

The Politics of Green Scare

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In May 2005, FBI Deputy Assistant Director for Counterterrorism John Lewis told a Senate panel that ecoterrorism is “one of today’s most serious domestic terrorism threats.” Then the FBI’s James Jarboe estimated that two organizations (the Earth Liberation Front – ELF and Animal Liberation Front – ALF) committed over 600 criminal acts since 1996, causing over \$43 million in damage. For his part, Lewis said both groups committed more than 1100 such acts since 1976, “conservatively” resulting in around \$110 million in damages.

What’s going on, and is there anything to these charges? Coming from FBI sources makes them highly suspect, especially when there are two types of documented cases:

- people guilty of non-violent offenses called “terrorism” and given excessively harsh sentences; and most disturbing
- innocent people targeted, accused, convicted and sentenced to hard time for environmental activism or supporting animal rights; and that’s on top of hundreds of other political persecutions and many thousands of innocent people (or petty criminals) in US prisons.

This behavior isn’t new in America, but things heated up after 9/11 with the administration wasting no time getting going. That evening, George Bush addressed the nation and declared a “war against terrorism,” asked for world support, and began the government’s “emergency (preventive war strategy) response plans.” It was planned and ready before 9/11 as a “war of terrorism” to defile the law, wage aggressive wars, usurp unprecedented powers, destroy our civil liberties, and convince the public to sacrifice freedom for the security they never got. In addition, the October 2001 USA Patriot Act (written well before 9/11) created the federal crime of “domestic terrorism” that broadened the definition and applied it to US citizens as well as aliens.

When John Lewis addressed another Senate panel in May 2004, he stated that “the FBI divides the terrorist threat facing (the country) into two broad categories, international and domestic....and during the past decade we have witnessed dramatic changes in the nature of the domestic terrorist threat.” For a while “right-wing extremism” (loosely defined as the militia movement) overtook left-wing terrorism (but in the past several years....special interest extremism (from groups like) the Animal Liberation Front (ALF), the Earth Liberation Front (ELF), and related extremists, has emerged as a serious domestic terrorist threat.” That view is amplified on the FBI’s web site that states the Bureau “is part of a vast national and international campaign dedicated to defeating terrorism” with ecoterrorism a key part of it.

The FBI defined it in 2002 to mean: “the use or threatened use of violence of a criminal nature against innocent victims or property by an environmentally-oriented, subnational group for environmental-political reasons, or aimed at an audience beyond the target, often of a symbolic nature.”

Activists refer to a tactic called “monkeywrenching” from the 1985 Dave Foreman/Bill Haywood-edited book “Ecodefense: A Field Guide to Monkeywrenching.” It describes it as:

- “nonviolent resistance to the destruction of natural diversity and wilderness (and) never directed against human beings or other forms of life;
- strategic....thoughtful (and) deliberate in order to succeed;
- individual or very small (group actions) of people who have known each other for years (and have) trust and a good working relationship;
- targeted (because) mindless, erratic vandalism is counterproductive as well as unethical;
- timely (and) not....when there is a nonviolent civil disobedience action;
- dispersed (to) hasten overall industrial retreat from wild areas;
- fun (even though it’s) serious and potentially dangerous;
- not revolutionary....to overthrow any social, political, or economic system;
- simple (with) elaborate commando operations generally avoided; and
- deliberate and ethical (by being) the most moral of all actions: protecting life, defending Earth.”

The Earth First Journal defines the practice as: “Ecotage (environmentally-motivated sabotage), ecodefense, billboard bandit(ry by sawing offensive ones down), road reclamation (to remediate environmental damage), tree spiking (with nails to discourage destructive logging), even fire.” These are unlawful sabotage acts “of industrial extraction and development equipment, as a means of striking at the Earth’s destroyers where they commit their crimes and hitting them where they feel it most – in their profit margins.” It goes “beyond civil disobedience. It is nonviolent, aimed only at inanimate objects. It is one of the last steps in defense of the wild....by an Earth defender when almost all other measures have failed.”

In May 2004, Republican George Nethercutt targeted them by introducing the Ecoterrorism Prevention Act of 2004, but it didn’t pass. If it had, it would have made a federal crime: “certain violent, threatening, obstructive, and destructive conduct that is intended to injure, intimidate, or interfere with plant and animal enterprises, and for other purposes.”

Republicans tried again in July with the Terrorism Against Animal-Use Entities Prohibition Improvement Act that would have amended the 1992 Animal Enterprise Protection Act and made it harsher. It also failed to pass, but defeat was only temporary.

On November 27, 2006, the Animal Enterprise Terrorism Act (AETA) amended the 1992 act and became law with very harsh provisions. It’s language is broad and vague, but it criminalizes First Amendment activities that advocate for animal rights like peaceful protests, leafleting, undercover investigations, whistleblowing and boycotts.

The new law updates the earlier act with penalties far exceeding comparable offenses under other laws. It also goes much further. It allows expanded surveillance of animal rights organizations, including criminal wiretapping, and makes it easier for a court to find probable cause for the vague crime of economic damage or disruption than for one requiring hard evidence a person or group plans to commit these acts.

The bill exempts “lawful public, governmental or business reaction to the disclosure of information about an animal enterprise,” but that only applies to economic disruption claims, not damage, and makes it hard to distinguish between the two. It also:

- expands the kinds of facilities covered by adding ones that use or sell animals and animal products;
- covers any person, entity or organization connected to an animal enterprise;
- applies to any form of advocacy;
- criminalizes threatening conduct and protected speech as well as communication with anyone engaging in these practices;
- protects corporate animal abusers with a vested interest in silencing dissent; and
- targets any form of civil disobedience or protest activity and designates animal advocates as terrorists even when they cause no physical harm; in addition, the bill’s language is so broad and vague (by design), it’s hard to know the difference between legal and illegal behavior; it’s an act of green scare state terrorism that, in fact, can be used against anyone.

Green Scare – A Definition

Activists equate it to earlier Red Scare periods after WW I and II when the government used various schemes to incite fear, sanction witch hunt prosecutions, and win widespread public approval for them. The term may first have been used in 2002 and refers to legal and extralegal government actions against animal liberation and environmental activists. The Spirit of Freedom prisoner support network defines it as “tactics the government and (their enforcement agencies use) to attack the ELF/ALF (Earth Liberation Front and Animal Liberation Front) and specifically those who publicly support them.”

The term also refers to the 2005 arrests, indictments and convictions from the FBI’s Operation Backfire against alleged ELF/ALF activists. It charged them with damaging property, conspiracy, arson and using destructive devices.

The Operation was the FBI’s code name for its ten year domestic “war on terrorism” that’s, in fact, a war on dissent. It resulted in 17 Pacific Northwest arson indictments

with evidence that was very suspect. It came from a heroin-addicted self-professed serial arsonist whose former girl friend mentioned him in a grand jury proceeding. On December 7, 2005, it culminated when federal and local law enforcement agents began the largest ever roundup of alleged environmental and animal liberation activists. Seven arrests were made in four states, others got grand jury subpoenas, and people seized were charged with various acts of destroying property as part of ELF and ALF efforts.

Those arrested faced potential unprecedented sentences for non-violent acts from which no one was harmed. In some cases, they could be mandatory 30 year periods and in others life if found guilty on all counts. That compares to a median sentence of five years for arson.

With that as a threat, all but four defendants testified against the others in return for leniency. The remaining four struck plea bargains to admit responsibility but incriminate no one else. At sentencing in June 2007, the presiding judge was harsh. He included Terrorism Enhancements (TE) that are used when the justice department decides a crime aimed to influence or coerce government policy. It means sentences may be longer, and the Bureau of Prisons gets greater latitude in assigning prisoners that may be to “supermax” facilities for the most violent offenders.

In this case, sentences ranged from three years, one month to 13 years with most defendants getting added TEs. In addition, on October 26, 2007, FBI informant and serial arsonist Jacob Ferguson pleaded guilty to one count of arson and an additional count of attempted arson. According to his plea bargain, he won’t be charged for his other offenses. Further, he’s required to make no restitution, his formal sentencing keeps being postponed, it may come up ahead, but prosecutors recommend he spend no time in prison, receive no fines, and be able to keep the \$50,000 or more he was paid for cooperating.

That’s the state of things today where anything goes in the “war on terrorism” and publicizing arrests and convictions takes precedence over justice. Unless stopped, things will only get worse.

ELF and ALF – A Brief Description

On its web site, ELF describes itself as “an underground movement with no leadership, membership or official spokesperson” and uses its site “to inform and chronicle issues related to ELF.” It further states:

- “Any individuals who committed arson or any other illegal acts under the ELF name....choose to do so....and do so only driven by their personal conscience;
- These choices are not endorsed, encouraged, or approved of by this web site’s management, webmasters, affiliates, or other participants;

- The intention of this web site is journalistic in intent only to inform and chronicle issues related to ELF;
- The owners, management, webmasters, affiliates, or other participants of this website are not spokespersons, members, or affiliates of The Earth Liberation Front in any way; nor do the opinions of anyone acting in the name of The Earth Liberation Front or ELF, represent the opinions of those affiliated with this site.

Others refer to the ELF as a collective of autonomous individuals or cells that use “economic sabotage and guerrilla war to stop the exploitation and destruction of the natural environment.” The organization was founded in Brighton, England in 1992, spread across Europe by 1994, and is now an international movement in over a dozen countries. The FBI designated ELF its top domestic terror threat in March 2001 and called the group “ecoterrorists.”

The ALF is an international animal liberation organization with roots in the 19th century and with no formal membership or leadership. Its web site defines “animal rights” as “the philosophy of allowing nonhuman animals to have the basic rights that all sentient beings desire; freedom to live a natural life, free from human exploitation, unnecessary pain and suffering, and premature death.” It believes animals aren’t property any more than humans are and asks if animal rights will become the “next great social justice movement.” It cites President of the Australian Law Reform Commission (ALRC) David Weisbrot saying treating animals is increasingly becoming a social and legal issue as well as an important economic one.

Its members engage in direct action on behalf of animals, including removing them from laboratories and fur farms (they call liberation, not theft) and sabotaging animal testing and industry animal-based facilities. Its statements affirm it supports any acts that further animal liberation where reasonable precautions are taken not to endanger life. Its covert cells operate in dozens of countries clandestinely and independently of each other. In January 2005, the Department of Homeland Security (DHS) designated ALF a domestic terrorist threat.

Examples of Witch Hunt Convictions

Many can be cited, but Jeff Luers’ case is typical. In June 2001, he was sentenced to 22 years, eight months for burning three SUVs to raise awareness of global warming and how these gas-guzzlers contribute to it. No one was hurt, \$40,000 in damages resulted, and the vehicles were refurbished and subsequently sold. Jeff is a political prisoner, and his sentence exceeds that for murder, kidnapping and rape under Oregon law where he resides. He appealed in January 2002, the hearing was held in November 2005, and on February 14, 2007 the Appeals Court remanded his case to the Circuit Court for

resentencing. The case was heard on February 28, 2008 after which his sentence was reduced to 10 years.

Josh Harper is another political prisoner who committed no crime. He's an activist believer in animal liberation, preserving the wilderness, and participated in human freedom projects for over 10 years. In 1997, he co-created Breaking Free Video magazine and went on speaking tours in 1999. He also sabotaged a whale hunt, defied grand juries, and contributed to confrontational protest campaigns. It made him a target and got him indicted for violating the Animal Enterprise Terrorism Act (AETA).

Evidence at his trial was mostly from two of his speeches in 2001 and 2002. He spoke about already committed political sabotage acts as well as European anti-vivisection campaigns he supported. He also ended one speech by demonstrating how to participate in a form of electronic civil disobedience called "black faxing" that involves sending multiple black paper sheets through an opponent's fax machine. It got him arrested, charged and convicted.

He was one of six animal rights activists in the so-called SHAC 7 (Stop Huntingdon Animal Cruelty) case. Charges against one of the original 7 were dropped. SHAC is an international animal rights campaign against Huntingdon Life Sciences (HLS) – one of the world's largest contract research organizations, UK based, and operating on three continents. It's also Europe's largest contract animal-testing laboratory and uses around 75,000 animals each year in its operations.

UK-based activists established SHAC in 1999 and successfully closed down two animal-testing operations in their country. It's now a worldwide campaign, the first of its kind, and it operates in the UK, US, the Netherlands, Germany, Italy as well as many other countries. It calls its campaign "innovative" and states it doesn't "encourage or incite illegal activity."

On March 2, 2006, Harper and his co-defendants were charged and convicted of conspiracy to violate AETA (and several other charges) and got sentences of from four to six years. The case was an appalling miscarriage of justice for violating the defendants' First Amendment rights that AETA repealed for these activists. The defendants weren't charged with violent or threatening acts. Instead, the case was based on the notion that animal rights organizers are responsible for actions others take that the prosecution equated to a global conspiracy.

Briana Waters is another example of gross injustice. She's an innocent woman charged and convicted. On March 30, 2006, she was arrested and accused of being a lookout in connection with an alleged 2001 arson at the University of Washington Center for Urban Horticulture. Waters is a California resident, violin teacher and mother of a young child. She was indicted, then reindicted with other defendants on May 10 on charges that included using a destructive device that carries a mandatory 30 year sentence.

On December 26, 2007, her lawyers filed a motion accusing the Justice Department of concealing vital exculpatory information as well as producing a fraudulent FBI report. The agency is infamous for creating "evidence" out of whole cloth and getting

manipulated informants to state it. Nonetheless, a hostile federal judge denied defense's motion and went further as well. He ruled against allowing a defense expert to rebut government "evidence" that a delayed incendiary device was a bomb.

One of Waters' attorneys expressed outrage over a common federal practice of "The government hand-picking (the) judge (and) manipulating court procedures. This is a classic case of a corrupt prosecution, and a judge who apparently chooses to look the other way." It's no surprise at a time two-thirds of all federal judges are from or affiliated with the extremist Federalist Society. It advocates rolling back civil liberties; ending New Deal social policies; opposing reproductive choice, government regulations, labor rights and environmental protections; and subverting justice in defense of privilege.

Waters was up against this when her trial began on February 11, 2008. She was further disadvantaged by the government's case being based on two informants who struck a plea bargain by pleading guilty to conspiracy, arson and destructive devices in return for leniency. On March 6, Waters was convicted on two arson counts, but the jury deadlocked on the more serious charges of a destructive device and conspiracy. Despite prosecution claims, no devices were found nor was there evidence of conspiracy. That raises serious questions of the government's falsifying evidence and lying to the jury about it. Again, no surprise under witch hunt justice with innocent people like Briana being harmed.

Her case also featured circumstantial evidence, including a folder containing radical pamphlets with a note on the cover from Waters to one of the informants. She testified that she didn't write them or subscribe to their views. The prosecution claimed otherwise. Her defense also argued that Waters knew nothing about the materials, they were substituted for ones she put in the folder, and her fingerprints weren't on the ones in it for proof.

Civil rights attorney Ben Rosenfeld said the "government's case was primarily based on character assassination and guilt by association (and that) evidence of other people's writings should never have been allowed to be used against her." He also denounced former Attorney General Gonzales for proclaiming Waters guilty in the media after she was indicted. He harmed her chances at the outset and showed convictions count more than justice, especially when charges of terrorism are raised. Waters strongly defends her innocence and will likely appeal the verdict. Sentencing is on May 30.

A Look Ahead

Post-9/11, future prospects look grim with fear prevailing over reason, a bipartisan effort exploiting it, and convictions more important than justice. If friends of the earth and animal rights champions are targeted, so can anyone. Governments today won't protect us and neither do courts that defer to their lawlessness. As a result, expect lots more innocent people hurt because those in power want unlimited amounts of it and won't let anyone stop them from getting it. It means hard times ahead when the

law won't protect us, dissent is a crime, and the greater good is sacrificed to benefit the privileged.

What to do? Get active, organize, speak out, resist, and use the law for whatever justice is still under it. Things are very dire, change isn't coming next year, and, more than ever, apathy isn't an option. In America's "war on terrorism," we're all potential targets.

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