



Obama and the Global Police: More Friendly Fascism?

By John W. Whitehead
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"The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse."-- James Madison

Over the course of his first year in office, Barack Obama has shown himself to be a skillful and savvy politician, saying the things Americans want to hear while stealthily and inexorably moving forward the government's agenda of centralized power. For example, in one breath, Obama pays lip service to the need for greater transparency in government, while in another, he issues an executive order that will result in even more government secrecy.

He is aided in this Machiavellian mindset by a trusting populace inclined to take him at his word and a mainstream media seemingly loath to criticize him or scrutinize his actions too closely. A perfect example of this is the media's relative lack of scrutiny over Obama's recent transformation of Executive Order (EO) 12425 from a document that constitutionally limits the International Criminal Police Organization's (Interpol) activities domestically to one that establishes it as an autonomous police agency within the U.S.

Those who have voiced their concerns about this domestic empowerment of Interpol by President Obama--and that's exactly what it is--have been soundly criticized for fomenting political hysteria. But there is legitimate cause for concern. This presidential directive could undermine civil liberties and render the Fourth Amendment null and void.

First, some background on EO 12425. Issued by President Ronald Reagan in 1983, EO 12425 recognized Interpol as an international organization with certain privileges and immunities afforded to foreign diplomats. However, Reagan structured his executive order to ensure that Interpol, like every other law enforcement agency in this country, was accountable to the rule of law.

Aided by some crafty legal editing, Obama has manipulated Reagan's directive in such a way as to



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remove those restrictions so that Interpol now stands apart from domestic law enforcement agencies, its actions and records effectively immune from legal scrutiny. It was a shrewd move on Obama's part, so shrouded in a legal parsing of semicolons and redactions that it is barely comprehensible to the average citizen (unless you happen to have a few attorneys on hand who can sift through the historical record to make sense of the changes). But when you compile all the changes, the amended text of the Executive Order reads:

Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

The key here is the word "inviolable," which means that Interpol assets, records and other property are no longer subject to the search and seizure provisions of the Fourth Amendment, nor are they subject to public scrutiny under the Freedom of Information Act.

It should come as little surprise that when the White House issued the amended executive order on December 17, 2009, it issued no press releases and thus generated little in the way of media attention. It must be said, however, that had George W. Bush attempted to slip something like this through a week before Christmas, he would have and should have been soundly lambasted by the media.

Frankly, we should be hearing more about Obama's EO 12425--from the White House, from Congress, from the media. In fact, Congress should be holding hearings on the ramifications of allowing Interpol to operate with complete autonomy outside the strictures of the Constitution and above the rule of law in this country.

Operating in 188 countries, Interpol supposedly deals with crimes that overlap various countries such as terrorism, organized crime, war crimes, piracy, drug trafficking, child pornography and genocide. The agency maintains a bureau in each member country and channels information and requests to the appropriate law enforcement agency in each country. It also works closely with international tribunals, such as the International Criminal Court, to locate and detain alleged fugitives.

In the U.S., Interpol is headquartered at the Justice Department in Washington, DC, one of the most powerful of the government agencies and the one responsible for overseeing all law enforcement within America. All law enforcement agencies that fall under the jurisdiction of the Justice Department, including the FBI and the Drug Enforcement Agency, are subject to the rigorous safeguards of the Constitution, the Bill of Rights and the laws passed by Congress.

These safeguards no longer apply to Interpol, whose

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records cannot be obtained through FOIA requests--which act as an important safeguard against governmental abuse--nor are they subject to investigation by other federal agencies or the courts (unless Interpol itself consents).

It's hard to know exactly what the fallout from this executive order will be, but the ramifications for the American people could be ominous. For instance, if Interpol engages in illegal and/or unconstitutional activities against American citizens, it will be impossible for U.S. citizens to obtain information--via subpoena or other commonly used legal methods--regarding its records or activities.

Additionally, any information shared by the FBI or other American intelligence agencies with Interpol could also be exempt from FOIA and Fourth Amendment protections. At this point, the rule of law breaks down completely. American intelligence and police agencies, when and if they share information, would also be above the law.

This could also pave the way for a global police state--one in which information made available to Interpol by American agencies can and most likely will be shared with global police agencies around the world. In other words, foreign intelligence agencies could eventually spy on Americans.

Clearly, there are enough concerns about the impact of EO 12425 on our civil liberties to warrant further discussion. It must be remembered that James Madison, the "father" of the U.S. Constitution and the Bill of Rights and the fourth president of the United States, advised that we should "take alarm at the *first* experiment upon our liberties."

Whether or not you consider President Obama's Interpol executive order to be cause for alarm, one must agree that this is far from the *first* experiment on our liberties. In fact, we've seen all this before. It's Bush redux. Slowly, more Americans are waking up to the fact that civil liberties violations that began under the Bush presidency are continuing under the Obama presidency.

Even the ACLU, which embraced Obama a mere year ago, has recently condemned his record on civil liberties. "We're increasingly disappointed and alarmed by the current administration's stance on accountability for torture," said Jameel Jaffer, director of the ACLU's National Security Project, during a conference call with reporters. "On every front, the [Obama] administration is actively obstructing accountability. This administration is shielding Bush administration officials from civil liability, criminal investigation and even public scrutiny for their role in authorizing torture."

The bigger danger, however, is that a shift toward authoritarianism is underway and only small pockets of Americans realize it. Certainly, the mainstream media is not reporting on it, nor do they primarily function as

watchdogs, guarding against encroachments of our rights. Yet it is unmistakable--we have been creeping towards fascism for some time now, as Bertram Gross foretold some thirty years ago. Writing in his insightful book *Friendly Fascism*, he predicted, "The new fascism will be colored by national and cultural heritage, ethnic and religious composition, formal structure, and geopolitical environment." He continues:

Anyone looking for black shirts, mass parties or men on horseback will miss the telltale clues of creeping fascism. In America, it would be supermodern and multi-ethnic--as American as Madison Avenue, executive luncheons, credit cards, and apple pie. It would be fascism with a smile. As a warning against its cosmetic façade, subtle manipulation, and velvet gloves, I call it friendly fascism. What scares me most is its subtle appeal.

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