



# Bush quietly seeks to make war powers permanent, by declaring indefinite state of war

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Filed by John Byrne

As the nation focuses on Sen. John McCain's choice of running mate, President Bush has quietly moved to expand the reach of presidential power by ensuring that America remains in a state of permanent war.



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Buried in a recent proposal by the Administration is a sentence that has received scant attention -- and was buried itself in the very newspaper that exposed it Saturday. It is an affirmation that the United States remains at war with al Qaeda, the Taliban and "associated organizations."

Part of a proposal for Guantanamo Bay legal detainees, the provision before Congress seeks to "acknowledge again and explicitly that this nation remains engaged in an armed conflict with Al Qaeda, the Taliban, and associated organizations, who have already proclaimed themselves at war with us and who are dedicated to the slaughter of Americans."

The *New York Times*' page 8 placement of [the article](#) in its Saturday edition seems to downplay its importance. Such a re-affirmation of war carries broad legal implications that could imperil Americans' civil liberties and the rights of foreign nationals for decades to come.

It was under the guise of war that President Bush claimed a legal mandate for his warrantless wiretapping program, giving the National Security Agency power to intercept calls Americans made abroad. More of this program has emerged in recent years, and it includes the surveillance of Americans' information and exchanges online.

"War powers" have also given President Bush cover to hold Americans without habeas corpus -- detainment without explanation or charge. [Jose Padilla](#), a Chicago resident arrested in 2002, was held without trial for five years before being convicted of conspiring to kill individuals abroad and provide support for terrorism.

But his arrest was made with proclamations that Padilla had plans to build a "dirty bomb." He was never convicted of this charge. Padilla's legal team also claimed that during his time in military custody -- the four years he was held without charge -- he was tortured with sensory deprivation, sleep deprivation, forced stress positions and injected with drugs.

*Times* reporter Eric Lichtblau notes that the measure is the latest step that the Administration has taken to "make permanent" key aspects of its "long war" against terrorism. Congress recently passed a much-maligned bill giving telecommunications companies retroactive immunity for their participation in what constitutional experts see as an illegal or borderline-illegal surveillance program, and is considering efforts to give the FBI more power in their investigative techniques.

"It is uncertain whether Congress will take the administration up on its request," Lichtblau writes. "Some Republicans have already embraced the idea, with Representative Lamar Smith of Texas, the ranking Republican on the Judiciary Committee, introducing a measure almost identical to the administration's proposal. 'Since 9/11,' Mr. Smith said, 'we have been at war with an unconventional enemy whose primary goal is to kill innocent Americans.'"

If enough Republicans come aboard, Democrats may struggle to defeat the provision. Despite holding majorities in the House and Senate, they have failed to beat back some of President Bush's purported "security" measures, such as the telecom immunity bill.

Bush's open-ended permanent war language worries his critics. They say it could provide indefinite, if hazy, legal justification for any number of activities -- including detention of terrorists suspects at bases like Guantanamo Bay (where for years the Administration would not even release the names of those being held), and the NSA's warrantless wiretapping program.

Lichtblau co-wrote the *Times* [article revealing](#) the Administration's eavesdropping program along with fellow reporter James Risen.

He notes that Bush's language "recalls a resolution, known as the Authorization for Use of Military Force, passed by Congress on Sept. 14, 2001... [which] authorized the president to 'use all necessary and appropriate force' against those responsible for the Sept. 11 attacks to prevent future strikes. That authorization, still in effect, was initially viewed by many members of Congress who voted for it as the go-ahead for the administration to invade Afghanistan and overthrow the Taliban, which had given sanctuary to Mr. bin Laden."

"But the military authorization became the secret legal basis for some of the administration's most controversial legal tactics, including the wiretapping program, and that still gnaws at some members of Congress," he adds.