

DISSENT

Books Politics Argument Ideas

RSS

Academics - Afghanistan - Arab Spring
Arguments - Austerity - Books - China - Culture - Darfur - Economics - Education
Electoral Politics - Environment - Film - The Financial Crisis
Human Rights - Iraq - Israel/Palestine - Labor - Liberalism - On the Media - Politics Abroad

Ten Years Later: Bringing out the Worst

James B. Rule - September 8, 2011

The planners of the 9/11 attacks succeeded more than they could have imagined in changing the world—and above all, changing public life in America. The long-reverberating repercussions of those bloodthirsty assaults have brought out the worst in nearly all parties.

For Al Qaeda itself, the mass murder of Americans on American soil managed to cast that movement on equal terms with its mighty nemesis, the United States. In its megalomania, this bloodthirsty but comparatively tiny faction—controlling no territory, a renegade even in most Muslim countries—convinced itself and others that it represented something much grander: the vanguard of some vast, dimly visible revolutionary movement of Muslims worldwide.

The American leadership responded as though on cue. President George W. Bush announced (though he did not legally declare) “war” on “terror.” Of course, Al Qaeda was at the top of the list of targets—a list that (as too few noted at the time) could readily be extended. Many Americans found the idea of war an utterly fitting response to the deeply premeditated killings of thousands of their ordinary fellow citizens. But in fact, war is a very special state, bringing far-reaching changes in public life. In time of war, state powers and prerogatives grow; options for dissent and thoughtful opposition shrink. Some parties and interests gain, and others lose. There is much reason to believe that a long-standing determination to aggrandize state power bulked large among the motives for framing the response to 9/11 as “war.”

The aim of these moves was to subvert checks on executive branch powers enacted by Congress in response to earlier excesses of imperial presidencies—notably the domestic spying and other actions against domestic opposition by the Nixon administration. Plans to undo these restrictions on presidential power had apparently been prepared well in advance of 9/11. The complex and detailed PATRIOT Act, with its draconian provisions for warrantless and untraceable investigations of Americans’ lives, was introduced in the House of Representatives on October 23, 2001 and signed into law by the president on October 26. As for other aggrandizements of executive power initiated by the Bush administration: We still do not know exactly when the far-reaching NSA surveillance of ordinary Americans’ telephone and email communications, revealed by the *New York Times* in December of 2005, began. It is clear that the *Times* suppressed the story at government request for some time before finally publishing it, and that the program ignores long-established requirements for court orders for such eavesdropping. The full extent and aims of these operations remain a mystery.

As an umbrella for these and other extensions executive power, Vice President Dick Cheney’s circle spun new and sweeping legal doctrines. Figures like John Yoo articulated legal doctrines of the “inherent powers of the presidency” in wartime—a state of affairs now defined by the president unilaterally. Cheney counsel David Addington put forward what was billed as a “New Paradigm” for treatment of persons seized as enemy combatants, permitting the administration to circumvent the Geneva Conventions and other restraints. Torture became acceptable policy, if repackaged under blander names. A small industry developed that was devoted to shipping prisoners to countries where America’s dirty work could be conducted more discreetly. Though widely decried by jurists outside the administration, these measures have proved largely immune from challenge.

To the consternation of liberals and civil libertarians, the Obama administration has extended many of these policies—“extraordinary renditions” of prisoners for torture abroad included. But

perhaps even more disturbing than America's out-sourcing of torture are the legal doctrines now stoutly defended by the Obama administration for concealing the true extent of the new authoritarianism of the American state. Attempted legal challenges to these practices are being met with government stonewalling, on the grounds that any disclosure represents a risk to national security. Thus lawsuits against AT&T and other telecommunications providers for feeding subscribers' communications data to the NSA have been stalled by the administration's refusal to allow relevant evidence to be presented in court. As the *New York Times* put it, government attorneys have held the illegal spying "'too secret' even to be discussed in court." The implication is chilling indeed. The broader the range of secret, potentially repressive activities carried out by the state, the greater the government's scope for foreclosing public attention and discussion of those activities.

Thus far I have noted only the repercussions of 9/11 on the exercise of state power in America. But the same events have spawned disaster on another crucial front—the quality of our political culture and public discourse. The September 11 attacks have given cover to a recrudescence of the worst strains of America nativism, xenophobia, ethnic chauvinism, and fantasies of religious superiority. Here, too, all these tendencies have long been latent in American life. But for a time they seemed to be giving way to a genuinely inclusive view of American nationhood. No longer.

Thus we are experiencing a wave of efforts to stamp out foreign influences in the U.S. courts—despite lack of evidence of any serious inroads from such influences. Some of these McCarthy-like witch hunts specifically target Muslim law; others (like those advocated by Senator Jon Kyl) aim at foreign influences more generally. Oklahoma State Representative Mike Reynolds, for example, proposed an amendment to that state's constitution forbidding judges from considering "international or Islamic law" in their deliberations. "America was founded on Judeo-Christian principles. That is the basis of our laws, and people try to deny it," asserted Reynolds. By the time he got to his next breath, he'd dropped the "Judeo" part: "I believe there is an awakening of people concerned about Christian values in our nation, and they are starting to express themselves." The proposed amendment was passed overwhelmingly by Oklahoma voters last November. These views now have disturbing echoes in statements by public officials throughout the country; by one count, more than a dozen states are considering measures like Oklahoma's. Bad news for all of us non-believers, agnostics, Buddhists, Zoroastrians, and others—Muslims very much included—who recoil at the idea of the American state as a vector of religious or ethnic supremacy.

Let us not imagine that manifestoes for religious discrimination emanate solely from America's bible-belt or its rural enclaves. Think of the political advantage sought by former New York mayor Rudy Giuliani in his attacks on plans for the so-called Ground Zero Mosque. That idea amounted to a "desecration" of the site, in his words. Translation: We True Americans are pure in our righteousness; Muslims (any of them) and their institutions compromise that purity.

Still worse are the anti-Muslim pronouncements of Martin Peretz, owner of the *New Republic*. Peretz made his definitive sortie from the closet of liberalism in decrying the "routine and random bloodshed [by Muslims] that *defines* their brotherhood" (emphasis added). He went on to "wonder whether I need honor *these people* and pretend that they are worthy of the privileges of the First Amendment which I have in my gut the sense that they will abuse" (emphasis added). Facing storms of criticism, Peretz offered an apology of sorts. But also a defense, quoting his own words: "Muslim life is cheap, especially for Muslims." This is a statement of fact, not value." I'm not making this up: that was part of the apology.

America has slipped back to the days when one could make one's way by inveighing against "these people." This resurgence of categorical thinking in ethnic or religious matters—taking characteristics ascribed to some members of a group as warranting action against all of that group—is very bad news. Still worse is the renewed respectability for claims of ownership of the American nation by Christians, Judeo-Christians, or any other subset of the population. For decades, it looked as though those ethnic or religious fantasies were going the way of Jim Crow. We now see where a well-timed, open-ended declaration of war has gotten us.

Things could be worse. We haven't returned to the days of Joseph McCarthy, when so many progressives were intimidated from fighting back. The trends I've just described have galvanized some vigorous defenses of ethnic and religious equality—showing that the country's political immune system isn't totally in shambles. But given the fill-in-the-blank nature of the enemy, the "war" on "terrorism" can never really be concluded. For the foreseeable future, there will always be violent parties intent on avenging real or imagined grievances by attacking Americans. We on the left have to come up with a convincing alternative to the public

philosophy that's taken over in the last ten years.

James B. Rule is affiliated with the Center for the Study of Law and Society at the University of California, Berkeley, and is a member of *Dissent's* editorial board.

[Return to Symposium](#)

[Next: The War at Home](#)

[symposium](#), [9/11](#), [September 11](#), [civil liberties](#), [chauvinism](#), [nativism](#), [xenophobia](#), [Muslims](#), [war on terror](#)

Share |

[View all online features](#)