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## Book Review: Terrorism and the Constitution by David Cole and James X. Dempsey

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David Cole and James X. Dempsey. *Terrorism and the Constitution*. (New York: The New Press, 2002). 231 pp.

The authors, one a professor of law at Georgetown University and the other a former assistant counsel to a U.S. House Judiciary subcommittee, provide a straightforward account of U.S. sacrifices of liberty for security. Their thesis is that curtailing liberty does not enhance security. Their historical review of our responding to political violence with infringements on the First Amendment and other constitutional principles include (1) 1950s McCarthyism; (2) 1960s and 1970s COINTELPRO (counterintelligence programs) directed against major protest movements such as Vietnam War protests; (3) 1980s programs like CISPES, which targeted opponents of U.S. military aid to El Salvador; and (4) 1990s efforts to end Palestinian and Muslim provision of humanitarian aid to groups the U.S. designated terrorist.

During the McCarthy era, the McCarran-Walter Act made it a crime to associate with a group that advocated communism. Senator McCarthy depended heavily on the FBI for information, but the accused had no access to FBI evidence that would assist their defense and no opportunity to cross-examine their accusers.

The purpose of the COINTELPRO was to discredit protest groups. From 1961 to 1976 the FBI used 1,300 informants and 204 illegal break-ins against one group, the Socialist Workers Party, without finding a single instance of illegal activity. Among the other groups targeted for counterintelligence investigation were Amnesty International, the Palestine Liberation Organization, the African National Congress, the Irish Republican Army, and opposition political parties abroad. Guilt by association led to the investigation of members of Amnesty International for writing letters to help political prisoners in suspect places like the Soviet Union. People who received phone calls from Earth First were investigated. Once a person is investigated and a file created, the file can be kept secret indefinitely. The guidelines on counterintelligence are largely classified, and congressional oversight is inconsistent.

CISPES generated files on several thousand activists but found no evidence of planned violence or other illegal activity. Investigation by Representative Don Edwards' subcommittee eventually led the FBI to

admit that CISPES focused on First Amendment activity and wasted resources. In 1994 Representative Edwards got a provision adopted saying that investigations could not be initiated on activities protected by the First Amendment, but the provision was repealed in the 1996 Antiterrorism Act.

The LA 8, mostly Palestinian immigrants, were arrested in 1987 and portrayed as terrorists although the government never showed any evidence of unlawful activity on their part and never charged them with a crime. As part of its investigation, the FBI tracked the distribution of the PFLP (Popular Front for the Liberation of Palestine) magazine. Over a fifteen year period the government repeatedly sought their deportation because "it is our belief that they are members of [the PFLP]" (p. 37). The Supreme Court had held in 1972 that guilt by association is impermissible, but this provision was curtailed for non-citizens in *Reno v. American-Arab Anti-Discrimination Committee* (1999).

The 1996 Antiterrorism Act is one of the worst assaults on the Constitution. It resurrected guilt by association and used secret evidence as a basis for deportation of non-citizens, almost all of them Muslim. Whenever the courts compelled revelation of the evidence, it proved to be worthless, e.g. the six Iraqi detainees who worked with the CIA in the 1997 effort to overthrow Saddam Hussein were detained for several years on the basis of secret "evidence." No matter how innocent the suspects, they cannot rebut undisclosed evidence. It was finally determined that the secret evidence hinged on errors in translation and the interviewer's ignorance of Iraq. In a number of cases the INS used the 1996 law to deprive the accused of the right to confront their accusers, but the Act had little impact on terrorism, leading to only three prosecutions. The INS continues to use secret evidence. Liberty is sacrificed without benefit to security.

The 2001 Patriot Act passed Congress with far less scrutiny than other laws. Among its provisions are removing judicial controls on government power, making aliens deportable for wholly innocent associational activity, and authorizing wiretaps without probable cause. The authors do not believe these and other provisions of the new law will add to security because the intelligence agencies are already awash in information that they cannot digest. They believe we are again wasting

valuable resources tracking innocent political activity. They argue that denying the accused the right to confront their accusers and relying on untested evidence will increase the likelihood that the search for the truly guilty party will be called off prematurely.

The authors' analysis of past laws and their efficacy, plus the detailing of the present law makes *Terrorism and the Constitution* a very valuable book. It should be in college libraries and it could be assigned to students. The book's absence of an index is regrettable, but it does contain a valuable appendix of law professors' petition to Congress.

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Jaques Baudot (ed.), *Building a World Community: Globalization and the Common Good*. (Seattle: University of Washington Press, 2001). 272 pp.

*Building a World Community* is mostly the product of Jacques Baudot, the principal organizer of the 1995 UN World Summit for Social Development held in Copenhagen and the secretary for the four seminars that followed from 1996 to 1999. This work is published in association with the Royal Danish Ministry of Foreign Affairs. Although listed as editor, Baudot, in elegant English with British spellings, writes three-fourths of the book. The remainder of the book contains eight essays by noted scholars, headlined by Richard Falk of Princeton University. These essays merely echo themes already presented by Baudot.

The Copenhagen Summit, the follow-up seminars, and *Building a World Community* are, taken together, a response to the powerful forces gathered up in the globalization process. Baudot offers a synthesis of the summit and seminars amounting to a "vision for a single global community of the human race" (p. 11). The result is a call for a democratic world at all levels of governance accompanied by a world economy that will serve everyone on the planet. Repeatedly, Baudot gives the power of world capitalism its due for its productivity, but, for Bau-