Arafat's office.	447 Palestinians killed since 09.28.00.	Palestinian woman in labor held at military checkpoint for two hours gives birth in car. Infant dies. This tragedy has repeated itself many times since.
	02.21.01 Amnesty Intl. calls Israel's targeted killings state assassinations.	05.05.01 Israel shells refugee camp killing infant, wounding 24, including 10 children.	05.14.01 Fourteen Palestinian homes under construction demolished by Israeli bulldozers.	



was already in U.S. federal prison for the 1993 attack on New York's World Trade Center when his friends completed his mission. Nonetheless, most of Israel's and America's former Islamic allies are not in jail. Many are continuing their work to destabilize Algeria, Chechnya, Egypt, India, Iraq (thanks to U.S. air cover—the so-called 'no fly zone'), Pakistan, the Philippines, Yemen, and many other countries.

Only Syria has escaped this. In 1982 Assad put down an Islamic revolt in the city of Hama. Those who fled Syria to neighboring countries are still giving the Syrian government lots of trouble. One of the main leaders and organizers of Hama was Abdallah Azzam. He supervised training for the CIA's Afghan guerrillas in Peshawar, Pakistan, where a car bomb killed him in 1989. Mr. Azzam and others like him shuttled freely between Israel-Gaza, the West Bank and Afghanistan, thanks to Saudi and American money.

The Palestinian Intifada had already begun in Gaza and the West Bank in 1987. Two rival Islamic groups, Islamic Jihad, and a larger one called the Mujama, were operating actively. Mujama followed the example of Iranian fundamentalists, and by early 1988 it was renamed Islamic Resistance Movement, now known by the acronym Hamas. Israeli security at first turned a blind eye to Hamas because it opposed the more secular PLO. But even after Hamas began its campaign of anti-Israel violence, it continued to receive Saudi funds, even though Israeli civilians were being killed. In 1990 the Saudis cut funds to the PLO, but continued to fund Hamas.<sup>6</sup> This fact was known to Israel and the U.S. Within a few months of the second Intifada, Hamas began playing a leading role in Gaza. Israel had allowed the fundamentalists to move into positions of power in the religious establishment. Once they had this leverage, they began to grow as a political force.

## TOO LITTLE, TOO LATE

Israel has begun to reconsider its policy towards Hamas. Israeli Prime Minister Ariel Sharon, the war criminal, speaking of the Islamic Resistance Movement, Hamas, recently described it as "the deadliest terrorist group that we have ever had to face."<sup>7</sup> This realization has come too little and too late. Throughout the last ten years, just as with Ariel Sharon for the Israelis, Hamas has become the immovable Palestinian opposition to the "peace process." Even though Arafat put many Hamas militants in jail, and the Israeli apparatus did the same, this didn't change anything. In fact, during the Oslo Accord years, acts against Israel by Hamas would make the PLO's efforts to find peace more difficult, and contributed directly to the 1996 election of Binyamin Netanyahu as prime minister of Israel on his promise to provide security.<sup>8</sup>

The days when the Israeli authorities saw the Muslim Brotherhood as a useful counterbalance to the secular PLO started to fade away. Once a secret friend to whom Israel contributed countless personal and political favors and millions in donations to mosques, Yassin and his organization have become the most deadly enemy of Israel. After the killing of four Israelis by Hamas in 1992, Israel took severe measures. The Gaza Strip was sealed off, depriving one million residents from access to jobs in Israel, the area's main source of livelihood at the time.

From then on, Hamas grew slowly but steadily. They opposed Oslo and the "peace negotiations" not only in words but also in deeds. Every time there was a supposed break in the "peace process," Hamas stalled it with an "*action d'éclat*" such as suicide bombings, which inevitably led to more Israeli oppression and usually put "the negotiations" on halt. After the disaster of Camp David, Is-

rael elected the war criminal Sharon as Prime Minister. From the beginning, Sharon was also against the "peace process" and did everything in his power to make it fail. Repression breeds resistance and also acts like the Jerusalem suicide bombing on August 9 by a Hamas militant.

Since the failure of Camp David and the beginning of the second Intifada, and particularly since the election of Ariel Sharon, we hear daily accounts about violence in the Middle East; about a ceasefire and breaking of the ceasefire; about Israeli restraint and Palestinian violence; about Israel's "generous" offer and how the Palestinians missed an historic opportunity as they are always accused of doing. That's about all the North American public hears. They hear of the Mitchell Report and how wonderfully fair it is. It's becoming like the Bible for Peace. The North American media continually blame the Palestinians for the violence, or at best equate the violence on each side. We hear how the Palestinian Authority has accepted the Mitchell Report and how Israel has also accepted it but puts conditions on its application: Palestinians must stop the violence. At the same time the Israeli government adopts an official policy of assassinating Palestinian militants and demolishing Palestinian houses. Such acts are not violence. They are good for Israeli security, when they are even mentioned. The Israelis repeat the same lies continually. By repeating them so loud and so often, I think they have actually started believing them.

The simple truth is this: the Palestinian people are living under Israeli occupation, a military occupation of the worst kind; they have been living under occupation for the last 54 years.

07.30.01	08.16.01	08.28.01	09.13.01	10.17.01
Five hundred thirty-nine Palestinians killed since 09.28.00.	Palestinian leader Imad Abu Sneineh shot in Hebron from truck with Palestinian plates. Israeli security sources confirm assassination by undercover Israeli military operatives.	Abu Ali Mustafa, 64, Popular Front for the Liberation of Palestine (PFLP) leader, assassinated at his desk by Israeli helicopter gunships.	Arafat donates blood for 911 victims in U.S., kicks off blood drive.	Tourism minister, Rehavam Ze'evi, 74, noted for comparing Palestinians to lice and cancer, killed in response to assassination of Mustafa.
08.15.01 Seventy Israeli tanks and hundreds of troops occupy Palestinian government buildings. Israeli snipers fire on PA police.			10.04.01 Sharon accuses Bush of appeasement, saying: "We will not be Czechoslovakia... From now on, we will count only on ourselves."	



## WHAT PRICE TERROR?

"Can Hamas' actions be justified?" My answer is no. Terror cannot be fought by terror. On the other hand, one can also say "as ye sow, so shall ye reap." The violence and terror are integral parts of the occupation. Israel should have ended the occupation years ago. Instead, in its zeal to control, to expand and to fight a secular movement like the PLO, Israel is helping to create its own demise. In 1986, the Palestinian leadership of the PLO started crawling on its knees and did everything in its power to please the American administration. They let go of the armed struggle; they let go of the historic rights of Palestine; they accepted UN Resolution 242, and many more concessions. The PA even changed its charter to please Israeli and American demands. How could they be so short-sighted? Did they think the U.S. administration would change its policies toward Israel/Palestine? Did they think the U.S. could really be an honest broker?

For all these concessions, what did the PLO then, and the PA now, get in return? They got the infamous Gaza and Jericho deal, with more concessions on their part. They got the infamous Oslo Accords. If we look at those accords carefully, which were dictated and not really negotiated, we find out that Israeli settlements and settlers almost doubled in number. More land confiscated, more houses demolished, more division of the Occupied Territories into sections A, B and C. These actions have created Bantustans and an apartheid system as it used to be in South Africa before its liberation from the white supremacists. In Palestine, we see complete control of the land and water by Israel, and the total oppression of the Palestinian people.

What did the Palestinian people get out of the Oslo Accord and all the accords that

followed? They got checkpoints, restriction of freedoms and movement, isolation of towns and villages, deterioration of institutions and infrastructure, dismantling and disintegration of the social structure, deterioration of education, and complete economic collapse. They even got trenches dug around their cities and villages; pregnant women can give birth in taxis and possibly die because of checkpoints. Work and jobs are no longer possible because of blockades and the physical and economic strangulation of the people. Diseases are rampant and famine has started to weave its way in. War crimes and crimes against humanity are being committed against the Palestinian civilian population on a daily basis. Even their water has been taken, and their future water rights are being systematically stolen. While settlers have swimming pools, Palestinians don't have enough water to drink. The occupation and the violence that it entails have worsened and are getting worse by the hour.

During all this time of the so-called negotiations, Israel got all it wanted, is getting still more, and wants still more yet. The Palestinian Authority has given away all there is to give. They have nothing left to give and they have to accept anything the American administration and Israel are willing to give them. While this entire process was going on, the practice of lying and playing the victim has continued to work marvellously to the Israelis' advantage in the West.

These conditions on the ground have helped strengthen Hamas and weaken the PA. This is what Israel has been doing for the last 34 years. Now Hamas is making Israelis more insecure, afraid to go to the market or take the bus, scared to eat in a restaurant, scared to death of a possible suicide bomber. And to poor Palestinian masses, Hamas has given hope and the notion of "paradise after death," which in both cases is more than the PA can ever

give. The Israelis must ask themselves: "Is the Occupation worth all that?"

Once again I say: As ye sow, so shall ye reap.

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**Website: [www.rezeq.com](http://www.rezeq.com)**

1. See Richard Sale, "Israel gave major aid to Hamas" UPI, February 24, 2001. <http://www.vny.com/cf/News/upidetail.cfm?QID=162747>. To see how Khomeini's version of a transnational Islamic state undermined the Palestinian struggle, see: *CovertAction*, No. 37, pp. 52-60.
2. David McDowall, *Palestine and Israel: The Uprising and Beyond* (Berkeley and Los Angeles: University of California Press, 1989), p. 109.
3. Ze'ev Schiff and Ehud Ya'ari, *Intifada, the Palestinian Uprising—Israel's Third Front* (New York: Simon and Schuster, 1990), p. 224.4. *Ibid.*, p. 223.
5. John K. Cooley, "Islamic Terrorists: Creature of the U.S. Taxpayer?" *International Herald Tribune*, March 13, 1996. Cooley is an ABC News correspondent based in Cyprus, and winner of the 1995 Polk Award for career achievement in journalism. <http://www.webcom.com/hrin/magazine/july96/hamas.html>
6. *Ibid.*
7. Sale, *op. cit.*
8. Donald Neff, "Muslim Fundamentalists of Hamas Challenge PLO for Palestinian Support," *Washington Report on Middle East Affairs/Middle East History*, September 1999, pp. 108-09.

**Not one leader has ever publicly spoken out against the Hamas practice of flying a Palestinian flag that features Islamic quotations on it. (*Al-Nashra*, USA, November/December 2001, p. 5)**

11.09.01	11.09.01	BASELINE DATA OF PALESTINIAN LIFE	
Three Palestinian prisoners shot at close range in Tell, West Bank. Israel denies executions, blames firefight. Ballistics wounds tell different story. Ambulance driver testifies: "I've been working for the Red Crescent for 15 years, and this is the ugliest thing I've seen."	Bush refuses to meet with Arafat at United Nations General Assembly. Saudi Foreign Minister al-Faisal rebukes Bush saying it "makes a sane man go mad."	At presstime, more than 800 Palestinians dead (87% civilians), 25% children), 23,000 wounded since 09.28.00.	82% of Palestinians live on less than \$2/day. At least 60 killed in assassinations ("targeted killings").
		125,000 Palestinians denied access to work, daily theft of \$6.25 million. Palestinian unemployment: 50%.	Over 60% of victims bystanders pursuing their daily lives. Approximately 2,000 Palestinian political prisoners.

# PALESTINIAN DIASPORA and THE RIGHT OF RETURN

*U.S.-Israeli denial of a sacred human right*

By HUSSEIN IBISH and ALI ABUNIMAH

One of the consequences of the events of September 11 is that the United States, in its efforts to build a large regional and global coalition, has been forced to recognize that its relations with the Arab world are being shaped by its role

in the Palestinian-Israeli conflict. Asking Arab governments and societies to embrace U.S. foreign policy requires that the United States be seen as engaged in a serious effort to address the plight of the Palestinian people. President Bush's tepid endorsement

of Palestinian statehood suggests a recognition that U.S. policy toward the Arab world must contain affirmative elements. The U.S. cannot sustain common cause with Arab societies if it continues to oppose Palestinian independence and an end to the Israeli military occupation of East Jerusalem, the West Bank and Gaza Strip.

However, the occupation is only one of two major issues standing in the way of an end to the century-old conflict. The denial of the right of millions of Palestinian refugees, those displaced in the 1948 and 1967 wars and their descendants, to return to their homes and land is also a fundamental obstacle. Unlike the occupation, it is an issue which has never been seriously addressed or properly understood in the U.S. All recent American and Israeli proposals for Israeli-Palestinian peace have been predicated on an unworkable and disastrous concept: that the world's largest group of refugees should renounce or be denied this basic human right.

The Clinton "bridging formula" presented in December 2000, demanded that, in exchange for a partial Israeli withdrawal from the occupied territories, 3.7 million Palestinian refugees renounce the right to return to their homes in what is now Israel. The compensation was to be the creation of a Palestinian "state" without geographic contiguity or control of its own borders and natural resources, and subject to unprecedented restrictions on its "sovereignty."

## **BAREFACED RACISM: ISRAEL'S LAW OF RETURN**

In 1999, the Clinton administration led NATO into a brutal war against Yugoslavia under the pretext of enforcing the right of return for ethnic Albanian refugees from Yugoslavia's province of Kosovo. The same American officials and media pundits who thundered then about the inviolability of refugee rights and the immorality of dispossession and forced exile, continue to insist



*This appalling scene of Israel's occupation of Palestine has circulated around the world captioned simply "You be the Judge."*



that Palestinians drop their "unrealistic demands" about refugee rights. These principles, supposedly sacred in the case of "Kosovars," are in the case of Palestinians dismissed as a fantasy, a ploy and an insidious plot to destroy Israel.

Consider also the barefaced racism in the disparity between Israel's "Law of Return" and its opposition to the Palestinian Right of Return. Since its founding, Israel has opened its borders, and those of the occupied Palestinian territories, to anyone it considers Jewish, but has steadfastly refused to allow the Palestinians to return to their own homes and lands simply on the grounds that they are not Jewish.

The concepts of return expressed in Israel's Law of Return and the Palestinian Right of Return are fundamentally different. The first is to a generalized area of religious and historic importance to the Jewish people. In sharp contrast, the right of return for Palestinians is not religious or ancestral, but is attached to specific homes and parcels of ground to which many Palestinian refugees are the legal, deed holding, owners.

President Clinton was essentially asking Palestinians to forget about their homes and property and adopt a Zionist-like attitude which would see "return" as satisfied by physical presence in the West Bank, Gaza and (*perhaps*) East Jerusalem. This formulation is a grand betrayal of the basic human right of refugees to return to their homes.

The right of return is guaranteed to all refugees by the Universal Declaration of Human Rights and the Fourth Geneva Convention. Article 13 of the Universal Declaration of Human Rights reads: "Everyone has the right to leave any country, including his own, and to return to his country." Following their expulsion in 1948, it was specifically applied to the Palestinian refugees in UN Resolution 194, which demands that "...the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property..."<sup>1</sup>

Indeed, the Geneva Convention anticipates and absolutely prohibits the renunciation of rights that Israel and the United States are trying to force the Palestinians to accept. Drafted in the aftermath of the Second World War, the Convention recognizes that a conqueror is often able to force a

subjugated people to sign away their rights. Therefore Article 8 forbids any renunciation, in whole or in part, of any of the rights it guarantees.<sup>2</sup>

The most troubling aspect of American proposals is not the disregard they show for the rights and interests of the Palestinian refugees themselves, or the flawed notion that "peace" and reconciliation can be based on a massive denial, and renunciation, of human rights, but the extreme violence it does to the very concept of universal human rights.

#### PALESTINIAN RIGHT OF RETURN IN PRACTICE

Palestinian public opinion could accept some of the compromises in the US-Israeli proposals but draws the line at giving up the right of return. Prime Minister Barak repeatedly declared, however, that he would not sign any agreement that included the right of return in "any shape or form," and his successor holds the same view.<sup>3</sup>

Today there are 3.7 million Palestinian refugees living inside the Occupied Territories and neighboring countries, according to the United Nations.<sup>4</sup> About 1.2 million still live in refugee camps.<sup>5</sup> Many Palestinians consider themselves refugees and exiles, even though they do not live in camps, because Israel has confiscated their property and prevents them from coming home.

Given the choice, most Palestinians already settled in other countries would probably choose compensation and Israel's full acknowledgment of its responsibility for their exile. But for hundreds of thousands of Palestinian refugees who have been kept in refugee camps and denied basic human rights by both Israel and, sometimes, the Arab states hosting them, the right of return is a necessity. It represents the possibility of beginning a new life on the condition that they are prepared, as Resolution 194 says, to live in peace with their neighbors—the Israelis.

Of course, the implementation of the right of return will have to be negotiated with Israel at every step and include measures to assuage Israeli fears of being overwhelmed, by ensuring that return and compensation of refugees occur in a regulated manner.

A major Israeli objection to the implementation of the Right of Return is the argument that almost one million Jews from Arab states moved or fled to Israel during the years following the establishment of that

state. This is described as a "transfer of populations," and is supposed to legitimize the ethnic cleansing and permanent exclusion of the Palestinians from Israel. This argument makes a mockery of the principles of refugee rights enshrined in human rights law, and conceives of people not as individuals with rights inherent to their status as human beings but as members of mutually exclusive ethnic/national clumps. Further, in accordance with the ideals of Zionism, it sees the presence of Jews from the Arab world in Israel as natural and desirable, and the presence of Palestinians in their original homes and villages in Israel as a "demographic threat."

What is never acknowledged in these disingenuous arguments is that this "population transfer" was a key to the realization of Zionism but a calamity for Palestinian national and collective interests. Thus what is presented as an equal "exchange" has been solely to the benefit of one party to the conflict. It is no doubt true that some, perhaps many, Israeli Jews with origins in the Arab world could be classified as refugees and have legitimate claims on property and return. While some interest in property recovery has been expressed, there is no movement for these communities to return. Honest supporters of international law and refugee rights should equally uphold Palestinian and Jewish claims to exercise these rights. However, the fact that one group of refugees prefers to assimilate in a new country cannot force the same option on another group, some of whom may wish to exercise the right to return.

Supporters of Israel argue that the Oslo agreements and the idea of two states in Palestine necessarily means the renunciation of all refugee rights in Israel. However, the development of a Palestinian state would

1. UN General Assembly Resolution 194 (III), 11 December 1948.

2. Article 8: "Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be."

3. John Kifner, "Palestinian and Israeli Responses to Clinton's Plan Seem Murky" *New York Times*, December 30, 2000, p. A5

4. UNRWA Statistical Profile, <http://www.un.org/unrwa/pr/pdf/figures.pdf>

5. "Where do the refugees live?," UNRWA, <http://www.un.org/unrwa/refugees/p2.html>

6. *Federal News Service*, May 15, 1997, Hearing of the Senate Banking Committee; Subject: Nazi gold and role of Swiss banks during and following World War II; Chaired by: Senator Alfonse M. D'Amato (R-NY).



*Office of Abu Ali Mustafa, PFLP leader, shortly after his assassination by Israeli helicopter gunship in late August of this year.*



*Abu Ali Mustafa,  
1938-2001.*

pense. A settlement that demands that the refugees remain forever dispossessed and in exile will never be willingly accepted by them.

We have to start the discussion from a point that can lead to a settlement with which both Israelis and Palestinians can live, that meets the requirements of justice and respects the human rights of all refugees. If their right of return is permanently abrogated, it is not just the Palestinian refugees who would suffer. Humanity in general would be deeply impoverished if we start renouncing and repudiating rights long since upheld as inviolable, and our slow and painful quest to build a world that provides equal protection to all people will be dealt a crippling blow.

A workable Israeli-Palestinian peace must ensure not only a viable and truly sovereign Palestinian state with its capital in Jerusalem and the right of Israel to live in peace in secure borders, but must also recognize the right of return. The specific modalities of return are a separate matter, to be determined through negotiations and mutual agreement, but the right itself must be recognized.

It is sad the 21st century should see the United States leading an effort to coerce an entire people into renouncing this right.

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4. *Ibid.*, p. 223.

5. John K. Cooley, "Islamic Terrorists: Creature of the U.S. Taxpayer?" *International Herald Tribune*, March 13, 1996. Cooley is an ABC News correspondent based in Cyprus, and winner of the 1995 Polk Award for career achievement in journalism. <http://www.webcom.com/hrin/magazine/july96/hamas.html>

6. *Ibid.*

# NEWS

According to Reuters, Gore Vidal, one of the leading U.S. writers alive, has been rejected for publication in the United States. In a story by Stephanie Holmes datelined November 24, 2001, Vidal is working on a book to be titled *The End of Liberty—Toward a New Totalitarianism*, which is to be published in Italy.

Vidal was asked to write a piece reflecting on the events of 911 for publication in a U.S. magazine. He submitted one of the chapters from the book, but it was rejected for its "uncompromising criticism."

"I've listed in this little book about four hundred strikes that the government has made on other countries. War, undeclared. Generally with the excuse that they were harboring communists. You keep attacking people for such a long time, one of them is going to get you back," Vidal said.

Regrettably, this magazine was not able to get a copy of the offending chapter.

## AMERICAN COUNCIL OF TRUSTEES AND ALUMNI,

in which Lynne Cheney, our Second Lady is Chairman (sic) Emeritus, in November 2001 published a monograph entitled "Defending Civilization; How our universities are failing America and what can be done about it." More than 100 academicians who, post-911, have committed the crime of condemning U.S. foreign policy are singled out for what can only be considered a McCarthyite blacklist. Among the utterances which give Lynne Cheney such grief are Joel Beinin's of Stanford "If bin Laden is confirmed to be behind the attacks, the United States should bring him before an international tribunal on charges of crimes against humanity." It seems that Lynne Cheney can not live with the rule of law. In her and her august friends' opinion, "College and university faculty have been the weak



link in America's response to the attack." To get a taste of this fascist rubbish directly, see: [www.goacta.org](http://www.goacta.org)

**P**ace Resources from Syracuse Cultural Workers reported in a recent newsletter that for her temerity in casting the sole vote against Bush's use of force resolution, Representative Barbara Lee (D, CA) has received many death threats.

In the same issue, it is reported that "The U.S. military budget is already 22 times the combined military budgets of the seven countries the Pentagon identifies as

our prime "enemies." From 1985 to 1999 the U.S. share of world military spending rose from 31% to 36%.

The U.S. is by far the biggest supplier of arms around the world with a 50% market share. Frequently, these arms end up being used against the U.S. More military spending and more arms sales will make U.S. citizens less, not more, safe. The only beneficiaries are huge corporations like Lockheed Martin and its executives who make obscene profits and salaries at taxpayer expense. (Statistics from Center for Defense Information 202.332.0600)

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*Nassir Bagh refugee camp in Peshawar, Pakistan, May 1999. Afghan refugee boys from six to nine years of age, knotting rugs under conditions amounting to child slavery. German and American employees of NGOs in Peshawar were at the time buying ever larger houses and cars, and advising refugees that life under the Taliban was improving. The photographer smuggled her camera into the camp, which is heavily guarded by Pakistani military. Under the Islamists since 1989, one Afghan per minute has become a refugee and fourteen per hour have died. (Monthly Review, November 2001)*

# ANTHRAX TERRORISM

*Investigative muddle, or criminally reckless endangerment?*

By DAVID NEIWERT

For weeks, the FBI and mainstream media appeared to be working on the assumption that international terrorism was the likely source of hundreds of anthrax letters, real and imaginary. In late October, the Bureau and the press began to change their tune. They began looking for a terrorist closer to home—and domestic right-wing extremists are the leading candidates, for a wealth of reasons. The first corrective view came from outside the U.S.—Scott Ritter's article in the *Guardian* of London, October 19, 2001 under the headline "Don't Blame Saddam for This One; there is no evidence to suggest Iraq is behind the anthrax attack." Ritter is an ex-U.S. Marine and former UN weapons inspector in Iraq.<sup>1</sup>

On October 25, the lead FBI investigator into the anthrax attacks met with security staff from abortion providers and abortion-rights advocates who were among those receiving a flurry of hoax anthrax threats shortly after the real anthrax attacks became public. The meeting was the first indication that the FBI was examining whether the two cases might be connected. On November 9, the Bureau released a "Linguistic/Behavioral Analysis of Anthrax Letters," describing the person who wrote the letters accompanying the anthrax as almost certainly an adult male, a "lone wolf" with access to the spores through lab work. Investigators told reporters the evidence pattern indicates home-grown terrorism. "We're certainly looking in

that direction right now as far as someone domestic," an FBI supervisor told the *New York Times*.<sup>2</sup>

The potential connection to the hoax anthrax threats at abortion clinics could prove significant, because investigators believe those hoaxes—which have been used to terrorize clinics since 1998—were almost certainly perpetrated by a variety of anti-abor-

**Anthrax. It would take me a few more days to get some cholera. It would take me maybe a few more days to get some plague. It's easy. Botulism is the one that concerns me, because anti-botulism toxin is very hard to make. I could do it, but it's hard to make. Anthrax, on the other hand, is easy to make.**

tion extremists, none of whom have ever been caught. In recent weeks, the hoaxes have mushroomed, with over 500 sent to abortion-rights advocates since early October. FBI officials said they are intensifying the investigation into the anthrax hoaxes, which have been reassigned to a special unit of the domestic-terrorism division.<sup>3</sup>

## APOSTLE OF ANTHRAX

Right-wing extremists have elevated anthrax threats to a near fetish. Anti-abortion zealots have made the hoax anthrax threat a

commonplace for workers at clinics. Neo-Nazis and other white supremacists have long displayed a fascination with the notion of anthrax as a tactical weapon, although the bulk of these have been long on fantasy. But, according to a story in the *Independent* of London, "It is an American phenomenon: in 1999, the latest year for which records are available, there were 83 criminal incidents worldwide where a quantity of anthrax was actually present, of which 81 were in the U.S."<sup>4</sup>

Fairly typical were the three Patriot movement members from Texas who planned to kill President Clinton and other federal officials with biological weapons, deploying a cactus thorn coated with anthrax and fired by a modified butane lighter.<sup>5</sup> Various Patriot manuals focused on the threat of biological warfare, and the fully prepared believer could always purchase a bio-chem suit from the Militia of Montana. Biowar manuals include *Bacteriological Warfare: A Major Threat to North America*, by Larry Wayne Harris; *Breathe No Evil* by Steve Quayle and Duncan Long; and *Biotoxic Weapons and Advanced Biological Weapons Design and Manufacture* by Timothy W. Tobiason. Such volumes, mostly self-published, are openly peddled on the gun-show circuit.<sup>6</sup>

The aforementioned Larry Wayne Harris created a minor bio-terror scare in 1995 following his arrest for possession of three vials of freeze-dried bubonic plague culture. He has since become the right wing's lead-

1. See also: Chris Blackhurst, "Anthrax attacks now being linked to U.S. right-wing cranks," *The Independent*, London, Oct. 21, 2001; National Abortion Federation Press Release, "Member Alert: NAF Meets with FBI Regarding Anthrax Threats," Oct. 25, 2001; Rick Weiss and Dan Eggen, "U.S. Says Anthrax Germ in Mail Is 'Ames' Strain; Microbe Is of Type Commonly Used in Research," *Washington Post*, Oct. 26, 2001; Susan Levine, "Disseminating Dread; Pranksters, Disgruntled Americans Perpetrate Hoaxes," *Washington Post*, Oct. 26, 2001; Joby Warrick and Steve Fainaru, "Access to Microbes Is Easily Obtained; Federal Oversight of Inventories Lax," *Washington Post*, Oct. 28, 2001; Jo Thomas, "U.S. Groups Have Some Ties to Germ Warfare," *New York Times*, Nov. 2, 2001.

2. Eric Lichtblau and Megan Garvey, "Loner Likely Sent Anthrax, FBI Says," *New York Times*, November 10, 2001.

3. "Abortion Clinics Hit by Second Mail Scare," Reuters, Nov. 8, 2001, and Frederick Clarkson, "High Priority to Anti-Abortion Anthrax Mail," Women's E-News, November 12, 2001.

4. Blackhurst, no. 1, *ibid*. One such incident outside the U.S. involved the radical religious cult Aum Shinrikyo, which attempted to disperse anthrax in Tokyo office buildings (to no effect) in 1993. See: Kyle B. Olson, "Aum Shinrikyo: Once and Future Threat," *Emerging Infectious Diseases*, vol. 5 no. 4, July-August 1999, Centers for Disease Control.

5. Madeline Baro, "FBI: Men Knew of Cactus Weapons,

Threats," Associated Press, October 27, 1998.

6. On the availability and popularity of biowar manuals, see: Thomas, no. 1, *ibid*; For the bio-chem suit, see most issues of *Taking Aim*, the Militia of Montana newsletter (for example, p. 13 of the June 1995 issue).

7. ABC Prime Time Live, February 25, 1998. Transcript available at: [http://www.infowar.com/wmd/wmd\\_030298a\\_s.html-ssi](http://www.infowar.com/wmd/wmd_030298a_s.html-ssi)

8. Many news accounts are available regarding Mr. Harris' activities, but the most thorough report is from Mark Pitcavage, "Afraid of Bugs: Assessing Our Attitudes Toward Biological and Chemical Terrorism," at the ADL Militia Watchdog website: <http://www.adl.org/mwd/anthrax.htm>.





Friday, January 30, 1998. Women's clinic escorts Lisa Santer and Jack Ashcraft protect the entry to Summit Medical Center in Birmingham, Alabama. On the previous day, a bomb exploded at a clinic two blocks away, killing an off-duty police officer and injuring a nurse. Such incidents are never referred to as terrorism in the U.S. corporate media.

ing apostle of anthrax. Asked by Diane Sawyer what he could obtain quickly and easily, Harris answered, on-camera:

*Anthrax. It would take me a few more days to get some cholera. It would take me maybe a few more days to get some plague. It's easy. Botulism is the one that concerns me, because anti-botulism toxin is very hard to make. I could do it, but it's hard to make. Anthrax, on the other hand, is easy to make.*<sup>7</sup>

Harris, a member of the Aryan Nations, became a celebrity on the far-right Patriot talk circuit, and announces his expertise on biological warfare wherever he goes, as well as his supposed credentials working with the CIA and FBI. In his everyday life, Harris is a well inspector with a bachelor's degree.<sup>8</sup>

In *Bacteriological Warfare*, Harris claims he wrote only to provide readers with the knowledge necessary to protect themselves from anthrax. But the book also contains extended passages describing ways it could be put to use by terrorists.

Harris' fascination was also his undoing. In 1998, in order to test a dubious medical device being promoted by another Patriot talk-circuit promoter, he claimed to associate that he had obtained anthrax. When the FBI, alerted to his claims, swooped down on him in Nevada, headlines around the nation trumpeted the far-right anthrax scare. It later turned out that all Harris actually possessed was a harmless anthrax vaccine.<sup>9</sup> The ensuing court case, in which Harris was found to have violated his probation in the earlier bubonic plague case, effectively ended his career on the Patriot speaking circuit.

## TO MURDER A PHYSICIAN

The incident may have been harmless, but the publicity it generated (and the concomitant awareness that Americans could be effectively frightened by anthrax) inspired a wave of real terrorism. Within a week of the Harris arrest, anthrax threats were being mailed to schools, government agencies, businesses.<sup>10</sup> The largest volume of anthrax threats by far was directed at abortion clinics; between 1998 and 2000, the National Abortion Federation had reported over 80 such threats.<sup>11</sup> No one claimed responsibility, though groups such as the American anti-abortionist Army of God (AOG), whose adherents previously had argued for the assassination of abortion providers, advertised their support for the actions.<sup>12</sup>

The Army of God is the name used by the current mailers of hoax anthrax threats to abortion providers. No extensive, formal organization is believed to exist except as a kind of "leaderless resistance" phenomenon utilizing small cells of believers and loose networks. Among those who have claimed AOG affiliation are at least two avowed terrorists still at large: Clayton Lee Waagner and Eric Rudolph.

Waagner, who has a lengthy and violent criminal record, escaped from prison in February of 2001 and vowed to begin killing abortion doctors, as well as anyone who worked for them. A post on the Army of God's website from Waagner declares: "They're right. I am a terrorist. To be sure, I'm a terrorist to a very narrow group of people, but a terrorist just the same. As a terrorist to the abortionist, what I need to do is invoke [sic] terror."<sup>13</sup> Waagner also writes:

So the abortionist doesn't get the wrong idea, I don't plan on talking them to death. I'm going to kill as many of them

9. "FBI searches home of freed anthrax suspect," CNN, February 22, 1998: <http://www11.cnn.com/US/9802/22/anthrax/index.html>

10. Pitcavage, *op. cit.*

11. National Abortion Federation, "Incidents of Violence and Disruption Against Abortion Providers," updated regularly at: <http://www.prochoice.org/default7.htm>

12. See for example the website of the Army of God at <http://www.armyofgod.com> and the Creators Rights Party at <http://209.41.174.82/creator.html> See also: Amanda Ripley, "Terrorists and Saints," *Washington City Paper*, February 5, 1999.

13. See: "Clayton's message to the United States" at: <http://www.armyofgod.com/Claytonsmessage.html>

## HEARINGS EXHIBITS

## EXHIBIT 1

Attachment D

MEMORANDUM FOR: Director of Central Intelligence  
SUBJECT: Contingency Plan for Stockpile of Biological Warfare Agents

1. On 23 November 1969, President Nixon ordered the Department of Defense to recommend plans for the disposal of existing stocks of bacteriological weapons. (On 14 February 1970, he included all toxin weapons.)
2. On 13 January 1970, the Special Operations Division of Fort Detrick, Maryland, requested a requested inventory, less toxins, and submitted it to the Scientific Director, Fort Detrick. This inventory was a required input to assist the Commanding Officer, Ft. Detrick to prepare a comprehensive plan for demilitarization on site of all biological agents/units which are stockpiled in support of operational plans.
3. Under an established agreement with the Department of the Army, the CIA has a limited quantity of biological agents and toxins stored and maintained by the SO Division at Ft. Detrick. This stockpile did not appear on the inventory list. The agents and toxins are:

## Agents:

1. *Bacillus anthracis* (anthrax) - 100 grams
2. *Pasteurella tularensis* (tularemia) - 20 grams
3. Venezuelan Equine Encephalomyelitis virus (encephalitis) - 20 grams
4. *Coccidioides immitis* (valley fever) - 20 grams
5. *Brucella suis* (brucellosis) - 2 to 3 grams
6. *Brucella melitensis* (brucellosis) - 2 to 3 grams
7. *Mycobacterium tuberculosis* (tuberculosis) - 3 grams

RECEIVED FROM

AUG 28 1975

CIA

<sup>1</sup> Under criteria determined by the Committee, in consultation with the White House, the Department of Defense and the Central Intelligence Agency, certain materials have been deleted from these documents, some of which were previously classified, to maintain the integrity of the internal operating procedures of the agencies involved and to protect certain information of a national security nature.

50-501 G-70-12

8. *Salmonella typhimurium* (food poisoning) - 10 grams
9. *Salmonella typhimurium* (chlorine resistant) (food poisoning) - 3 grams
10. Variola Virus (smallpox) - 50 grams

## Toxins:

1. Staphylococcal Enterotoxin (food poisoning) - 10 grams
2. *Clostridium botulinum* Type A (lethal food poisoning) - 5 grams
3. Paralytic Shellfish Poison - 5.193 grams
4. *Buggerus Candidia* Venom (Krait) (lethal snake venom) - 2 grams
5. *Microcystis aeruginosa* toxin (intestinal flu) - 25 mg
6. *Tariferine* (paralytic effect) - 100 mg

This stockpile capability plus some research effort in delivery systems is valued at \$75,000 per annum.

In the event the decision is made by the Department of Defense to dispose of existing stocks of bacteriological weapons, it is possible that the CIA's stockpile, even though in R&D quantities and unlisted, will be destroyed.

5. If the Director wishes to continue this special capability, it is recommended that if the above DOD decision is made, the existing agency stockpile at SO Division, Ft. Detrick be transferred to the Huntingdon Research Center, Becton-Dickinson Company, Baltimore, Maryland. Arrangements have been made for this contingency and assurances have been given by the potential contractor to store and maintain the agency's stockpile at a cost no greater than \$75,000 per annum.

Thomas M. Karamessines  
Deputy Director for Plans

FROM

AUG 29 1975

CIA

Pages 189 and 190 from Intelligence Activities Senate Resolution 21; Hearings before the Select Committee to Study Governmental Operations With Respect to Intelligence Activities of the United States Senate; Ninety-Fourth Congress; First Session, Volume 1, Unauthorized Storage of Toxic Agents, September 16, 17 and 18, 1975. More widely known as the multi-volume Church Committee reports, these government documents revealed for the first time that agencies of the U.S. government were stockpiling biological warfare agents without authorization. The Ames Strain of Anthrax was subject to extensive research and development for one reason: mass murder.

as I can. I will use every talent I have and draw on every resource I can get my hands on. I consider this a war and in war there are few rules. One of the rules that I'm changing from those that came before me is that I'm not targeting the abortion doctor. I have discovered the hard way just how difficult these 'doctors' are to get to. They have the money to buy heavy protection and they use it well. No, I'm leaving the big guys alone. I'm going after every one else. Anyone who works at an abortion location or Planned Parenthood (I don't care if their location actually performs abortions or not. ALL Planned Parenthood locations are targets.). It doesn't matter to me if you're a nurse, receptionist, bookkeeper, or janitor, if you work for the murderous abortionist I'm going to kill you.<sup>14</sup>

Rudolph is on the FBI's Top 10 Most Wanted List for an array of bombings, from a lesbian nightclub to a trio of abortion clinics to, most famously, the Atlanta Olympics.<sup>15</sup> Of course, one of the reasons he remains at large is that the trail from that attack grew cold while the FBI focused its investigation on a hapless security guard named Richard Jewell.

## EPILOGUE

On October 12, scientists at Iowa State University's USDA veterinary laboratory incinerated a 100-vial collection of anthrax culture samples dating back to 1928, with the explicit blessing of the FBI.<sup>16</sup> For reasons unknown, the Bureau consented to destruction of material evidence in one of the most frightening attacks on public health this country has ever seen.

David Neiwert's reportage on domestic terrorism won a 2000 National Press Club award for distinguished online journalism. A freelance writer based in Seattle, he is the author of *In God's Country: The Patriot Movement and the Pacific Northwest*.

14. *Ibid*.

15. See the information on Rudolph available at the FBI's Website, "Major Investigations: Eric Robert Rudolph" (<http://www.fbi.gov/majcases/rudolph/rudolph1.htm>).

16. Peter J. Boyer, "The Ames Strain," *The New Yorker*, November 12, 2001, p. 68; William J. Broad, David Johnston, Judith Miller and Paul Zielbauer, "Experts See FBI Missteps Hampering Anthrax Inquiry," *New York Times*, November 9, 2001.



# THE GEO-STRATEGY OF PLAN COLOMBIA

*An open letter from Ecuador*

By MANUEL SALGADO TAMAYO

As the new millennium begins, two forces seeking global supremacy contend on the world's chessboard: the United States of America and the European Union. Since 1992 the economic crisis in Japan, which spread through East Asia by the late nineties, has left the West without a serious competitor. Henry Kissinger stated the situation clearly:

*In the post-Cold War world, the United States is the only superpower which has the capacity to intervene in any part of the world. However, its power has become more diffuse and the matters to which it can apply its military force have diminished. ...the United States, although a military superpower, cannot now impose its will because neither its power nor its ideology is suited to its imperialist ambitions.<sup>1</sup>*

Under these conditions, an open war by the U.S. against the insurgent forces in Colombia has the same limitation which, in its time, the Vietnamese forces represented: the possibility of defeating the aggressors. However, the relative success of the low-intensity wars in Central America during the 1980s, as well as the easy victories in the Gulf War, Grenada and Panama, and the eight consecutive years of sustained expansion of the U.S. economy, may have given ex-president Bill Clinton the illusion that the U.S. was in its moment of glory and could implement a lightning war against Colombia under the pretext of the drug problem. But the economic panorama in the United States has been modified: growth has declined and the signs of a recession are evident. Explaining this phenomenon, Cuban economist Osvaldo Martínez, has noted:

The growth of the North American economy has had as its motor force an organic explosion of consumption which contains a very dangerous fuel: the excessive indebtedness of its citizens and its enterprises which, confident of the high profits from their stock market holdings, have sought loans whose guarantee involves

speculating on the value of the very shares they possess. And the banks, equally confident, have granted extravagant credits, accepting as a guarantee, those same shares... that is to say, they have been making loans believing that this market euphoria is going to continue.<sup>2</sup>

Martínez adds that the sale of stocks in the U.S. today represents 1.5 times the income of all U.S. households in a country with a negative rate of savings.

The strategic war against Colombia may be a tool for reactivating the U.S. economy, but that leverage is fragile, since what could happen again is what happened in Vietnam: instead of becoming the basis of salvation, it turned into a dangerous swamp into which the Empire progressively sank. As Henry Kissinger noted when he formulated his harsh criticisms of Plan Colombia, the drug problem will not be resolved but will simply be forced to migrate to other countries. "We can't just begin something and then have no alternative plan about what to do if it doesn't work out... That's how we got involved in Southeast Asia."<sup>3</sup>

Now that the "evil empire"—as Reagan called the USSR—has disappeared, the battle against narco-trafficking, the 'defense' of human rights, expansion of market democracies, and the war on terrorism serve as smokescreens for advancing a world order that for the first time in the history of capitalism has the world's population by the scruff of its neck. This order, or world disorder, is neoliberal globalization, whose postmodern philosophy expounds the death of reason and humanism, the total imposition of capital over labor, a 'free' market for the South vs. protectionism for the North, and a type of financial freedom that allows the rich to steal the savings of the poor. The powerful have at last built a world in which only two slogans reign: "Everything for us, nothing for the rest" and "Enrich yourself and think only of yourself."

This world order, which professes the cult of opulence and the growing economic power of illegal drugs, doesn't allow for any frontal attack aimed at destroying narco-traf-

ficking because that business, which moves over \$400 billion annually, is far too important for the leading nations of world power to eliminate. That is why the war on drugs becomes a theater of the absurd, a comedy filled with contradictions. This war transforms the peasants who cultivate the precursor crops to cocaine into enemies and fills prisons with desperate people who because of joblessness and poverty violate their own bodies by becoming "mules" who risk their lives in order to transport these drugs. However, North American chemical companies, which produce more than 90% of the essential ingredients used in processing cocaine, face no problems and their jails house only a few of the bankers who amass huge fortunes from their businesses in the consumer markets.

So, from "containing" communism we have moved to "expanding" capitalism, but capitalism in its most cruel and savage form. The ethical and moral arguments which its defenders brandish do not have, nor do they require, any coherence or cause to justify their crusade. While the United States pretends to be the champion of human rights, its military forces and intelligence apparatus have emulated amply the worst crimes committed by the Nazis. The U.S. established the humiliating "certifications" to punish those countries which don't do enough to fight against drugs, whereas their CIA boys have built paradises of corruption throughout the world with the drug profits.

If we can rely on its own statistics, the United States faces a grave internal problem, given the number of its citizens who are categorized as permanent or occasional consumers of illegal drugs. But being the major market for the sale and consumption

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**Translation by Leslie Salgado and Philip Wheaton.**

1. Henry Kissinger, *La diplomacia* (Fondo de Cultura Económica, México, 1996), pp. 802-03.

2. Eduardo Jiménez García, "Desarticulación del optimismo," *Trabajadores*, La Habana, CubaDec. 25, 2000, p. 4.

3. Intervention during the Consejo para las Relaciones Internacionales, *El Comercio de Quito*, Feb. 15, 2001, p. C.1.



Jeremy Bigwood

Bolivian campesino members of the Six Federations ("cocaleros") defend barricades in Villa Tunari, Chapare, Bolivia, September 2000, burning tires and wood to ameliorate the effects of tear gas from an attack by police and army units. The campesinos shut down the country by closing roads in protest of the U.S. political and economic programs enforced through the regime of ex-dictator Banzer.

of illegal drugs places the U.S. in a complex, delicate ethical situation. For this reason, the United States' best contribution to overcoming this problem would be to settle accounts with its internal drug mafia who degrade the youth and people of the U.S. If this is not done, it is because there is a moral double standard and a dual message behind the supposed anti-drug war out of which "Plan Colombia" arose. This suggests that Plan Colombia and the Andean Initiative are nothing more than elements in a geopolitical and geostrategic plan which seeks to impose the indisputable domination of the United States upon the entire American continent. The United States has fought for the larger goals behind this strategy ever since the Monroe Doctrine was formulated in 1823.

### THE BOLIVARIAN TRIANGLE

The first object is to deactivate the "radical triangle," as James Petras calls it, or the "Bolivarian triangle," as Heinz Dietrich defines it, which has coalesced in northeastern South America. This triangle consists of: the Venezuela of Colonel Hugo Chávez; the insurgent Colombia of the *Fuerza Armadas Revolucionarias de Colombia* (FARC) and the *Ejército de Liberación Nacional* (ELN); the Ecuador of the indigenous rebels and progressive military; and Panama, free of U.S. military bases and the School of the Americas, where the spirit of General Omar Torrijos refuses to die. This is a geopolitical matrix that emerges from the deepest aspirations

of our peoples and is finding "receptive ears" throughout Latin America. The Bolivarian triangle is worrisome to the circles of power in the United States for various reasons.

Bolivarian Venezuela is, on the one hand, the most important provider of petroleum for the U.S. in the Continent. On the other hand, the policies of President Chávez have become a stumbling block for the zone of domination from Alaska to Patagonia. Chavez's policies of non-alignment and independence have led him to carry out two gestures of national dignity: the sale of petroleum to Cuba, on mutually beneficial conditions and a diplomatic *rapprochement* with Iraq. Furthermore, Venezuela has decided to assist in rebuilding OPEC, promoting initiatives to maintain unity and oppose any decline in the price of hydrocarbons. Ali Rodríguez, a Venezuelan, is OPEC's current president.

Under the banners of the FARC and the ELN, Colombian insurgents have four decades of experience and have survived the end of the Cold War. They were neither surprised nor captivated by the ideological offensive of capitalism, demonstrating that they are not dependencies of international communism but commanders and combatants responding to the internal needs of a long struggle for liberation by the Colombian people. Their leaders are not middle class intellectuals or professionals in search of opportunities to re-insert themselves into the system. In most cases, they are campesinos who have been transformed through the 'uni-

versity of life and struggle'—wise people forged in the enormity of a defiant geography.

These experienced commanders, backed by a heroic and marvelous youth, have decided to emulate the example of Simón Bolívar, making a decisive contribution to the freedom and independence of our peoples. Their goal is to liberate this enormous Colombia, with its one million one hundred sixty thousand square kilometers of territory, situated strategically between the Pacific and Atlantic Oceans, with abundant natural resources and with a population of more than 40 million, blessed with a rich cultural diversity. They want to transform a nation under imperialist domination, submerged in violence and narco-trafficking, into a nation of free men and women, workers, educated people, subjects of their own destiny.

In Ecuador, the indigenous movement, the progressive military, social and union movements, along with segments of the traditional left who have had the courage to persist, reflect expressions of a difficult and complex struggle which seeks to confront and resolve the accumulated effects of two decades of "structural adjustment" policy and the enormous bloodletting caused by servicing the foreign debt. To these factors, one must add, in recent years, the combined impact of El Niño, the Asian fiscal crisis, and a wave of corruption without precedent, unleashed by an elite banking and financial minority which has totally subordinated this nation to imperial dictates. This economic sellout has led to massive impoverishment and a huge diaspora. Add to all this the ignominious handover of the Manta Air Base to the U.S. for a period of 10 years, elimination of the Ecuadoran national currency (the Sucre), and dollarization of the economy.

### NEOLIBERAL CRACKUP

The U.S. government is beginning to see how the geopolitical chessboard which was carefully constructed to impose neoliberal globalization is beginning to break up.

In Peru, the military dictatorship of Fujimori and Montesinos culminated in a terrible farce for its progenitors. The world now knows that the power in Peru belonged to CIA-favored officials and the chief of Peruvian intelligence, Vladimiro Montesinos, whereas Alberto Fujimori was nothing but a civilian facade put forward to dance the "techno cumbia" on the stage of populism, while both of them openly robbed the re-





*Indian protesters run to seize the Congress building in Quito, Ecuador, January 21, 2000. The military asked President Jamil Mahuad to resign after protesters, joined by mid-level officers, stormed the empty legislative building. The revolt triggered the overthrow of Mahuad and was the first coup provoked by an indigenous group in Latin America. The Indians, numbering 4 million and making up one third of Ecuador's population, are fighting for better living conditions.*

sources gained from privatizations and illicit traffic in drugs and arms. All this, while unleashing a war against Sendero Luminoso and the Revolutionary Movement of the Tupac Amaru, accusing them of the very vices they themselves were practicing.

In Bolivia, the government of Gonzalo Sánchez de Losada tried to sell the nation as a successful example of neoliberal modernization. As the reactivation of the campesino and indigenous movements have demonstrated, the government strategy calling for the destruction of millions of coca leaf plots has left an enormous segment of the poorest population without even a minimum alternative of survival. In June and July 2001, Bolivia was paralyzed by the mobilization of hundreds of thousands of campesinos who blocked highways, demanding, among other things, the repeal of the Anti-Drug Law which penalizes thousands of coca cultivators.

The neoliberal modernization in Argen-

tina, implemented by Carlos Menem and Domingo Carvalho, whose privatization and convertibility models were supposed to be followed by other Latin American countries, has led that enormous country—in the past, the tenth strongest economy in the world—into a dreadful state which has earned it the popular name of the nation of the “boobs.” This is a nation of unemployed, hungry and poor people. In Argentina, the neoliberals even privatized cemeteries and parks. There is nothing left to sell. But the spirit of Che Guevara and the Mothers of the Plaza de Mayo are resisting and advancing an alternative way. This alternative way will end the disaster propagated by the International Monetary Fund and by the corrupt leadership of Menem, Carvalho and de la Rúa. It will also rescue the enormous potential resources that are still left and it will place them at the service of the Argentine majority who are presently crushed and forgotten.

#### PLAN COLOMBIA

Plan Colombia might be the expression of the first war of the XXI Century over the control of strategic natural resources. In a world increasingly threatened by ecological contamination, the control of the Amazon Basin is a source of indubitable power. The Amazon Basin occupies 7,186,750 square kilometers of land, the equivalent of 45% of the entire territory of South America.<sup>4</sup> This enormous territory is distributed as follows: 69% in Brazil, 11% in Peru, 10% in Bolivia, 3.5% in Colombia, 2.5% in Venezuela, 2% in Ecuador and the remaining 2% shared by Guyana and Suriname.<sup>5</sup> This region contains the deepest and longest river in the world, the Amazon, with more than 10,000 tributaries flowing into it. Botanists estimate

4. Paul E. Little, *Ecología Política del Cuyabeno* (Quito: Ediciones Abya Yala-ILDIS, 1992) p. 34.

5. ECORAE, “Diagnóstico Integral de la Región Amazónica Ecuatoriana,” Quito, 1997, p. 17.

that there are more than 125,000 plants and an animal diversity of several million. The Amazonian forest helps regulate the temperature of the planet, consuming carbon dioxide and producing oxygen.<sup>6</sup>

The Amazon Basin contains more than 50% of the tropical forests of the world and one-fifth of all the fresh water on the planet. At present, scientific studies show that some 3,000 plants found here are essential "for obtaining medicines, pesticides, dyes, fibers, oil, woods and foods."<sup>8</sup> In the future, the Amazon region may play a key role in light of the new possibilities opening up in Biotechnology and Genetic Engineering, given that this region "is an evolutionary center which continues to create biological diversity."<sup>9</sup>

Although it contains only 2% of the geographic area, Ecuador ranks third in the number of species of amphibians native to the Amazon Basin, fourth in birds, fifth in monkeys, sixth in flowering plants and mammals.<sup>10</sup> From an economic perspective, this region of the Amazon, in contrast to the extreme and widespread poverty of its inhabitants, contains 99% of the reserves of petroleum and natural gas, significant veins of gold, silver, copper, lead, zinc and non-metallic natural resources, such as marble, feldspar, phosphates, gypsum and energy producing minerals, including uranium and coal. Finally, it is here that 50% of all the reserves of old-growth forests are located.<sup>11</sup>

## VOICES OF RESISTANCE

Plan Colombia continues to create voices of resistance. During the January 2001 Summit of the Chiefs of the U.S. and Colombia, the final resolution did not explicitly support the Plan. Something similar happened at the Fourth Meeting of the Defense Ministers of the Americas, which concluded in Manaus, Brazil, on October 19, 2000. Despite desperate efforts by U.S. Secretary of Defense William Cohen and his Colombian partner Luis Fernando Ramírez, to rally support for Plan Colombia, the military ministers, in their final resolution, insisted on respect for the principle of non-intervention in the internal affairs of member states. The lack of support for this pre-determined plan of war resulted in the United States

warning that the plan will be carried out with or without support from the region's military leaders. These expressions of dignity and independence surprised the powerful nation which assumes everyone ought to sign on to its colonial logic.

In September 2000, in Puerto Asís, 325 participants at the *Foro El Sur* (Forum of the South), representing many social and political organizations, responded to Plan Colombia by pointing out that it is a strategy moving toward the application of repressive measures against social, economic and political protests generated by the globalization process and the application of the neoliberal model.

On February 1, 2001, Europe's influential Parliament voted a resolution 474 to 1, warning that a greater degree of militarization in the anti-drug war runs the risk of escalating the conflict in the region. It pointed out that Plan Colombia contains elements that are contrary to the European Union's strategies of cooperation.

Although, strictly speaking, this war has not begun, in the opinion of some, its military components are ready: 80% of the \$1.3 billion offered by the North American administration are directed to the purchase of arms and for military advice. More than 400 North American advisers have already been distributed among 34 U.S. military bases in Colombia where some 12,500 special forces are being trained, while 80 Huey and Blackhawk helicopters have arrived, as well as radar and other sophisticated electronic espionage equipment.

In reality, the U.S. war against our peoples has already started. Its first components are the state terrorism imposed by the United Self-Defense of Colombia (death squads), whose vital objective is, according to Noam Chomsky, to impose a culture of fear and silence. This is the old ruse of Hitler's black and brown shirts. Going from intimidation to indiscriminate terror, assassinating opposition leaders and possible guerrilla collaborators, in an open drive for political power as was pointed out some time ago by Colombian university teacher Clara López Obregón.<sup>12</sup> This infernal device has caused the largest displacement of peasants in re-

cent history. This forced migration has resulted in a brutal accumulation of vast territories by paramilitary chiefs.

A major component of the Plan is the chemical war which is already underway. Millions of liters of glycerine-phosphate made and acquired in the United States have been released from planes piloted by North Americans against thousands of hectares of land where "illegal plants" (coca) are cultivated. In only one year, from December 1999 to December 2000, 60,000 hectares of coca leaf plots were fumigated in Colombia. Satellite photographs, contracted by Colombia and the United Nations, demonstrate that nevertheless, the zones under coca cultivation have increased to 162 thousand hectares, a 60% increase, which proves that this anti-drug repression is a total failure. Yet this glycerine-phosphate, to which powerful chemicals have been added, has accomplished its mission: the massive destruction of the Amazon Basin's diversity, the elimination of agricultural crops grown by peasants, the death of domestic animals and the appearance of unknown illnesses among poor and humble peasants of southern Colombia and northeastern Ecuador.

The military institutions of Panama, Brazil, Peru and Ecuador continue to carry out the dictates of the powerful leaders of the Pentagon, despite resistance from their most important social sectors. But in the present social dynamic in the Andean world, these military weapons could be turned against their irresponsible promoters. An open war would be an economic and social catastrophe. Fortunately, our people, along with the best of our alternative leaders, know this. Thus we can affirm that the final chapter in this drama will be written, through sacrifice and dignity, by those defending our independence and sovereignty, rewriting the example bequeathed to us by Liberator Simón Bolívar and Mariscal Antonio José de Sucre.

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**Manuel Salgado Tamayo has been a candidate for the Presidency of the Republic of Ecuador; has served as Vice President of the National Congress; and currently teaches at Universidad Central de Ecuador.**

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6. Little, *op cit.*, pp. 33-36.

7. ECORAE, "Plan Maestro para el desarrollo de la Región Amazónica Ecuatoriana," Quito, 1998, p. 13.

8. Enrique Sierra, "Ecuador: Potencial territorial," (Quito : Grupo Edidac, 1997), p. 42. Anamaría Varela y otros, "Marea Negra en la Amazonía," (Quito : Ediciones Abya Yala, 1995), p. 42.

9. César Benjamín, "Amazonía: Antes que sea tarde," Información proporcionada por ALAI, October 24, 2000.

10. Varela, *op. cit.*, p. 54.

11. ECORAE, "Diagnóstico Integral de la Región Amazónica Ecuatoriana," Quito, 1997, pp. 43-44.

12. Revista *Visión*, September 18, 1989, p. 12.

To be published in: *"El Plan Colombia y La Iniciativa Andina: Drogas, guerrillas y contrainsurgencia en el siglo XXI."*



# THE HAND THAT RULES THE VISA MACHINE ROCKS THE WORLD

*How Langley and Foggy Bottom brought bin Laden's Terrorists to America*

By J. MICHAEL SPRINGMANN, ESQ.

When I was Chief of the Visa Section at the U.S. Consulate in Jeddah, Saudi Arabia (1987-1988), high State Department officials repeatedly ordered me to issue visas, both tourist and business, to unqualified applicants—persons with no ties to the Kingdom or to their own country. This violated the Immigration and Nationality Act and the State Department's own regulations. When I repeatedly protested what I saw as blatant visa fraud, both in Jeddah, and to the Embassy in Riyadh, I was told to keep quiet. Later I protested this while at the State Department in Washington: to the Bureau of Consular Affairs, to the Bureau of Diplomatic Security, to the Inspector General. I was met with silence. This astonished me. If there is anything the State Department fears, it is someone selling visas or permitting intending immigrants (those *intending* to relocate permanently) to enter the United States under false pretenses.\*

It was not until later, after numerous discussions with individuals having firsthand knowledge, that I learned what I had really been witnessing.<sup>1</sup> As I stated in a recent BBC interview:

*I had not been protesting visa fraud. What I was protesting was, in reality, an effort to bring recruits, rounded up by [the Agency and] Osama bin Laden, to the U.S. for terrorist training by the CIA. They would then be returned to Afghanistan to fight against the Soviets.<sup>2</sup>*

The State Department did not run the Consulate in Jeddah. The CIA did. Of the roughly 20 Washington-dispatched staff there, I know for a certainty that only three people (including myself) had no ties, either professional or familial, to any of the U.S. intelligence services.

One day in 1988, two Pakistanis came to the visa window and wanted me to issue them applications to visit the United States. They told me they were going to a trade show in America but could not name the show or the city where it would take place. The applicants assured me they had been recruited for this event by the Consulate's Commercial Section. If I had any doubts, I could call one of the Commercial Officers who would vouch for them. After additional questions which elicited no relevant answers, I refused the visas.

In less than an hour, the Clandestine Service case officer concealed in the Commercial Section was on the telephone demanding that I issue the visas. I declined, as this was clearly a case of applicants without the slightest tangible reason for going to the U.S. I said that the more I questioned them, the fishier the story smelled.

Within minutes, the spook had gone to the Chief of the Consular Section, reversed my decision and stamped the visas in their passports, a violation of the State Department's *Foreign Affairs Manual*, which specified that the adjudicating officer had the first, last, and generally only word on visa issuance or denial.

This scene replayed itself weekly at the Consulate throughout my service there. For example, a Sudanese refugee who was unemployed in Saudi Arabia received a visa "on national security grounds," after I had repeatedly denied the request. Similarly, a Filipino electrician obtained student visas for his daughters to attend U.S. high schools "because he had been helpful to the consulate." Libyans living outside our consular district (the Hejaz, Saudi Arabia's western province) got visas through the Consul General. The Consul General had been seen in the consulate's lobby filling out application forms for two Pakistanis later caught with forged travel documents. A Bangladeshi got a visa through the Agriculture Office after I had denied his application. INS inspectors in New York turned him back because his

passport was a forgery. These incidents all occurred in 1988.

The situation deteriorated to the point that messengers bringing passports of unqualified applicants to the visa section simply threatened to go directly to the Consul General. My refusals were not for borderline cases or for people who had professional, business, or familial ties to bring them home. They were mainly individuals who had just arrived in Saudi Arabia, or were unemployed, or who had never been to any other country. Most were Pakistani, Lebanese, Syrian, or Palestinian men in their 20s and 30s who could not explain why they wished to go to the U.S., what they would do on arrival, or what they would do on return.

## THE 'SNITCH' VISA

Visas designated "S-5" or "S-6" (called "snitch visas" by some immigration attorneys), are issued to persons with knowledge of criminal or terrorist activities. In such cases, the Attorney General may determine that a foreign national has possession of critical, reliable information regarding a criminal organization or enterprise; is willing to supply such information to federal or state law enforcement authorities or to a court; and whose presence in the U.S. is essential to a criminal investigation or prosecution. There is a limit of 200 such visas annually. In terrorist cases, the Attorney General and the Secretary of State must jointly determine that the person has critical, reliable information concerning a terrorist organization, enterprise, or operation; is willing to supply it to federal law enforcement authorities or to a court; will be placed in danger as the result of providing such information; and is eligible to receive a reward. The limit is 50 such visas annually.

By the end of my tenure as Visa Section Chief in Jeddah, the Consul General and others who wanted visas went directly to the Chief of the Consular Section for their stamps. During my 18 months on the job, I saved copies of the visa applications that

\*Notes for this article begin on page 44.



March 20, 1987, 11:30 a.m., the Roosevelt Room. President Reagan holds a pin presented to him by Mayar Habibullah, Chairman of the Afghan Community in America, after signing the Afghanistan Day Proclamation. Left to right: Reagan, National Security Adviser Frank Carlucci, Congressman William Broomfield, Habibullah Mayar, Congressman Bill Bradley. In the original photograph, an unidentified Afghan mullah stands at far right. The pin shows a "NO" symbol (red circle with diagonal slash) over a hammer and sickle. Frank Carlucci was recently memorialized in Raul Peck's film *Lumumba* for his role in the 1961 assassination of Patrice Lumumba, the first Prime Minister of the Newly-independent Republic of the Congo. See: [www.zeitgeistfilms.com](http://www.zeitgeistfilms.com)

had been reversed, or bypassed me and went directly to the Consular Section chief. There were nearly 100 such cases that I knew of.

#### LIBATIONS & THE BENEFITS THEREOF

Liquor sales was another area in which high officials at the Department of State were involved at Jeddah. I repeatedly protested the Consular policy regarding liquor, because it was openly discriminatory (some employees were allowed to buy, others not, without any explanation), because bottled liquor was outrageously overpriced compared to other diplomatic posts, and because there was no way to account for the revenue stream. Who or what benefited from the funds generated?

Drinking alcohol in Saudi Arabia is a serious crime which can lead to arrest, job loss, flogging, prison, and, if the offender is fortunate, speedy deportation. Despite such unpleasant consequences, most expatriates make their own or buy bootleg liquor.

The U.S. Consulate in Jeddah was pragmatic in its approach. Beer, wine, and various spirits came to the consulate in the dip-

lomatic pouch. They were also sold (and sometimes given) to expatriates, Saudis, and other visitors. The consulate bar, *The Brass Eagle*, did a brisk business, and there were fairly frequent parties, usually attended by hundreds of people, as well as the occasional function involving the American Businessmen of Jeddah, a sort of chamber of commerce. There were also the Thursday night parties at the *Marine House* which drew 50-100 or more expatriates, sometimes weekly, sometimes bi-weekly. Their liquor sales were later investigated by Marine Corps headquarters. Although nothing official was announced, we understood that there were questions regarding how funds generated were being accounted for, and some concern regarding the nuisance level of the activities. We also heard that the brass handed down the word to put a lid on it. The Marines were very close to the CIA, something I had never seen at any other Foreign Service Post.

The boys from Langley ran the *Brass Eagle*, stringently controlling admission and

primarily limiting it to their own select guests. The spooks also controlled the other consulate parties, generally held around the swimming pool deck. Drink tickets for the *Marine House*, *The Brass Eagle*, and other functions sold for SR(Saudi Riyals)40 each, roughly U.S.\$10, and were good for four drinks. Most guests bought multiple tickets.

According to one Foreign Service Officer with financial training, the various events at the consulate brought in about a million dollars a year in the late 1980s. The money supposedly went to AEFS (American Employees and Families Support Association), a non-profit organization. However, no one saw the results of this, other than a few improvements to the bar (whose TV set, cheap paneling, and pool table didn't cost much). The feeling generally was that it supported CIA "off-the-books" operations.

#### FOLLOW THE MONEY?

The funds could well have underwritten the expenses involved in buying airline tickets to the U.S. and back again for CIA recruits,



**The inspectors wrote an analysis in two parts, one unclassified, and one classified "Secret." The classified portion of the Inspection Team's report can no longer be found. The file I had kept was shredded after my departure.**

and paying any bribes necessary for the smooth functioning of the program. One contact told me that the price of a visa at the American consulate was the equivalent of \$2,500. I never learned whether this was paid to the State Department official for arranging the visa or to the recruiting office to set up the transaction.

Jeddah was the fifth largest visa issuing post in the Middle East and the battles over visas there were heard as far away as the consulate in Marseille.

No diplomatic posting abroad lasts forever. People get transferred, in my case, to the Consulate General at Stuttgart and, later, to INR (the Bureau of Intelligence and Research) in Washington.

#### **THE INSPECTION TEAM**

Shortly before I left Jeddah, an Inspection Team came to scrutinize the post's opera-

tion, with an eye to improving efficiency and checking that appropriate procedures were being followed. Prior to the team's arrival, I had been told by an outside contact that if I breathed a word of the visa issue and the liquor problems to the inspectors, my career in the Foreign Service would end quickly. I wondered about this, mentioning it to the two other State Department officials at the consulate who I knew did not work for the CIA. They were as incredulous as I was. But, to play safe, I decided not to discuss the matters.

However, I was braced by the inspector assigned to the Consular Section. He wanted me to comment on the visa and alcohol matters, repeatedly assuring me that all would be kept secret and my name or specific identifying information would not appear anywhere in his report. I demurred. He was most

insistent, detailing all the aspects of the situation that I knew about and some that I didn't. He again remonstrated with me, asking me just to confirm what he already knew. After about an hour, he wore me down enough to do so.

Once I had done this (and he had spoken with the Administrative Officer), I found myself on the wrong end of the Consul General's wrath. The man had spent 18 months threatening my career in the State Department for questioning his orders on suspicious visas. He finally made good on it. As the reviewing officer on my efficiency report, he wrote, essentially, that I was incompetent, uncooperative, and most undiplomatic. As a result, he asserted that I should not be given tenure (and, therefore, be made unemployed).

The inspectors wrote an analysis of the consulate's compliance with State Department procedures. It was in two parts, one unclassified, and one classified "Secret." The classified portion of the Inspection Team's report can no longer be found. Moreover, the file I had kept on the peculiar visa issuances, which I had left for my successor, was shredded after my departure.

Following my assignment to Jeddah (September 1987 through March 1989), I was Political/Economic Officer in Stuttgart (May 1989 to June 1991) in what had been described to me as an Agency position. Despite my job title, I found myself treated as a pariah. I was never in-



*Burqa-clad women walk through the streets of Badaber, 10 kilometers (6 miles) south of Peshawar, Pakistan, during local elections Tuesday, October 16, 2001. Women were not allowed to vote in the election, though there are more than 2,000 registered women voters in the constituency. Religious fundamentalist groups did not permit women to vote.*

Shabbir Hussain Imami/AP



formed of the Consul General's schedule, I was kept in the dark about meetings and activities which had a direct bearing on my work, and my political assistant, to put it mildly, was uncooperative. The first Consul General refused to write an interim efficiency report on me, even though regulations required it. The next was plainly hostile and inserted more negative remarks in my efficiency report. The third, who shared many of the same un-State Department career patterns as the second (and whose name the Legal Adviser's Office at State once told me should never be linked in print with any of the American intelligence services) simply kept me out of the loop and wrote an efficiency report calculated to end my job as a diplomat.

And so it came as no surprise that the State Department terminated my appointment in January 1992. What did come as a surprise was my not finding a job in or out of government for three years, despite substantial experience and education.

#### THE LAW

§ 214(b) of the Immigration and Nationality Act states that every visa applicant is to be considered by the consular officer as an intending immigrant unless and until he can prove otherwise. The burden of proof is on the applicant and, if the officer has any doubts about the applicant's bona fides, he is required to deny the visa. Section 41.121, Vol. 9, of the *Foreign Affairs Manual* indicates, by implication, that no State Department official may question a visa denial or lobby to have it overturned unless he can provide new, substantive, and convincing evidence which was not available to the decision-maker at the time he interviewed the applicant. In such cases, the Department of State *may* provide an advisory opinion on a case and the principal consular officer *may* take responsibility for reversing the refusal if the applicant cannot overcome objections to the visa application. Records justifying actions are required to be kept.

When the State Department would provide me with no information regarding why my appointment had been terminated, I filed a series of Freedom of Information Act (FOIA) requests to gain enlightenment. I asked for all records which had been considered in denying my tenure, including the inspection team records and any *sub rosa* correspondence or contact between Jeddah and Stuttgart. The State Department stonewalled my request for information for years, yield-

ing up only non-responsive documents, at one point actually persuading the U.S. District Court for the District of Columbia to seal my request as a threat to national security. In the end, I never got much more than documents I already had or which had no bearing at all on my request.

The FOIA, 5 U.S.C. § 552, requires that the government release readily identifiable records on request, subject to limitations such as criminal matters under investigation or national security issues. Since learning why I became unemployed didn't appear to be a state secret, the Department's litany of objections and foot-dragging further convinced me that there had been, indeed, something untoward going on in Jeddah, and that it would be next to impossible to learn exactly what it was.

**Mike Springmann joined what became the U.S. Commerce Department's International Trade Administration in 1969, moving to the State Department in 1986. Overseas postings included Economic/Commercial Officer and later Political/Economic Officer in Stuttgart, West Germany; Commercial Attaché in New Delhi, India; and Chief of the Non-Immigrant Visa Section in Jeddah, Saudi Arabia. He concluded his foreign service career as an Economic Analyst for Latin America and the Caribbean in the Bureau of Intelligence and Research at the State Department. He is admitted to the bars of Washington, D.C., Maryland, and Virginia, and practices immigration, employment, and national security law.**

1. Most of the individuals who clarified and confirmed this scenario regarding what I witnessed firsthand must remain anonymous, for obvious reasons. Each gained their knowledge in the course of their professional work: in federal government agencies, in higher education, in journalism. On September 15, 1999 I asked Bill McCollum, former Republican Congressman from Florida, guest speaker at a breakfast meeting of the American Bar Association's Standing Committee on Law and National Security, whether it was true that the U.S. worked closely with Osama bin Laden. McCollum replied to the effect that: *We deal with all kinds of people whether they are upstanding citizens or not. We have a job to do and we must act in the best interests of the U.S.*

2. BBC Newsnight, November 6, 2001. Bracketed material added by author. Transcript available at: [http://news.bbc.co.uk/hi/english/events/newnight/newsid\\_1645000/1645527.stm](http://news.bbc.co.uk/hi/english/events/newnight/newsid_1645000/1645527.stm).

3. See for example: Simon Reeve, *The New Jackals; Ramzi Yousef, Osama bin Laden and the Future of Terrorism* (Boston: Northeastern University Press, 1999), pp. 169-70; and Ahmed Rashid, *Taliban; Militant Islam, Oil & Fundamentalism in Central Asia* (New Haven: Yale University Press, 2001), Chapter 10.

#### POSTSCRIPT

Many of the "terrorists" who allegedly seized and flew airplanes into the World Trade Center and the Pentagon had obtained U.S. visas at Langley's consulate in Jeddah. I had thought that my complaints and lawsuits, which were so disastrous for me, had at least persuaded the Agency to distance itself from radical Muslims and end its connection with the visa process in Saudi Arabia. I was wrong.

Immediately following the withdrawal of the Soviets from Afghanistan, on bin Laden's return home to Saudi Arabia, he called repeatedly and publicly for the liberation of Palestine.<sup>3</sup> Since the end of the Gulf War, he has added, and continuously repeated, the demand for the removal of the Saudi royal family from power, and evacuation of all U.S. military forces from Saudi Arabia. From that point on, the CIA's golden boy has fallen further and further from favor.

#### CORRECTIONS AND CLARIFICATIONS

On page 45 of issue Number 69, *CovertAction* published a photograph of Cypriot General George Grivas. As indicated by the credit, the photo was provided by the Embassy of Cyprus. However, responsibility for the text of the caption which accompanies the photo lies exclusively with the magazine. The Embassy of Cyprus had no input on and no prior knowledge of that caption, and the caption should have reflected that fact. *CovertAction* regrets the error of omission.

On page 25 of issue Number 70, there are errors of fact:

1. Prison poet George Jackson was framed with what G. Gordon Liddy named as a CIA weapon of choice for overseas hits on communists, not shot with one.

2. Rogers Morton left his seat in the U.S. Congress representing a district in Maryland to enter a cabinet post with Richard Nixon, and neither shot himself nor was ever accused of taking the \$25,000 in question. He was followed in Congress by William Mills, to whom the author referred in her original draft.

Addition:

Readers wishing to contact Joyce Horman or offer support to the *Horman v. Kissinger* case (page 24 of issue Number 70) should write to:

Joyce Horman, P.O. Box 2331, New York, NY 10021, USA



# ABOVE THE LAW

*Collateral damage we don't hear much about*

By STEVE TAYLOR and LAURA HUNTER

The health of communities around the world is being damaged by the environmental practices of the U.S. military. Day after day, the Department of Defense (DoD) and defense-related agencies are undermining the basis for life on the planet by their toxic dumping; production, testing, and battlefield use of munitions; air and water pollution; hazardous waste generation, transport, and disposal; military assault training operations; bombing and live fire training; and nuclear propulsion and warhead production, to name only a few of their deadly habits.

It seems logical to assume that in a democracy the government and the governed share equal status under the law and that regulatory agencies and courts will ensure that laws are enforced equally against all, but the assumption is incorrect. The country's largest polluter—the U.S. military—and the rest of the federal government are completely or partially exempt from basic environmental, public safety, and worker protection laws and regulations. These exemptions, plus lax or nonexistent enforcement of laws that do apply, have helped produce a slew of environmental catastrophes at military bases, defense-related facilities, and battlefields across the U.S. and around the world.

The doctrine of "sovereign immunity," a remnant of feudal law, is deeply embedded in the U.S. legal system. Federal, state, and local laws do not bind the U.S. government unless Congress specifically and unequivocally waives immunity. Consequently, the military and defense-related agencies enjoy complete or partial immunity from environmental, public safety, and worker protection laws. This notwithstanding the fact that the DoD and DoE are the nation's leading polluters.

•*Massachusetts Military Reservation* has contaminated the sole source of drinking water for 424,445 permanent and seasonal residents of Cape Cod.<sup>1</sup> Fifty years of small arms, mortar, and artillery fire; burning of propellant bags and open-air destruction of surplus ordnance, has fouled soil and groundwater with metals, propellants, and the explosives RDX, HMX, and TNT, all dangerous to human health.<sup>2</sup>

•*Cape Romanzof Long Range Radar Station* has contaminated the food supply for several Indigenous communities in Hooper Bay, Alaska, and nearby villages.<sup>3</sup> Station operations introduced into the soil and groundwater polycyclic aromatic hydrocarbons; organochlorines; lead; cadmium; the pesticides dieldrin, chlordane, and DDT; and various petroleum products.<sup>4</sup> These military toxins are bioaccumulating in the vole, fox, and fish which have formed the diet of the Indigenous people since time immemorial.<sup>5</sup>

•*Sierra Army Depot* in Lassen County, California, conducted open burning and open detonation of military munitions until Fall 2001. Not coincidentally, this was the largest source of toxic air emissions in the state.<sup>6</sup> In 1999 alone, the facility released 5.4 million pounds of hazardous and carcinogenic substances to the air, including mercury, beryllium, dioxin, and PCBs—the end product of disposal operations averaging 52 million pounds of munitions annually.<sup>7</sup> These operations were conducted only when prevailing winds were eastward, toward the Pyramid Lake Paiute reservation.<sup>8</sup>

•*Naval Station North Island* in San Diego is home to unregulated naval nuclear propulsion reactors and radioactive waste facilities which threaten a quarter-million resi-

dents within a five-mile radius, plus thousands of workers and tourists in the downtown business district. The Navy has refused to provide an emergency response plan, warning sirens, community radiation monitoring, or public access to safety information.<sup>9</sup> Nearby, the privately owned San Onofre Nuclear Generating Station is required to maintain warning sirens, conduct radiation monitoring, produce and release an emergency response plan covering a 10-mile radius, and release accident information to the public.<sup>10</sup>

## OPPORTUNITY COST

These samples were chosen from tens of thousands of such sites scattered over the globe. As of 1999, close to 28,000 currently or formerly contaminated sites were included in the DoD's environmental cleanup program. The number included 23,573 sites on 1,733 installations currently owned by the DoD, and 4,372 sites on 9,302 Formerly Used Defense Site (FUDS) properties no longer owned by the Department.<sup>11</sup>

From a purely fiscal point of view, the cost of cleaning up military pollution is considerable. Through FY 1999, the DoD spent more than \$16 billion on cleanup, not including program management and support costs.<sup>12</sup> The DoD's own estimates for completion of identified sites run to \$1.5 billion or more per year for at least the next several years.<sup>13</sup> Every state in the nation and many U.S. territories contain contaminated military sites. Alaska has 1,264 sites on 189 current and former DoD properties.<sup>14</sup> California has 3,912 sites on 441 properties, Hawaii has 693 sites, and Puerto Rico 131.<sup>15</sup> These numbers will almost certainly grow. Most current and former military installations have not been thoroughly investigated for contamination. Firing ranges are only

1. U.S. Environmental Protection Agency Region 1, "Administrative Order RCRA 1-2001-0014," January 4, 2001.

2. *Ibid.*

3. U.S. Fish and Wildlife Service, "Report of Findings: Contaminant Study of the Environment Surrounding Cape Romanzof LRRS," January 1991.

4. *Ibid.*

5. *Ibid.*

6. The Pentagon announced in late September its intention to finally halt OB/OD operations at Sierra.

7. "Lassen Base Tops Toxics List," *Sacramento Bee*, April

23, 2001; "Suit Seeks to Halt Weapons Burning at Herlong," *Reno Gazette-Journal*, April 14, 2001.

8. "Army orders halt to all munitions burning at Sierra Army Depot," *Reno Gazette-Journal*, Sept. 28, 2001.

9. U.S. Census Bureau, 2000 Census; Final Environmental Impact Statement for the Development of Facilities in San Diego/Coronado to Support the Homeporting of One Nimitz Class Aircraft Carrier, November 1995.

10. Incident Response Plan for San Onofre Nuclear Generating Station, January 1983, and San Diego Nuclear

Power Station Emergency Response Plan and Interjurisdictional Policies, Revised 1997.

11. U.S. Department of Defense, Defense Environmental Restoration Program, *Fiscal Year 1999 Annual Report to Congress*, Table B-6.

12. *Ibid.*

13. *Ibid.*

tested sporadically, and bases continue to pollute and generate hazardous waste every single day.

### LEADER OF THE PACK

The DoD controls 34% of federal facilities, and 3% of federal lands.<sup>16</sup> As of August 1995, 81% of federal sites on the Superfund National Priorities List were DoD sites.<sup>17</sup> Fifty-three percent of tax dollars spent on federal sites in FY 1994 were spent for DoD cleanup.<sup>18</sup> DoD accounted for 71% of EPA enforcement actions against federal agencies in FY 1997 and 64% in FY 1998.<sup>19</sup> Clearly DoD is responsible for producing the lion's share of the federal government's pollution and environmental liability.

Federal violations of major environmental laws demonstrate a dangerous void in both enforcement authority and action against all federal agencies, especially DoD. In 1988, the General Accounting Office (GAO) found that federal facilities violated the Clean Water Act twice as often as private facilities and that 40% of those violations continued a year or more.<sup>20</sup> Of 41 multimedia compliance inspections at federal facilities in FY 1993, 51% were in violation of more than one major environmental law.<sup>21</sup> As late as FY 1997 and FY 1998, federal non-compliance with the Clean Water Act remained well ahead of the non-federal rate (30% to 20% for 1997, and 38% to 30% for 1998).<sup>22</sup> Federal and private noncompliance with the Clean Air Act shows a similar disparity: 16% versus 11% in FY 1997, and 11% versus 9% in FY 1998.<sup>23</sup> Since 1992, EPA has had full enforcement authority against federal facilities under the Resource Conservation and Recovery Act (RCRA). Perhaps as a result, federal noncompliance with RCRA was recently lower than for non-federal facilities (19% to 20% in FY 1997 and 12% to 17% in FY 1998).<sup>24</sup>

When it comes to violating the Clean Water Act, DoD is the clear leader. FY 1997 noncompliance rates under the Clean Water Act National Pollutant Discharge Elimination

System (NPDES) were as follows: non-federal, 20%; all federal, 30%; DoD, 32%.<sup>25</sup> In FY 1998, the rates had risen to 30%, 38% and 42%.<sup>26</sup> Lack of an unequivocal sovereign immunity waiver and adequate enforcement authority prevents EPA and state governments from ending this pattern of scofflaw behavior.

The military's past and current environ-



*Wilbur Slockish, a leader in the fight against toxic dumping by the U.S. military. Slockish lives near an Army site in Oregon. His T-shirt reads: "NUKE-FREE INDIAN LAND."*

mental practices are especially harmful to Indigenous communities, communities of color and low-income communities. Many of the country's most contaminated military sites border these communities, which often have less access to and influence with military and civilian officials than other communities, leading to less enforcement and less protective cleanup. Local environmental justice organizations are routinely excluded from important DoD boards and meetings. Six of nine sites where chemical weapons are stockpiled—and under current Army policy will be destroyed by incineration—

are near communities of color and low income. The decision to incinerate chemical weapons, instead of using safer technology, was made without consulting the most directly affected communities.<sup>27</sup> The military's environmental racism extends beyond effects on its neighbors to the realms of weapons production and personnel deployment.

In the Gulf War, almost 50% of front line personnel—those most likely to be exposed to contamination by depleted uranium (DU) ammunition—were people of color. On the home front, DU manufacturing and testing sites are primarily located in or near communities of color and low income.<sup>28</sup>

### A NATION OF LAWS?

Why does this situation exist? What and who allows the military to pollute our environment, endanger our health, and avoid its cleanup responsibilities on such a dramatic scale? The extent to which the military must comply with environmental, worker, and public safety laws varies from statute to statute. There are four tried-and-true legal mechanisms through which the DoD and defense-related agencies evade such laws.

- Direct Exemption:** Some laws contain language exempting the military from the entire law or from important portions of it. In other cases, laws apply in the United States, but not abroad. The military is specifically exempted from all or significant aspects of laws such as the Oil Pollution Act, the Noise Act, and laws governing the Navy's nuclear activity and waste.

- Sovereign Immunity:** As noted above, the federal government is not bound by its own laws unless Congress waives sovereign immunity. Some environmental statutes do contain language stating that their requirements apply to the federal government. However, courts have repeatedly found that unless these laws contain explicit and unequivocal waivers of sovereign immunity and

14. *Ibid.*

15. *Ibid.*

16. U.S. Environmental Protection Agency, "Federal Facilities Sector Notebook: A Profile of Federal Facilities," January 1996, 2-1, and Council on Environmental Quality (CEQ), "Environmental Quality: 25th Anniversary Report," 1994-95, p. 465-6.

17. U.S. EPA, *op. cit.*, p. 2-13.

18. *Ibid.*, p. 2-14.

19. U.S. EPA, *op. cit.*, January 2000, p. 33.

20. U.S. GAO, "Stronger Enforcement Needed to Improve Compliance at Federal Facilities" cited in Stephen Dycus, *National Defense and the Environment* (University Press of New England, 1996), p. 46.

21. U.S. EPA, *op. cit.*, p. 3-4

22. U.S. EPA, "The State of Federal Facilities," p. 26.

23. *Ibid.*

24. *Ibid.*

25. *Ibid.*

26. *Ibid.*

27. Suzanne Marshall, "Chemical Weapons Disposal and Environmental Justice," Kentucky Environmental Foundation, November 1996.

28. "Depleted Uranium: Legacy of the Persian Gulf War," *Race, Poverty, and the Environment*, Spring-Summer 1995, p. 5.



Congress clearly expressed its intent when the waiver was adopted, the law cannot be fully enforced against the military. Courts have disallowed enforcement actions, including the issuance of administrative orders and assessment of fines and penalties, in several cases concerning the Clean Air Act, Clean Water Act, and Comprehensive Environmental Response, Compensation, and Liability Act.<sup>29</sup>

•**Executive Orders:** The practice of applying laws to federal agencies by Presidential Executive Order rather than acts of Congress has often undermined environmental, worker protection, and public safety laws as these apply to the military. Executive Orders (EOs) are official documents through which the President communicates to his appointees and agency heads, directives about management of the Federal Government. EOs are not enforceable in the same manner as statutes, and often extend part but not all of environmental laws to the federal government. EOs can be rescinded at any time. When environmental laws apply to the federal government only through EOs, it appears that the military is fully accountable to these laws when in fact it is not. The Occupational Safety and Health Act and the Emergency Planning and Community Right to Know Act (which requires reporting to the Toxic Release Inventory) only apply to the military by Executive Order.

•**Unitary Executive:** The "Unitary Executive" doctrine frustrates efforts to enforce laws against federal agencies even when Congress unequivocally waives sovereign immunity. The doctrine holds that the entire Executive Branch is a single or "unitary" body. Therefore, according to the doctrine, one Executive Branch agency (such as EPA) cannot sue another Executive Branch agency (such as DoD) or issue binding administrative orders against it "without the prior opportunity to contest the order within the Executive Branch." In critical cases, EPA cannot enforce an order or initiate legal action against the military without approval by the Office of Management and Budget or the Department of Justice, unless the military consents to the action. Obviously this frustrates enforcement by EPA and defeats the principle of independent oversight of polluters.

#### UNNECESSARY EXEMPTIONS

Major statutes allow the President or his agents to exempt any public or private en-

tity from provisions of the law when it is in the paramount interest of the United States to do so. Presidential exemption power is seldom invoked on behalf of the DoD because it can carry a high political cost. The public is losing patience with arguments that public health must be compromised for peacetime military activities. All of the exemptions discussed thus far operate without invoking this special presidential exemption authority.

Even if Congress unequivocally waives federal sovereign immunity to environmental laws and grants EPA or other agencies independent enforcement authority, the President can still exempt any activity—federal, military, or private—in any case of "overriding public interest." That happens rarely, if at all. So the real question should be: why is the DoD getting a pass on critical environmental laws?

#### FUTURE RECOURSE

Clarification and strengthening of waivers of federal sovereign immunity is desperately needed in the Clean Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Clean Air Act. Military exemptions must be removed from the Oil Pollution Act, Noise Act, and Atomic Energy Act and related statutes. The military must be made accountable to the Occupational Safety and Health Act and the Emergency Planning and Community Response Act by statute rather than Executive Order. Navy nuclear activity must be subject to the same disclosure, emergency planning, and independent oversight as all other nuclear activity. The Coastal Zone Management Act and the National Environmental Policy Act must be clarified so that they apply fully to the military. The Unitary Executive doctrine must not be allowed to prevent EPA and other agencies from fully enforcing laws where the DoD is concerned.

The environment and human health can be protected when Congress acts, communities are organized, and EPA, other federal agencies, and states aggressively enforce the law. To date, Congress has unequivocally waived federal sovereign immunity under only two laws, the RCRA and the Safe Drinking Water Act. In addition, provisions of the Endangered Species Act require federal agencies to protect these species from their activities. When EPA, the U.S. Fish and Wildlife Service, and states have aggressively enforced these laws, communities have been protected. However, in some cases the mili-

tary continues to evade equal regulation, and additional actions by Congress are necessary. The Resource Conservation and Recovery Act must be clarified to end OB/OD of munitions and ensure that military munitions are regulated as soon as they are fired, released, or discarded. The Endangered Species Act must be clarified to remove the military's ability to exempt itself from certain provisions of the law.

Communities around the world are organizing to demand environmental justice at military sites. Responding to such organizing, in June of this year San Diego Congressman Bob Filner introduced the Military Environmental Responsibility Act (H.R. 2154). If passed, the bill would end all military exemptions from federal and state environmental, worker protection and public safety laws, unequivocally waive the DoD's sovereign immunity, and mandate EPA enforcement. Ultimately, the objective must be complete cleanups protective of human health and the environment, prevention of additional pollution, and a permanent end to the scofflaw approach of the U.S. military to environmental laws and enforcement.

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29. Notable cases include the 1992 *Ohio v. DOE* on the Clean Water Act, the 1995 *U.S. v. Georgia Department of Natural Resources* on the Clean Air Act. There is little case law on CERCLA because EPA and states know they would lose in court. For a full discussion of sovereign immunity under CERCLA, see National Association of Attorneys General, "Clarification of Sovereign Immunity Waivers in Federal Environmental Laws" (Resolution, March 1999).

#### FACTS OF U.S. LIFE TO KEEP IN MIND

As of December 1, 2001, hundreds of hate crime incidents across the country, directed primarily at Arabs and other persons of Middle Eastern or South Asian ethnic backgrounds, have resulted in at least seven deaths. [www.adc.org](http://www.adc.org)

# LIST OF BACK ISSUES

**Number 70 (2001)** Bush and environment; Mullah Aid; Dick Held; Non-lethal weapons; Summit of the Americas; Israeli Nukes; Kissinger; Star Wars; Yugoslavia; Antonin Scalia; Bush and Blair; Rep. Rob Simmons; 10 Worst Corporations; Statement by Leonard Peltier.

**Number 69 (2000)** Congo; Chechnya; Colombia; Ecuador; Iraqi oil; Depleted uranium; Yugoslavia; India; Cyprus; Bosnia-Herzegovina; Seattle/WTO; "Emergency management;" Hunger politics; Global water; Climate; Prison-industrial complex; Military civil disturbance planning; CIA and Cold War.

**Number 68 (1999)** East Timor; Colombia; Panama; Cuba vs. U.S.; Serbia; NATO in Kosovo; KLA and drugs; MPRI; Urban Warrior; Homeland defense; Poverty globalization.

**Number 67 (1999)** Mumia Abu-Jamal; NATO bombing and "Greater Albania"; Humanitarian intervention in Kosovo; Roma people; William Walker; Richard Holbrooke; Ocalan; Police militarization; Tupac Shakur; CIA and labor; CIA drug smuggling; Leonard Peltier.

**Number 66 (1998-99)** Pinochet; Palestinian Authority; Tomahawks; Sudan; Pentagon bucks; PanAm 103; Laurent Kabila interview; Algeria; Richard Holbrooke; NATO; Izetbegovitch; FBI's D.C. "espionage" trial.

**Number 65 (1998)** Philip Agee, Ramsey Clark; Mumia Abu-Jamal; Serb demonization; Bosnia TV disinformation; Media evasions; NGOs in Latin America; Russian reform"; War on Cuba; Assata Shakur; Ron Ridenhour; CIA vs. Daniel Tsang; CIA mistaken identities.

**Number 64 (1998)** Vietnam; Iraq sanctions; Political control technology; Jihad; Pinochet; Drug war fungus; Burma-Singapore heroin trade.

**Number 63 (1997)** Right-wing think tanks; South African torture; chemical-biological warfare; NSA's Crypto AG; Promise Keepers.

**Number 62 (1997)** U.S. and Pol Pot; Paramilitary policing; Selling SWAT; Mercenary armies and minerals; Mad Cow disease; Free radio; Che and the CIA; Philip Agee: CIA at fifty; Vaclav Havel.

**Number 61 (1997)** Turkey's state killers; Privatizing Hanford; Spying on activists; U.S. torture manuals; Arming Mexico's drug war; NSA, Russia and Dudayev; NATO moves East; Spooks in Congress.

**Number 60 (1997)** Cassini plutonium missing; Japan and Peru; MRTA; Prison labor; Unionbusting; Universities and business; Colombia; Sudan; FBI-CIA teamwork.

**Number 59 (1996-97)** Surveillance: ECHELON; NSA's business plan; NIMA; Spooks in the internet; Canadian spies; Privatizing welfare; Mexico and SOA; Afghanistan; CIA and drugs.

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**Number 57 (1996)** Racism in ranks; White collar crime; Common Law courts; INS detention centers; Buying Russian elections; Noam Chomsky on Haiti; U.S.-Israel; Anonymous remailers; Nuclear proliferation in space.

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**Number 55 (1996)** Police vs. citizen review; Corporate assault on FDA; PR industry vs. activists; Colin Powell; UN at 50/Fidel Castro; Economic intelligence; Spain's dirty war; East Timor - Britain Arms Indonesia; Bosnia.

**Number 54 (1995)** Noam Chomsky on corporate propaganda; Bosnia; Kurdistan; Sasakawa obit; NAFTA layoffs; Prison labor; AFL-CIO in Russia; Private security guards; Walter Reuther.

**Number 53 (1995)** Gulf War Syndrome; Militias and the military; Frank Donner; Arab bashing; Hiroshima: Cold War bomb; Iraqi embargo; Guatemala; Bhopal; Secret FISA court; Antiterrorism Act; Fourth Amendment mugged.

**Number 52 (1995)** Rwanda; Proposition 187; Militia movement; Neo-Nazis and anti-abortion; Groom Lake; Wall Street vs. Mexico; Human radiation; Corporations fund research; NSA in cyberspace; Far Right/spies internet resources; Union Carbide's Warren Anderson.

**Number 51 (1994-95)** U.S. in Haiti; Canadian intelligence abets Neo-Nazis; Brookhaven and cancer; Bulgaria; Population; Women's asylum rights; CIA budget; Paramilitary vacations; Bud McFarlane.

**Number 50 (1994)** Operation Condor; Clinton's crime bill; Liberty Lobby; Monfort meatpackers; Low intensity Democracy; NRO/intelligence budget.

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**Number 47 (1993-94)** FBI vs. Judi Bari; Russian coup; Rocky Flats; NAFTA; Howard Zinn on FBI; Dave Dellinger on 90s; Cold War quiz; Allen Ginsberg on CIA; Mumia Abu-Jamal; World Bank/IMF; Evergreen Air.

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**Number 43 (1992-93)** Biochem warfare: Zimbabwe, South Africa, anthrax; Gulf War Syndrome; Agent Orange; Scientific racism; "Yellow Rain"/*Wall Street Journal*; Yugoslavia destabilization; Religious Right; Somalia.

**Number 42 (1992)** Philip Agee on CIA; Peru; Fluoride; VP Bush and CIA; Nicaragua; Special operations; Drug war; CIA vs. Henry Gonzalez; Bush inaugural speech leak; Rev. Moon buys university.

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**Number 40 (1992)** Native American struggle history; Toxic dumps; Leonard Peltier; Hollywood's racism; Guatemala; Rigoberta Menchu; Pol Pot returns; East Timor massacre; U.S. in Pacific, GATT; David Duke in India.

**Number 39 (1991-92)** The "Good" agencies: NED; Peace Corps; USAID/AIDS; USIA; National Cancer Institute/biological warfare; World Bank; Population control; Danny Casolaro; FBI and Supreme Court; Robert Gates; USSR destabilization; BCCI.

**Number 38 (1991)** DoD-CIA foreign/U.S. student recruitment; Rochester Institute of Technology; Harvard; Militarism in academia resources; Judi Bari; Arif Durrani; Rev. Moon and academia; Targeting environmentalists; CIABase review.

**Number 37 (1991)** Gulf War: Media; CIA Iraq broadcasting; U.S. trading with enemy; UN; Nuclear war evangelicals; Domestic costs; North Korea next?; Libya; Iran; Illegal arms deals; Georgie Anne Geyer; Journalists and CIA.

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**Number 35 (1990)** Changes in Eastern Europe; Reinhard Gehlen; Destabilization of USSR; NED in Lithuania; Balkan nationalists; Free Congress Foundation; Cuba; Iran-Contra; 1965 Indonesia massacres; CIA banking.

**Number 34 (1990)** Panama invasion; Noriega-CIA; South African death squads; FBI-CIA and Martin Luther King, Jr. assassination; NED in Nicaragua; U.S. and Pol Pot; Philippines; Operation CHAOS; Taiwan's agents; Council for National Policy.

**Number 33 (1990)** Bush Issue: CIA Bush agents, secret team; Terrorism Task Force; Reagan's CIA; Skull and Bones; NED in Nicaragua; El Salvador election; Chile; Cuba; Republicans and Nazis; Rise of national security state.

**Number 32 (1989)** Tenth Anniversary Issue: Best of *CAIB*. 27 condensed articles: Naming Names; CIA and NSA at home, abroad, in the media; Philip Agee.

**Number 31 (1989)** Domestic surveillance: FBI, CIA on campus; Office of Public Diplomacy; Geronimo Pratt; Lexington prison; Puerto Rico; International Freedom Foundation; Disinformation.



**Number 30 (1988)** Middle East: *Intifada*, Israeli arms sales, chemical and nuclear warfare, Israel in Africa and Central America; Disinformation and Libya; CIA's William Buckley; Afghan contra lobby.

**Number 29 (1988)** Pacific: Philippines, Fiji, New Zealand, Belau, Kanaky, Vanuatu, Maori in Hawaii; atom testing; media on Nicaragua; *Reader's Digest*; CIA in Cuba; Tibet; FBI-CIA surveils Gorbachev; Philip Agee on *Veil*; AIDS.

**Number 28 (1987)** CIA, drugs, secret wars: S.E. Asia, Afghanistan, Central America, Nugan Hand; MKULTRA/Canada; Delta Force; AIDS and CBW.

**Number 27 (1987)** Religious Right: Nuclear war theology; Christian underground; Fatima; Religious Right and Blacks; *New York Times*/Pope plot; Samora Machel; Frank Carlucci; Southern Air Transport; Iran-Contra documents; Michael Ledeen.

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**Number 21 (1984)** Salvadoran election: *New York Times/Time/Newsweek* distortions; Nicaragua; Israel in Central America; Accuracy in Media; Rev. Moon; CIA occult research.

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**Number 17 (1982)** CBW history; "Yellow rain"; Cuban dengue epidemic; Scott Barnes in Laos; Bangkok mystery death; Executive mercenaries; CIA and academia; CIA assassinations.

**Number 16 (1982)** Green Beret El Salvador torture; Argentine death squads; CIA media operations; Constantine Menges; Seychelles; Angola;

Mozambique; Ku Klux Klan coup attempt; Nugan Hand; CIA germ warfare.

**Number 14-15 (1981)** Index to Numbers 1-12; Intelligence legislation; Extended Naming Names; Deep cover businessmen.

**Number 13 (1981)** Secret South Africa documents; Namibia; Mercenaries; Ku Klux Klan coup attempt; Globe Aero; Angola; Mozambique; BOSS; Central America; Max Hugel; Stanley Sporkin; Thomas Pauken; mail surveillance.

**Number 12 (1981)** El Salvador; Guatemala; New Right/U.S. intelligence; Senate terrorism committee; William Casey; Mozambique; Norway; mail surveillance.

**Number 11 (1980)** Right-wing terrorism; South Korea; KCIA; Portugal; Guyana; Caribbean; AFIO; NSA interview; CIA commemorative stamp; CIA assassinations.

**Number 10 (1980)** Caribbean: Jamaica, Guyana, Grenada; Antigua; Dominica; Cuban exiles; *The Spike*; CIA deep cover manual.

**Number 9 (1980)** Technology: NSA in Norway, Glomar Explorer; Mind control; NSA; Jamaica; Hmong in Guyana; CIA South Africa forgery; CIA Canada bombing; CIA CBW research; Intelligence technology politics.

**Number 8 (1980)** CIA vs. Philip Agee; Naming Names legislation - *CAIB* statement before Congress; Zimbabwe; Northern Ireland; CIA Florida recruiting; CIA assassinations.

**Number 7 (1979-80)** CIA and media: Destabilization in Jamaica; Robert Moss; CIA propaganda budget; UNITA - Savimbi in U.S., his secret letters; Iran; CIA uses pigeons.

**Number 6 (1979)** Caribbean; Cuban exile terrorists; CIA Nicaragua plans; CIA's secret "Perspectives for Intelligence"; U.S. helps South Africa surveillance; CIA uses cockroaches.

**Number 5 (1979)** U.S. intelligence in Southeast Asia; Chinese diverted Soviet weapons from Vietnam; CIA in Denmark and Sweden; Grenada; AIFLD; CIA officer and JFK assassination evidence theft.

**Number 4 (1979)** Spying on allies: Secret Italy cable; CIA in Spain; CIA Africa recruiting; Angola; Subversive academics in Southern Africa; CIA and human rights; CIA firearms authority; Intelligence budgets; *In Search of Enemies*.

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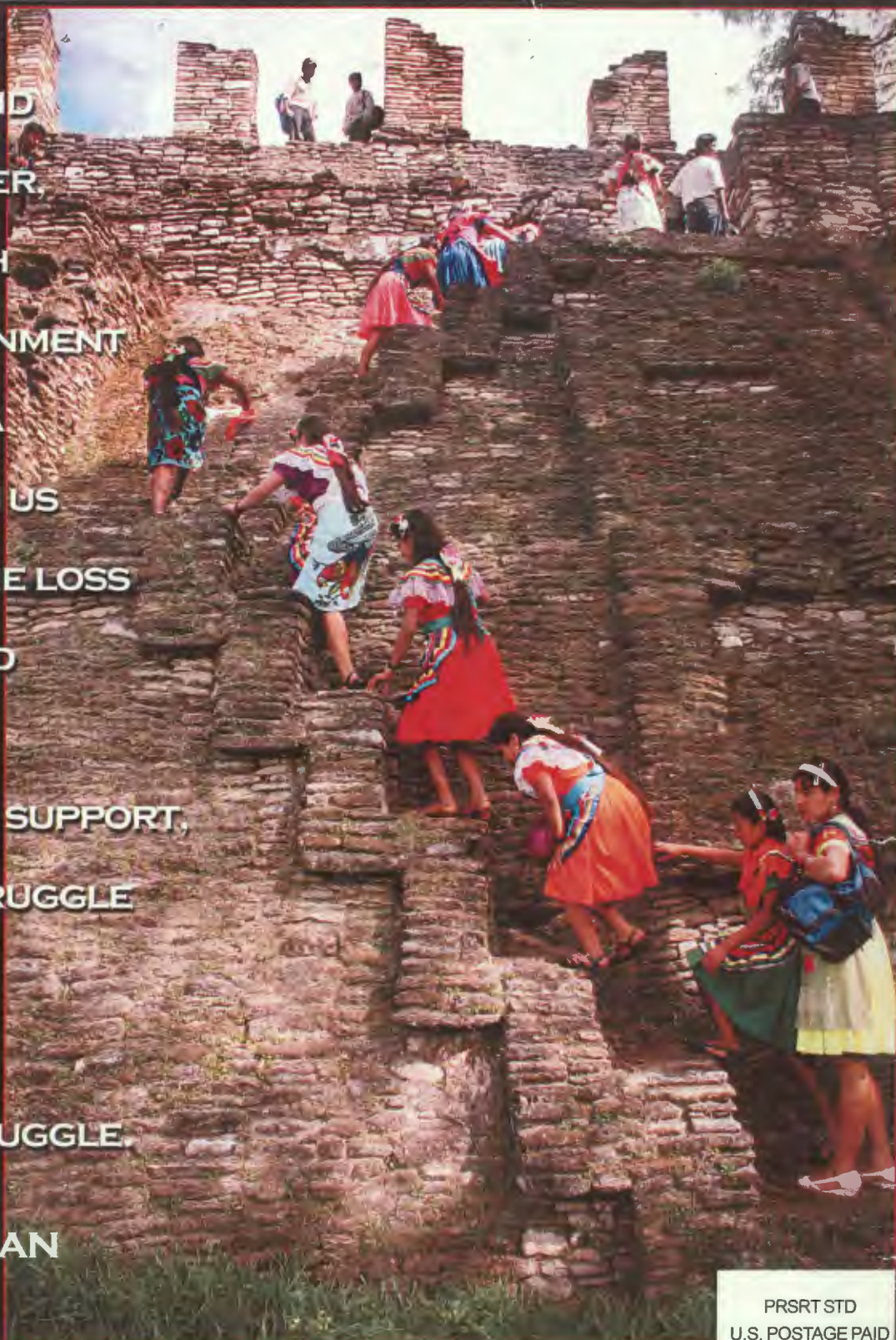
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