

JOHN WHITEHEAD'S COMMENTARY



Conspirators for the Constitution: When Anti-Government Speech Becomes Sedition

By John & Nisha Whitehead
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"In a time of deceit telling the truth is a revolutionary act." — George Orwell

Let's be clear about one thing: sedition conspiracy isn't a real crime to anyone but the U.S. government.

To be convicted of sedition conspiracy, the charge levied against Stewart Rhodes who was sentenced to 18 years in prison for being the driving force behind the January 6 Capitol riots, one doesn't have to engage in violence against the government, vandalize government property, or even trespass on property that the government has declared off-limits to the general public.

To be convicted of sedition conspiracy, one need only foment a revolution.

This is *not* about whether Rhodes deserves such a hefty sentence.

This is about the long-term ramifications of empowering the government to wage war on individuals whose political ideas and expression challenge the government's power, reveal the government's corruption, expose the government's lies, and encourage the citizenry to push back against the government's many injustices.

This is about criminalizing political expression in thoughts, words and deeds.

This is about how the government has used the events of Jan. 6 in order to justify further power grabs and acquire more authoritarian emergency powers.

This was never about so-called threats to democracy.

In fact, the history of this nation is populated by individuals whose rhetoric was aimed at fomenting civil unrest and revolution.

Indeed, by the government's own definition, America's founders were seditious conspirators based on the heavily charged rhetoric they used to birth the nation.

Thomas Jefferson, Thomas Paine, Marquis De Lafayette, and John Adams would certainly have been charged for suggesting that Americans should not only take up arms but be prepared to protect their liberties and defend themselves against the government should it violate their rights.

"What country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance. Let them take arms," declared Jefferson. He also concluded that "the tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."

"It is the duty of the patriot to protect his country from its government," insisted Paine.

"When the government violates the people's rights," Lafayette warned, "insurrection is, for the people and for each portion of the people, the most sacred of the rights and the most indispensable of duties."

Adams cautioned, "A settled plan to deprive the people of all the benefits, blessings and ends of the contract, to subvert the fundamentals of the constitution, to deprive them of all share in making and executing laws, will justify a revolution."

Had America's founders feared revolutionary words and ideas, there would have been no First Amendment, which protects the right to political expression, even if that expression is anti-government.

No matter what one's political persuasion might be, every American has a First Amendment right to protest government programs or policies with which they might disagree.

The right to disagree with and speak out against the government is the quintessential freedom.

Every individual has a right to speak truth to power—and foment change—using every *nonviolent* means available.

Unfortunately, the government is increasingly losing its tolerance for anyone whose political views could be perceived as critical or "anti-government."

All of us are in danger.

In recent years, the government has used the phrase "domestic terrorist" interchangeably with "anti-government," "extremist" and "terrorist" to describe anyone who might fall somewhere on a very broad spectrum of viewpoints that could be considered "dangerous."

The ramifications are so far-reaching as to render almost every American *with an opinion about the government or who knows someone with an opinion about the government* an extremist in word, deed, thought or by association.

You see, the government doesn't care if you or someone you know has a legitimate grievance. It doesn't care if your criticisms are well-founded. And it certainly doesn't care if you have a First Amendment right to speak truth to power.

What the government cares about is whether what you're thinking or speaking or sharing or consuming as information has the potential to challenge its stranglehold on power.

Why else would the FBI, CIA, NSA and other government agencies be investing in corporate surveillance technologies that can mine constitutionally protected speech on social media platforms such as Facebook, Twitter and Instagram?

Why else would the Biden Administration be likening those who share “false or misleading narratives and conspiracy theories, and other forms of mis- dis- and mal-information” to terrorists?

Why else would the government be waging war against those who engage in thought crimes?

Get ready for the next phase of the government’s war on thought crimes and truth-tellers.

For years now, the government has used all of the weapons in its vast arsenal—surveillance, threat assessments, fusion centers, pre-crime programs, hate crime laws, militarized police, lockdowns, martial law, etc.—to target *potential* enemies of the state based on their ideologies, behaviors, affiliations and other characteristics that might be deemed suspicious or dangerous.

For instance, if you believe in and exercise your rights under the Constitution (namely, your right to speak freely, worship freely, associate with like-minded individuals who share your political views, criticize the government, own a weapon, demand a warrant before being questioned or searched, or any other activity viewed as potentially anti-government, racist, bigoted, anarchic or sovereign), you could be at the top of the government’s terrorism watch list.

Moreover, as a *New York Times* editorial warns, you may be an anti-government extremist (a.k.a. domestic terrorist) in the eyes of the police if you are afraid that the government is plotting to confiscate your firearms, if you believe the economy is about to collapse and the government will soon declare martial law, or if you display an unusual number of political and/or ideological bumper stickers on your car.

According to one FBI report, you might also be classified as a domestic terrorism threat if you espouse conspiracy theories, especially if you “attempt to explain events or circumstances as the result of a group of actors working in secret to benefit themselves at the expense of others” and are “usually at odds with official or prevailing explanations of events.”

In other words, if you dare to subscribe to any views that are contrary to the government’s, you may well be suspected of being a domestic terrorist and treated accordingly.

There’s a whole spectrum of behaviors ranging from thought crimes and hate speech to whistleblowing that qualifies for persecution (and prosecution) by the Deep State.

Simply liking or sharing this article on Facebook, retweeting it on Twitter, or merely reading it or any other articles related to government wrongdoing, surveillance, police misconduct or civil liberties might be enough to get you categorized as a particular kind of person with particular kinds of interests that reflect a particular kind of mindset that *might* just lead you to engage in a particular kinds of activities and, therefore, puts you in the crosshairs of a government investigation as a potential troublemaker a.k.a. domestic extremist.

Chances are, as the *Washington Post* reports, you have already been assigned a color-coded threat score—green, yellow or red—so police are forewarned about your potential inclination to be a troublemaker depending on whether you’ve had a career in the military, posted a comment perceived as threatening on Facebook, suffer from a particular medical condition, or know someone who knows someone who might have committed a crime.

In other words, you might already be flagged as potentially anti-government in a government database somewhere—Main Core, for example—that identifies and tracks individuals who aren’t inclined to march in lockstep to the police state’s dictates.

As *The Intercept* reported, the FBI, CIA, NSA and other government agencies have increasingly invested in corporate surveillance technologies that can mine constitutionally protected speech on social media platforms such as Facebook, Twitter and Instagram in order to identify potential extremists and predict who might engage in future acts of anti-government behavior.

Where many Americans go wrong is in naively assuming that you have to be doing something illegal or harmful in order to be flagged and targeted for some form of intervention or detention.

In fact, all you need to do these days to end up on a government watch list or be subjected to heightened scrutiny is use certain trigger words (like cloud, pork and pirates), surf the internet, communicate using a cell phone, limp or stutter, drive a car, stay at a hotel, attend a political rally, express yourself on social media, appear mentally ill, serve in the military, disagree with a law enforcement official, call in sick to work, purchase materials at a hardware store, take flying or boating lessons, appear suspicious, appear confused or nervous, fidget or whistle or smell bad, be seen in public waving a toy gun or anything remotely resembling a gun (such as a water nozzle or a remote control or a walking cane), stare at a police officer, question government authority, or appear to be pro-gun or pro-freedom.

And then at the other end of the spectrum there are those such as Julian Assange and Chelsea Manning, for example, who blow the whistle on government misconduct that is within the public's right to know.

In true Orwellian fashion, the government would have us believe that it is Assange and Manning who are the real criminals for daring to expose the war machine's seedy underbelly.

Since his April 2019 arrest, Assange has been locked up in a maximum-security British prison—in solitary confinement for up to 23 hours a day—pending extradition to the U.S., where if convicted, he could be sentenced to 175 years in prison.

This is how the police state deals with those who challenge its chokehold on power.

This is also why the government fears a citizenry that thinks for itself: because a citizenry that thinks for itself is a citizenry that is informed, engaged and prepared to hold the government accountable to abiding by the rule of law, which translates to government transparency and accountability.

After all, we're citizens, not subjects.

For those who don't fully understand the distinction between the two and why transparency is so vital to a healthy constitutional government, Manning explains it well:

When freedom of information and transparency are stifled, then bad decisions are often made and heartbreaking tragedies occur – too often on a breathtaking scale that can leave societies wondering: how did this happen? ... I believe that when the public lacks even the most fundamental access to what its governments and militaries are doing in their names, then they cease to be involved in the act of citizenship. There is a bright distinction between citizens, who have rights and privileges protected by the state, and subjects, who are under the complete control and authority of the state.

This is why the First Amendment is so critical. It gives the citizenry the right to speak freely, protest peacefully, expose government wrongdoing, and criticize the government without fear of arrest, isolation or any of the other punishments that have been meted out to whistleblowers such as Edwards Snowden, Assange and Manning.

The challenge is holding the government accountable to obeying the law.

A little over 50 years ago, the U.S. Supreme Court ruled 6-3 in *United States v. Washington Post Co.* to block the Nixon Administration's attempts to use claims of national security to prevent The Washington Post and The New York Times from publishing secret Pentagon papers on how America went to war in Vietnam.

As Justice William O. Douglas remarked on the ruling, "The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell."

Fast forward to the present day, and we're witnessing yet another showdown, this time between Assange and the Deep State, which pits the people's right to know about government misconduct against the might of the military industrial complex.

Yet this isn't merely about whether whistleblowers and journalists are part of a protected class under the Constitution. It's a debate over how long "we the people" will remain a protected class under the Constitution.

Following the current trajectory, it won't be long before *anyone* who believes in holding the government accountable is labeled an "extremist," relegated to an underclass that doesn't fit in, watched all the time, and rounded up when the government deems it necessary.

We're almost at that point now.

Eventually, as I point out in my book *Battlefield America: The War on the American People* and in its fictional counterpart *The Erik Blair Diaries*, we will all be seditious conspirators in the eyes of the government.

We would do better to be conspirators for the Constitution starting right now.

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Constitutional attorney and author John W. Whitehead is founder and president of The Rutherford Institute. His most recent books are the best-selling Battlefield America: The War on the American People, the award-winning A Government of Wolves: The Emerging American Police State, and a debut dystopian fiction novel, The Erik Blair Diaries. Whitehead can be contacted at staff@rutherford.org. Nisha Whitehead is the Executive Director of The Rutherford Institute. Information about The Rutherford Institute is available at www.rutherford.org.

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