

Critical Discourse Analysis from the Perspective of Ecologism:

The Discourse of the 'New Patriotism'

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Johnson suddenly uttered, in a strong
determined tone, an apophthegm, at
which many will start: 'Patriotism is
the last refuge of a scoundrel.'
— from Boswell's *Life of Johnson*

With all due respect, [...] I beg to submit that it is the first.
— Ambrose Bierce

Abstract

The current US 'Administration', under the guise of 'Patriotism', has launched the most devastating attacks on social justice and domestic civil liberties in the nation's history. In particular, two so-called 'Patriot Acts' effectively polarise the citizenry into 'patriots' versus 'terrorists' and grant the 'Attorney General' astounding powers, such as 'directing that an alien be removed to any country or region regardless of whether the country or region has a government'. As a 'discourse analysis' of these Acts can show, the hidden agenda includes detecting and silencing dissent against an illegitimate government that seized power in 2000 through a massive fraud which the major US media refused to report.

1. Defining critical discourse analysis

Since the field of critical discourse analysis (hereafter CDA) is relatively young, I might

start by explaining what it means to me and defining each of its three constituent terms in a programmatically deconstructive sense. I would define discourse to deconstruct the borders clamped upon 'speech', 'parole', 'performance', and so on by a narrowly academic 'general linguistics' that would transform 'language' into a 'scientific object' by means of realist or idealist reductions and abstractions (cf. Beaugrande, 1991, 1998). On the contrary, 'discourse' should subsume all modes, means, and events of human communication and interaction. Since this range is dauntingly vast and diverse, the selection of discourse data for 'critical analysis' should be expressly motivated and justified in terms of its human and social relevance, especially the discursive work whereby participants seek to position themselves and others.

I would define analysis to deconstruct the formalist limitations imposed upon it within science in general, and within linguistics and philosophy in particular. Far more than, say, chemists or geologists, analysts of discourse confront data which they always are decisively implicated in producing and determining. The status of the discourse analyst must be balanced with the status of discourse participant to a degree that cannot be repressed or papered over in the name of 'disinterested objectivity' or 'freedom from ideology'; but it can and should be rendered systematic. Analysts need to reflect on our personal handling of this dualism, and especially on our own discursive work to position ourselves, and to systematise the relation between the discourse being analysed and the discourse of the analysis (compare 'language under description' and 'language of description' in Firth, 1968). Though we cannot remain ordinary participants throughout the process of analysis, we can, indeed must, exploit what we share with the wider discursive community as our primary means of accessing the data as discourse — and not, say, merely as 'sentences of English', 'noun phrases', and the other disembodied entities of mainstream 'linguistic analysis'. The authority of the analysts is in turn not claimed by virtue of our being 'native speakers' whose 'intuition' and 'introspection' are royal roads to correct 'theories of language'; or being holders of 'academic degrees in formal linguistics' which unlock the 'deep structure' or 'universal' essence of language concealed from ordinary mortals; but by virtue of our systematic engagement with representative sets of authentic discourse data, rendering our viewpoint not objective but intersubjective.

Finally, I would define the term critical to deconstruct the ordinary senses of 'criticism' being either adverse personal commentary to position the participant as an authority on standards of conduct, manner, or taste; or academic interpretative commentary to position the participant as an authority on culture, philosophy, literature, and the arts. Instead, criticism can be understood as a mode of dialectical thinking and communicating that programmatically mediates between such complementarities as theory and practice, subject and object, self and other, inclusion and exclusion, solidarity and power, actualisation and alienation, freedom and coercion. Its strongest 'critical' leverage comes from the contradictions that emerge during our analysis, reflecting in turn contradictions

within the organisation of modern and post-modern societies.

Current work in CDA typically positions the critical discourse analysts as deconstructors of the discourses of power and mystification whose impact has been steadily worsening over past two decades whilst 'globalisation' accelerates us all to the brink of economic and ecological disaster (cf. Stiglitz, 2002; Palast, 2003). So egregious and deleterious has this trend become that we are impelled to assume a critical stance and to construct a counter-discourse of economic and ecological sanity; a non-critical stance implies complicity, if not indeed duplicity.

2. Language, discourse, and ideology

For many years, ideology was an absolute non-topic in linguistics. In this respect, the field was dutifully conforming to the popularised ideology of scientism, holding that only scientific knowledge is true and valid, and that science itself is free of all ideology. Indeed, scientism foreshadows an end to ideology, viz.:

[1] The essential criteria of an ideology [are its] deviations from scientific objectivity. [...] The problem of ideology arises where there is a discrepancy between what is believed and what can be [established as] scientifically correct. (Parsons 1959; cf. Geertz 1973; Zima 1981; Pêcheux 1982)

In the wider context of society, science exploits, in its quest for authority, the natural inclination of ideology to remain concealed and to be attributed only to your rivals or opponents, who are accordingly biased, misguided, distorted — and unscientific. Such is the dominant usage of the term, as attested for example in the British National Corpus, viz:

[2] Every self-respecting ideology develops its own complex defence mechanisms which cunningly conceal, or paper over, the glaring discrepancies and inconsistencies which inevitably arise between what ought to happen and what actually does. (Lewis, 1992)¹

[3] This ideology of the state is coercively implemented in the policing, arresting, trying, convicting, and imprisoning of those found to default. (Fulton, 1991)

Some works within the field of CDA suggests similar reservations:

[4] Ideology is significations generated within power relations as a dimension of the exercise of power and struggle over power. (Fairclough, 1992: 67).

[5] Ideologies are particular ways of representing and constructing society which

reproduce unequal relations of power, relations of domination and exploitation. (Wodak, 1996: 18)

[6] Ideology supports violence and is critically shaped by and in a context of violence [and by] physical pain and social dehumanisation. (Lemke, 1995: 12f)

The most comprehensive and detailed alternative within CDA has been set forth by van Dijk 1998: 8, his italics; compare Mannheim's [1936] search for a 'non-evaluative concept of ideology':

[7] Ideologies may be succinctly defined as the basis of the social representations shared by members of a group, [allowing] group members to organise the multitude of social beliefs about what is the case, good or bad, right or wrong, for them, and to act accordingly.

I welcomed this proposal on the grounds that, like a 'scientific theory' as described by the philosophy of science, an ideology as can only be refuted by an authentic alternative ideology (Beaugrande, 1999). The 'critical analysis' of those discourses with a repressive ideology should be correlated with the advancement an emancipatory ideology whose discourse restores authentic, democratic meaning to such concepts as 'freedom' and 'individualism'.

I surmise that CDA is de facto such an enterprise; but its self-awareness about its ideology remains unsettled, as samples of its own discourse like [4-6] attest. We can expect the sponsors of the ideologies we deconstruct to accuse us of 'ideological bias and distortion', but so far such attacks have relatively few and ineffectual (e.g. Widdowson, 1995, 2000; ripostes in Fairclough, 1996; Beaugrande 2001). All the same, several major publishing houses have dropped their book series that covered CDA and related work, even to the point of unilateral termination of contracts with distinguished editors and authors, ostensibly for not being sufficiently 'profitable'. To be sure, the agents of corporate greed can hardly relish publishing books that deconstruct the discourse of corporate greed.

3. Introducing ecologism: Let's start from democracy

In theory, democracy is a state ideology clearly aimed at universal inclusion and equality of every citizen. In practice, however, few ideologies are so vigorously contested, bent, and falsified around the world today. Nearly every government claims to belong, and some officially call themselves by the suspiciously redundant label of 'Democratic Republic',² e.g., Algeria, Azerbaijan, Ethiopia, the Congo, and, yes, North Korea. At such a stage, restoring the term to its essential meaning takes on an ineluctable urgency.

The imperative should be to establish a general dialectic between theory and practice of democracy by actually living up to the principles we profess. Admittedly, a total convergence between the theory and the practice would be state of utopia we can never attain. Yet for that very reason, we will always have space to improve the fit.

The agenda for promoting a dialectical convergence between inclusive theories and inclusive practices in pursuit of democracy is the centrepiece of the ideology I have called ecologism (Beaugrande 1997). The term itself is best known in relation to environmentalism and the 'green' movement (compare Porritt, 1989; Jagtenberg and McKie, 1997), with its emphasis on biology, climatology, and conservation (e.g. Leggett, 1990, 2001 Myers et al., 1993;). But in recent years the scope has expanded toward fundamentally reconceptualising economic, political, and cultural institutions (e.g. Smith, 1998; Baxter, 2000; Bednar, 2003), including 'freedom' (Bookchin, 1991) and 'democracy' (Morrison, 1995). Ecologism cannot be just a roadmap for being kinder to the environment by recycling waste, building more fuel-efficient cars, or harnessing solar and wind power — though not even these modest initiatives have much priority on the agenda of today's world ruled by oil companies — and only postponing the ecological disasters we know are on the way. Instead, ecologism must be a comprehensive redefinition of relation of the human race to the entire biosphere, and the responsibilities we must finally assume if we intend to survive decently into the 22nd century.

As a key resource, ecologism must deploy strategies for discursive theory and practice to promote freedom of access to knowledge and society (Beaugrande, 1997). Prevailing ideologies deny that freedom to the vast majority of the world's population, though the logic for doing so differs: the left-wing logic is that the population needs to 'have their interests represented' by ideological 'parties' and 'leaders'; the right-wing logic is that the population is too stupid, lazy, or dishonest to take care of themselves and need to be 'ruled by law'. The discursive styles differ in turn: sociable on the left, confrontational on the right. But it's mainly just talk as long as both sides are embedded in an ideological scenario in which most alternatives are already foreclosed by the power of special interests (Nader, 2002).

One initial step might be to clear away the ideological baggage from our thematic terms lest our discourse be drawn into the sort of mystifications we are resolved to deconstruct. To start off, we can define ideology itself etymologically as the framework for the production, representation, and dissemination of 'ideas' (compare van Dijk 1998, quoted in [7]). The definition can refer to those offered by major dictionaries, such as 'a systematic body of concepts especially about human life or culture' (Webster's Seventh, 413); or 'a body of doctrine or thought that guides an individual, social movement, institution, or group' (Random House Webster's, 668).

We can define social progress as any move that brings inclusive practice closer to

inclusive theory, versus social regress as any move brings exclusive practice further from inclusive theory. Most of what public discourse confusingly and deceptively presents as 'progress' is in fact regress, such as the 'economic growth' which benefits the few and rides on the economic shrinkage of the many. An authentic example of progress would be the founding of Community Development Credit Unions providing low interest loans to low-income clientele who would not qualify with mainstream banks (Rosenthal 2001).

Combining our terms offers a clear and direct means to define the difference between 'progressive' and 'regressive' ideology. On the progressive side, we can situate left-wing ideology holding that human rights are inclusive and equal in theory, and that social and political practice should pursue a broad conception of public good. On the regressive side, we can situate right-wing ideology holding that human rights are exclusive and unequal in both theory and practice in proportion one's wealth and power, and that social and political practice should pursue a narrow conception of private good. Here too, confusion and deception have been widespread. What was passed off as left-wing 'socialism' or 'communism' in eastern Europe was — due to that very material determinism the 'Marxist' leadership oddly forgot — only cosmetically left-wing and functionally right-wing. Those regimes collapsed not because they had embraced socialism, but because the leadership had betrayed it by squandering state resources on a surreptitious, opulent private economy ('life style') for themselves and on security forces, surveillance technologies, and sealed borders for the deprived citizenry.

We accordingly need to restore the essential meaning of left-wing ideologies apart from the distortions practiced both by their supposed adherents and by their right-wing opponents. We can define socialism as a 'society'-based ideology whereby the state assumes the responsibility for the collective welfare and security of the citizenry. The primary function of nationalised enterprises is thus not to generate profits, but to guarantee stable employment. The voracious 'privatisations' forced upon one government after another by the IMF and the World Bank reverse these priorities, and the ensuing layoffs correspondingly bring the private tragedy of descent into poverty, over and above the public tragedy of abolished social services, and loss of access to water and power. Two examples among innumerable others:

[8] Enron culminated its Argentine shopping spree with the purchase of the water system of Buenos Aires province. It got the full Enron treatment: workers laid off en masse, allowing Enron to pocket their pay; [...] water mains were left broken [and] water contaminated. [...] Brazil's Government privatised Rio Light [to] Reliant, [who] promised improved service — and then axed 40% of the company's workforce. Unfortunately, Rio's electricity system is not fully mapped. The workers kept track of the location of wires and transformers in their heads. When they were booted out by their new owners, they took their mental maps with them. Nearly every day, a new neighbourhood went dark. The foreign owners blamed El Niño, the weather in the

Pacific. Rio is on Atlantic. (Palast, 2003: 134f)

Conversely, we can define capitalism as a ‘capital’-based ideology where the individual welfare and security of the citizenry is delegated to the competition among private agents and interests that are protected and subsidized by state power. An opulent lifestyle for the leaders by no means contradicts the ideology but rather confirms it, even if it is supported by devious and hence unprovable financial manoeuvres, such as clandestine ‘donations’ from large corporations in exchange for freedom to pollute the environment (Nader, 2002; Palast, 2003).

The history of the 19th and 20th centuries reflects the striving of capitalism first to repress socialism, then to co-opt it, and now to repress it again. The apostles of this ‘new capitalism’ have embraced, with a perfectly straight face, a ‘moral’ argument, viz.:

[9] Capitalism is the only moral social system because it is the only system that respects the freedom of the producers to think and the right of the individual to set his own goals and pursue his own happiness. [...]. It is the only system that safeguards the freedom of the independent mind. [...] All decisions are to be left to the ‘free market’ — that is, to the un-coerced decisions of buyers and sellers, manufacturers and distributors, employers and employees.³

We must lay to rest any residual equation whereby ‘liberal’ (or ‘Democrat’) is left-wing and ‘conservative’ (or ‘Republican’) is right-wing. Historically, the real contest has been whether power would be exercised locally or centrally, not how it would be exercised. In the early years, the ‘liberals’ wished to ‘liberate’ the social order from the control of the aristocracy, the bureaucracy, and the clergy, whilst the ‘conservatives’ wished to ‘conserve’ that control and the privileges it conferred. Today, both ideologies are sponsored by the same right-wing ‘market forces’, whose control is guaranteed no matter which side wins the elections (Nader, 2002). But their discursive strategies must differ in order to create the impression of genuine alternatives:

[10] The Democrats say one thing (‘Save the planet!’) and then do another — quietly holding hands behind the scenes with the bastards who make this world a dirtier, meaner place. The Republicans just come right out and give the bastards a corner office in the West Wing. That’s the difference. (Moore, 2001: 145f)

CDA should certainly devote special attention to left-wing and liberal discourses whose ideological import is duplicitous. But in recent years these have undergone a steady roll-back, as the public arena is increasingly occupied by right-wing and conservative discourses of the ‘new right’, the ‘new capitalism’, ‘new world order’, and even ‘new labour’, mixing frank confrontation against their opponents’ agenda with devious distortion and concealment of their own.

Mass media are thus now replete with a disconcerting oscillation between openly anti-democratic and anti-ecological mudslinging like [11], and convoluted corporate doublespeak like [12].

[11] environmentalism is not a benevolent movement seeking to improve man's life by cleaning up the air and water. [but] an attack on the ideals of Western civilization. Opposed to science, technology, and economic development, [...] environmentalism has become the gravest threat to human survival. (Ayn Rand 'Institute')⁴

[12] No forbearance or failure by the Employer at any time to require performance of any provision of the Agreement or to enforce strictly the obligations of the Employee or to take action to suspend the Employee [...] shall effect the right of the Employer so to do at any time. (Gleeds Group)⁵

In plain language, your 'Employer' reserves the right to 'suspend' you for not doing something never 'required' before.

Devious discourse can be copiously expected from the ideology of the 'free-market' which is less 'free' than ever, just when 'monopoly' and 'welfare to corporations are at an all time high, and government collusion with the corporations has never been more thorough' (Phil Graham).⁶ Although globalisation has granted corporations unlimited freedom for massive layoffs, the term itself is strenuously avoided. According to one recent survey of usages (Lutz, 1997), workers get 'dehired', 'selected out', 'transitioned' 'surplussed', 'excessed', 'rightsized', 'uninstalled', or 'managed down'; or, they become the objects of 'workforce adjustments', 'headcount reductions', 'negative employee retention' or 'a volume-related production schedule adjustment'. Another survey taken from the pages of the New York Times alone reported the workforce being 'downsized', 'rightsized', 'destaffed', 'degrown', 'disemployed', or subjected to 'personnel surplus reduction', 'resource reallocation', 'redundancy elimination', and 'workforce imbalance correction' (Moore, 1997: 307)

I have proposed the term discursivism for a method of discursive and ideological engagement between our discourse and the discourse to be described or analysed (Beaugrande, in preparation). We position ourselves by being fully explicit about our own social, ideological, and academic orientation; and from that position we seek to position the producers of their discourse. This agenda entails a need to reshape the role of the academic and scientific author to focus on sharing knowledge with those who need it, and to deconstruct the academic' decorum which is favoured among numerous colleagues, journal editors, or peer reviewers and which neglects the needs of a general audience — in the discourse data sampling presented below is no less than the citizenry of the United States of America.

4. The 'New American Century'

Given the history of the 'United States of America', the term 'new patriotism' may sound designedly ironic. As a pretext for social and political confrontation, it is anything but new, viz:

[13] While thousands of our foreign-born citizens are intelligent, honest and patriotic, following in their wake we find Huns, Pollocks, Sicillians, Souwegians, and other undesirable offscourings of the old world, imported by 'industrial cannibals' to degrade our labor and debauch our politics. (William Cowper Brann, *Iconoclast*, 1897)

[14] The worst menace to sound government is [...] the long-haired gentry who call themselves 'liberals' and 'radicals' and 'non-partisan' and 'intelligentsia' [...] The ideal of American manhood and culture isn't a lot of cranks sitting around chewing the rag about their Rights and their Wrongs, but a God-fearing, hustling, successful, two-fisted Regular Guy, [...] whose answer to his critics is a square-toed boot that'll teach the grouches and smart alecks to respect the He-man and get out and root for Uncle Samuel, U.S.A.! (Sinclair Lewis, *Babbitt*, 1922)

But what is new is the process whereby the meaning of 'patriotism' is circumscribed by 'terrorism' in the discourse of draconic, secretive laws. Before examining those discourses, I need to summarise how the scenario was created by historical and political that which mass media have been reluctant to report for fear of being branded 'unpatriotic'

In the spring of 1997, a right-wing think-tank called 'Project for a New American Century' was founded, 'aiming to make the case and rally support for American global leadership'. Using the Internet,⁷ it promulgated a 'Mission Statement' and later a 90-page report on 'Rebuilding America's Defenses', which is nothing less than 'a blueprint for US world domination' drawn up by 'chicken-hawks — men who have never seen the horror of war but are in love with the idea of war' (Tam Dalyell, longest-serving member of the British Parliament)⁸. Here are just some of those 'missions':

- establish a global security order that is uniquely friendly to American interests;
- provide a secure basis for US power projection around the world;
- discourage advanced industrial nations from challenging our leadership or even aspiring to a larger regional or global role;
- create a new military service — U.S. Space Forces — with the mission of space control;
- take total control of cyberspace to prevent enemies using the internet against the US;

- fight and decisively win multiple, simultaneous major theater wars.

Such plans might sound like the plot for some megalomaniac Hollywood war fantasy. But the list of signers, who might have seemed obscure in 1997, now reads like a Who's Who of the two Bush 'Administrations' and their associates: Elliott Abrams, William J. Bennett, Jeb Bush, Dick Cheney, Eliot A. Cohen, Francis Fukuyama, I. Lewis Libby, Norman Podhoretz, Dan Quayle, Donald Rumsfeld, Paul Wolfowitz... The think-tank was slated to be virtually absorbed into the 'government' of 'Dubya' Bush, along with a coterie of former heads or associates of industries like Alcoa (Paul O'Neill), Calgene (Ann Veneman), Tom Brown Oil (Don Evans), Clorox (Elaine Chao), Eli Lilly Pharmaceuticals (Mitch Daniels), Chevron (Condoleezza Rice), and Philip Morris Tobacco (Karl Rove).

But first a presidential election had to be won. Months ahead of time, an operation was set in motion in the key state of Florida, with the approval of 'Governor' Jeb Bush, by his 'Secretary of State' Katherine Harris, who doubled as Bush's campaign manger, to purge citizens from the voter rolls because they were 'felons' — or, more precisely, because their names were vaguely similar to those of felons. Greg Palast, whose team actually decoded the voluminous database, unearthed a 'scrub list' of 57,000 voters blocked from the election; 90% were innocent; 54% were Black and Hispanic, who vote solidly Democratic; many had phoney 'conviction dates in the future, in the next century, in the next millennium' (2003: 12f, his italics; 'statistical evidence' confirmed in Lichtman, 2002). Another 40,000 who were blocked were erstwhile felons whose voting rights had been restored, they too mostly Democrats (2003: 12f). Even so, Gore was gaining the lead, so at 2:35 p.m. on 9 December 2002, the Supreme Court stopped the vote count and awarded Bush the election by '537 votes'. The wife of Justice Clarence Thomas was about to be hired by Bush to recruit his 'administration'; the son of Justice Antonin Scalia was a lawyer with the firm representing Bush before Supreme Court; neither justice 'saw any conflict of interest, and they refused to remove themselves from the case' (Moore, 2001: 11f).

Ironically, Palast had his facts dug out while the vote count was still running, but no major American news media would report them. After simply phoning Jeb Bush's office, which (of course) denied everything, CBS News threw out the story. Why?

[15] The story demanded massive and quick review of documents, dozens of phone calls and interviews — hardly a winner in the slam-bam-thank-you-ma'am school of US journalism. Most difficult, the revelations in the story required a reporter to stand up and say that the big-name politicians, their lawyers, and their PR people were freaking liars. (Palast, 2003: 15).

Later counts supposedly indicating Bush 'would have won anyway' are meaningless if not duplicitous, with 94,000 ballots never cast at all. Some time back, I concluded from South African data that winner-take-all is a mockery of 'democracy' (Beaugrande and Williams 2002); but loser-take-all is infinitely more so — a nation ruled by its 'Thief-in-Chief', 'a trespasser on federal land, a squatter in the Oval Office' (Moore 2001: 2)

'Allan Lichtman (2002), the statistician who did the statistical study of Florida's 2000 presidential election for U.S. Commission on Civil Rights, 'uncovered vast racial disparities in ballot rejection rates that are not explicable by nonracial factors', and concluded that the US is now ruled by an 'illegitimate presidency'. Indeed, the electoral fraud and the subordination of government policy to the 'Departments of Defense' and 'Justice' resemble a military coup, and the new 'cabinet' a military junta. (cf. Vidal 2002) The resemblance emerged all too clearly in avidity with which the Bush regime relished the occasion for wars against Afghanistan and Iraq to gain legitimacy as well as vast oil reserves; but no major US news outlet dared to say so.

Instead, dissenting voices have been rare and mostly limited to the Internet, e.g.:

[16] It is the most radical assault on the notion of one nation, indivisible, that has occurred in our lifetime. [...] What I can't explain is the rage of the counter-revolutionaries to dismantle every last brick of the social contract, [...] with right wing wrecking crews blasting away at social benefits once considered invulnerable (Bill Moyers)⁹

[17] This band of mean-spirited, greedy, determined power-seekers ran roughshod over the Constitution, the institutions of democracy, over real and imagined 'enemies' abroad. [...]. It was full speed ahead in enacting long-range tax cuts for the wealthy, ignoring Congress, making secret anything that might prove embarrassing or potentially criminal, freezing out Democrats, retrenching on environmental progress, behaving like a rampaging cowboy in foreign affairs... (Bernard Weiner)¹⁰

5. The 'Patriot Acts'

This capsule history can provide the scenario for the discourse of the 'new patriotism', where the term now means: fervent support for the acts and policies of 'President' Bush and his 'Administration'. (You should see by now why I place the titles of these officials in quotation marks) Opposition or criticism is 'unpatriotic' and has serious consequences. At least three newspaper editors have been fired;¹¹ three university professors disciplined or threatened with dismissal.¹² 'Patriotic' thought-police are monitoring a range of discourse for 'objectionable' or 'anti-American' statements:

[18] The American Council of Trustees and Alumni issued a report in November, 2001, listing 117 allegedly anti-American statements made on college campuses, [and] calling professors ‘the weak link in America's response’. In March, 2002, the Americans for Victory Over Terrorism released its list of ‘objectionable’ statements from professors, legislators, and writers who, it claims, ‘misunderstand [American] ideals and their practice’ — among others, former President Jimmy Carter. [...] Both organizations have close ties to the Administration. (USA PATRIOT Act Six Months Later)¹³

Mere high school students get ‘interrogated’ by the Secret Service:

[19] On 4/23, Secret Service agents visited Oakland High and interrogated two 16 year-old male students in connection with comments they had allegedly made during a classroom discussion concerning President Bush and the U.S. Government's role in Iraq. When one of the students asked if [...] could he talk to them later with a lawyer present, the agents told him, ‘We own you, if you don't talk to us now, and we find out you haven't told us everything, we'll put you motherfuckers in federal prison.’¹⁴

Famous anchorman Dan Rather expressed his ‘worry that patriotism run amok will trample the very values that the country seeks to defend in a constitutional republic based on the principles of democracy’.¹⁵

5.1 The Discourse Of Patriot Act I

It would be callous to call the 9/11 attacks a welcome opportunity for an illegitimate presidency, but they definitely helped the latter to position itself as the vanguard of ‘patriotism’ in the ‘fight against terrorism’. This move was swiftly written into law by the ‘USA PATRIOT ACT’, which is a sly anagram for the pompous title of the legislation, ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism’ (HR 3162 RDS, 107th Congress).¹⁶ It was ‘signed into law’ by ‘President’ Bush on October 26, 2001 — just 45 days after the attacks — after being rammed through Congress under unprecedented conditions:

[20] The act was hurriedly signed into law with overwhelming approval within six weeks of the terrorist attacks on New York and Washington — without hearings or without being marked up by a congressional committee. (Noell Straub in the Progressive Review)
17

[21] Congressman Ron Paul (R-Tex) told the Washington Times that no member of Congress was allowed to read the first Patriot Act [...] before its passage, and no debate was tolerated by the House and Senate leadership. [...] Dick Cheney [...] publicly threatened members of Congress that if they didn't vote in favor of it they would be blamed for the next terrorist attack. [Former Nixon advocate] William Safire described

the first Patriot Act's powers by saying that President Bush was 'seizing dictatorial control'. (Alex Jones in Infowars)¹⁸

However, some authentic patriots released the secretive text on the Internet, where it could be analysed by progressive organisations like the American Civil Liberties Union (ACLU).¹⁹ According to their analysis, the act, among other things,

- Creates a broad new definition of 'domestic terrorism' that could sweep in people who engage in acts of political protest and subject them to wiretapping and enhanced penalties.
- Allows large-scale investigations of American citizens for 'intelligence' purposes, and the use of such intelligence by authorities, to by-pass probable cause requirements in criminal cases.
- Grants the FBI broad access to sensitive medical, financial, mental health, and educational records about any individuals without having to show evidence of a crime and without a court order.
- Greatly minimizes judicial supervision of telephone and Internet surveillance by law enforcement authorities in anti-terrorism investigations and in routine criminal investigations unrelated to terrorism.
- Permits the Attorney General to indefinitely incarcerate or detain non-citizens based on mere suspicion, and to deny re-admission to the United States of non-citizens (including lawful permanent residents) for engaging in speech protected by the First Amendment.
- Gives the Attorney General and the Secretary of State the power to designate domestic groups as terrorist organizations and block any non-citizen who belongs to them from entering the country. Under this provision the payment of membership dues is a deportable offense.

My capsule history might indicate why I would single out the least transparent tactic, namely 'sweeping in people who engage in acts of political protest' against an illegitimate regime. This tactic need not target large numbers; sweeping in just a small number should create the desired atmosphere of shock and awe among the regime's opponents.

Since its passage, the Act has been subjected to substantial analysis and commentary on the Internet, an information medium of which the 'New American Century' group intends to 'take total control', as we saw. But most of these analyses are like the ones by the ACLU, working with summary and paraphrase rather than directly with the discourse of the Act itself. I purpose to pursue the latter option, the more so as the language is both confrontational and devious in its own ways. To facilitate the analysis, I downloaded both Patriot Acts and coded them into the WordPilot concordance program, which can bring to light significant collocations and frequencies.

Despite its name, the Act nowhere defines the concept of ‘patriot’. Aside from the title, the term never appears in the discourse of the Act, and ‘patriotism’ only once, namely when

[22] the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds, (Section 102) presumptively including those Black and Hispanic American who were illegally stripped of their voting rights in Florida. By contrast, ‘terrorism’ and ‘terrorist’, plus their various compounds like ‘bioterrorism’ show 336 occurrences, out of a total word-count of 56,869.20 These then are the actual themes for tacitly defining patriotism by opposition.

A topically rearranged sampling of ‘section’ names from the ‘Table of Contents’ can point up the major objectives:

- 802. Definition of domestic terrorism
- 412. Mandatory detention of suspected terrorists
- 810. Alternate maximum penalties for terrorism offenses
- 101. Counterterrorism fund
- 105. Expansion of National Electronic Crime Task Force Initiative
- 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act [FISA] of 1978
- 201. Authority to intercept wire, oral, and electronic communications relating to terrorism
- 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses
- 816. Development and support of cybersecurity forensic capabilities
- 209. Seizure of voice-mail messages pursuant to warrants
- 214. Pen register and trap and trace authority under FISA
- 225. Immunity for compliance with FISA wiretap
- 405. Report on the integrated automated fingerprint identification system for ports of entry and overseas consular posts
- 416. Foreign student monitoring program

As discourse, much of the Act is uninformative, indeed meaningless, to anyone but a congressional lawyer with a comprehensive store of legal records at hand. A would-be reader confronts being a bewildering barrage of technical tinkering with the wording of at least 15 previous statutes, viz:

[23] Rule 6(e)(3)(D) of the Federal Rules of Criminal Procedure is amended by striking ‘(e)(3)(C)(i)’ and inserting ‘(e)(3)(C)(i)(I)’. (203)

[24] Section 2510 of title 18, United States Code, is amended in paragraph (17), by striking ‘and’ after the semicolon (800)

This format is not surprising. The Act was hastily composed to exploit the 9/11 shock;21 it was designed to cut back on previous legislation limiting the prerogatives of ‘law enforcement authorities’; and to cover up such purposes, an inscrutable format is a advantage. Even so, sometimes the glowing intent shines through, e.g., drastic increases in penalties:

[25] Section 81 of title 18, United States Code, is amended in the second undesignated paragraph by striking ‘not more than twenty years’ and inserting ‘for any term of years or for life’. (Section 810)

If patriotism and security could be bought by showering dollars on government agencies (and on the occasional ‘co-operative’ citizen informer), triumph would be guaranteed. They very first Section (‘Counterterrorism fund’, 101) mandates ‘200,000,000 for each of the fiscal years 2002, 2003, and 2004’; further on, the grants include ‘\$50,000,000 each to the Immigration and Naturalization Service and the United States Customs Service’ to ‘improve technology for monitoring the Northern Border’ (Section 402); ‘not less than \$2,000,000’ for ‘enhancing the Integrated Automated Fingerprint Identification System’ (405); \$36,800,000 for ‘implementing the Illegal Immigration Reform and Immigrant Responsibility Act’ and ‘monitoring foreign students’ (416); up to \$250,000 for ‘paying rewards’ to citizens recruited by ‘public advertisements’ to ‘assist the Department of Justice to combat terrorism and defend the Nation’ (and \$250,000 or more with the approval of the Attorney General or the President) (501); up to \$5,000,000 for the ‘Secretary of State’ to make similar ‘awards’, and more if a ‘larger amount is necessary to combat terrorism or defend the Nation’(502); \$50,000,000 ‘set aside’ by the ‘Director of Crime Victims Fund’ ‘in response to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve’ (621); ‘\$50,000,000 for fiscal year 2002 and \$100,000,000 for fiscal year 2003’ for ‘Bureau of Justice Assistance’ in ‘establishing and operating secure information sharing systems’ (701); \$50,000,000 ‘in each fiscal year’ to ‘provide training and education for Federal, State, and local law enforcement personnel and prosecutors regarding investigations, forensic analyses, and prosecutions of computer-related crime (including cyberterrorism)’; (816); \$25,000,000 in ‘each of the fiscal years 2003 through 2007’ for ‘antiterrorism training grants’ in ‘intelligence gathering and analysis techniques’ (1005); \$5,000,000 for fiscal year 2002 for regional antidrug training in the Republic of Turkey by the Drug Enforcement Administration for police, as well as increased precursor chemical control efforts in the South and Central Asia region’ (1005); \$250,000 to ‘study and report to Congress on the feasibility of providing to airlines access via computer to the names of passengers who are suspected of terrorist activity’ (1009); \$250,000,000 in

‘each of fiscal years 2002 through 2007 for antiterrorism grants to states and localities’ under the ‘Crime Identification Technology Act’ (1015); and \$20,000,000 ‘in fiscal year 2002’ for the ‘Defense Threat Reduction Agency’ (1016).

To simplify calculations, we might assume that no special ‘rewards’ and ‘awards’ for ‘defending the Nation’ (Sections 501-502) will be issued, even though the cronyism endemic to the Bush team, as in the recent (and partly secret) multi-billion-dollar Iraqi oil contract for Cheney’s Halliburton, strongly suggests fresh handouts to political or corporate allies.

Again to simplify calculations, we can assume that, unless specified otherwise, the funding covers at least 2002-2004. On that basis, I find the minimum cost of the Act for the taxpayer coming to \$2,927,250,000, mostly going to the ‘Department of Justice’, who wrote the Act. Yet the real cost will be far higher, because the Act also authorises the appropriation of ‘such sums as may be necessary’ to:

[26] maintain the government-wide data access service and the financial crimes communications center [...] for fiscal years 2002, 2003, 2004, and 2005 (361);

[27] fully implement the integrated entry and exit data system for airports, seaports, and land border ports of entry (414);

[28] develop [...] the technological basis for a cross-agency, cross-platform electronic system [...] to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa (403);

[29] carry out a program to provide appropriate training in identifying [and] utilizing foreign intelligence information (907);

[30] triple the number of Border Patrol personnel, Customs Service personnel, and INS inspectors [for] Protecting the Northern Border (401);

[31] make a grant to each State [...] to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices (1014).

To judge by the suspiciously round sums specified in the Act, these blanks checks will be just as exorbitant.

Undoubtedly, the self-serving allotment of all these ‘allocations’ would have been cut back during a genuine congressional debate; but, as attested in samples [20-21], none was allowed. Among the analyses of the Patriot Act posted by concerned civil rights groups on the Internet, I was puzzled to find no special attention devoted to these billions of dollars washing about at the discretion of secretive federal agencies.

Expanding the concept of ‘terrorism’ can help to justify these enormous expenditures whilst confusing and intimidating the populace. The most salient section, which has excited the greatest alarm among commentators, lawyers, and civil rights groups, reads:

[32] The term ‘domestic terrorism’ means activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion... (802)

In a literal reading, the first clause would redefine as ‘terrorism’ every ‘violation of law’ that ‘endangers human life’, which could include drunken or reckless driving, selling spoiled produce able to cause botulism, or failing to post enough ‘danger’ signs at construction site excavations. By the second and third clauses, you can qualify as a ‘terrorist’ without doing anything at all, or even ‘intending’ to; you need merely ‘appear to intend’ to do it. ‘Intimidating civilians’ could include warning them about ‘dangerous chemical companies’, which the Patriot Act II restricts you from doing, as we’ll see in sample [62]. ‘Influencing the policy of a government’ could include by filing a lawsuit for release of White House documents relating to its close involvement with Enron. Or protesting an unprovoked war:

[33] ‘You can make an easy kind of a link that, if you have a protest group protesting a war where the cause that’s being fought against is international terrorism, you might have terrorism at that protest’, said Van Winkle, of the [California] State Justice Department. ‘You can almost argue that a protest against that is a terrorist act.’ (Oakland Tribune)²²

Yet broad as the definition seems, the ‘Justice’ Department is already vigorously applying the label of ‘terrorism’ to actions whereby no life is ‘endangered’, and no innocent citizens are being ‘intimidated’, or ‘coerced’, viz:

[34] In the first two months of this year, the Justice Department filed ‘terrorism’ charges against 56 people. But an investigation has found that at least 41 of them had nothing to do with terrorism — a point that prosecutors acknowledge. [...]. In January, the General Accounting Office reported that three-fourths of all ‘international terrorism’ convictions were wrong in fiscal 2002. [...] The largest group of ‘terrorism’ cases this year was from Texas, where prosecutors have won guilty pleas from 20 of 28 Latinos charged with illegally working at the Austin airport. (Mark Fazlollah in Knight Ridder Newspapers)

[35] The Justice Department has used many of the anti-terrorism powers granted in the wake of the Sept. 11, 2001 attacks to pursue defendants for crimes unrelated to terrorism, including drug violations, credit card fraud, and bank theft, according to a government accounting released yesterday. (Dan Eggen in the Washington Post)

As for ‘credit cards’, the Act prescribes

[36] fines, penalties, imprisonment, and forfeiture [...] if the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States (400)

As for ‘drugs’, their simple use is linked with terrorism, though in a Bush ‘message’ [36] rather than the Act. (Never mind that al-Qaeda is financed by oil money, as is the 'Bush administration'.)

[37] If you're doing drugs, you're helping terrorists. That was the message from President Bush on Friday. While stopping just short of calling drug users terrorist co-conspirators, Bush argued that, because many terrorist organizations worldwide are financed in part by drug trafficking, quitting drugs may in some ways help cut off the flow of money to groups like al-Qaeda. (Associated Press)

The Act itself is merely concerned with fugitive drug money that does not involve ‘financial institutions’:

[38] to avoid using traditional financial institutions, drug dealers and other criminals are forced to move large quantities of currency in bulk form to and through the airports, border crossings, and other ports of entry where the currency can be smuggled out of the United States (371)

This concern could explain the otherwise mysterious Title for ‘Protecting the Northern Border’, with its massive appropriations noted above. Much harder to explain is why no dollars were unleashed to fortify the southern border, notorious for smuggling — a concession to NAFTA? Or why ‘antidrug’ funds go to Turkey and South and Central Asia (1005), but not Latin America — singling out Muslim nations?

The concept of ‘terrorism’ was also evidently expanded by subsuming ‘computer fraud and abuse offenses’ (202). This move was to justify the ‘national network of electronic crime task forces’ to be ‘developed’ by the ‘Secret Service’ (105) (whose real legal mandate is only to protect the president). The Act accordingly authorises the broadest ‘interception’: not just via ‘wiretaps’, ‘pen registers’ (monitor outgoing telephone calls) and ‘trap and trace devices’ (monitor incoming calls) (Sections 214, 216), and ‘seizure of voice-mail messages’ (209), but also via information from internet service providers about a citizen’s web surfing, e-mails chat sites, special interest groups, membership in organisations, and so on — all this to be channelled to ‘computer forensic laboratories for seized or intercepted computer evidence relating to criminal activity (including cyberterrorism)’ (816). You need not even be the one under investigation; the

‘interceptor’ merely needs ‘reasonable grounds to believe that the contents will be relevant to the investigation’ (217). For good measure, Section 225 grants ‘immunity’ from ‘court action’ to ‘any provider of a wire or electronic communication service’ that ‘furnishes information’. Keep in mind here that, the major news media being thoroughly tamed or cowed, the Internet is prime medium of resistance to the Bush team, who would gain much criminalizing it as the leading arena for ‘cyberterrorism’ (a hazy Sci-Fi term the Act nowhere explains). And we have already seen the ‘mission’ of the ‘New American Century’ to ‘take total control of cyberspace’.

Immunity is also granted to citizens who ‘furnish a consumer report of a consumer and all other information in a consumer's file to a government agency’; anyway, they are strictly forbidden to ‘disclose to any person, or specify in any consumer report, that a government agency has sought or obtained access to information’ (626). The implication is that ‘consumers’ can undergo ‘surveillance’ similar to ‘terrorists’, even if they only misuse their credit cards (compare sample [36] with [58]).

By a parallel expansion, the Section authorising ‘mandatory detention of suspected terrorists’ cites ‘aliens’ as the potential ‘terrorists’ to be arrested and deported on ‘belief’ of ‘endangering the national security’ [39].

[39] The Attorney General shall take into custody any alien [...] until the alien is removed from the United States [...] if [he] has reasonable grounds to believe that the alien [...] is engaged in any activity that endangers the national security of the United States. (412)

Aliens slated for special ‘monitoring’ are ‘foreign students’ under the ‘Illegal Immigration Reform and Immigrant Responsibility Act’, for which the odd sum of \$36,800,000 is ‘appropriated to the Department of Justice’ (not State!). Just how they are ‘monitored’ and why it costs so much can be easily appreciated from this report by Elizabeth Barker Brandt, Professor of Law at the University of Idaho:

[40] The FBI flew in 120 agents, fully-armed in riot gear, on two military aircraft, to Moscow, Idaho, to arrest one Saudi graduate student for visa fraud. The raid went down in University of Idaho student housing at 4:30 a.m. in the morning, terrorizing the suspect's family [and] the families of neighboring students. [...] At least 20 other students who had the misfortune to either know the suspect or to have some minor immigration irregularities were also subjected to substantial, surprise interrogations (4+ hours)...

Credit card terrorism indeed. Who terrorises whom?

Well, a government that feels entitled to such a cautionary mass ‘raid’ on a single (Arab!) ‘foreign student’ might seem assured of its powers. Not so. The overkill might be a symptom of paranoia instead, especially in view of burgeoning civil resistance, viz.:

[41] More than 130 cities and 25 states have passed resolutions condemning the USA Patriot Act, saying it gives the federal government too much snooping power. (Associated Press, 17 June 2003)

So beside the beefed up government agencies’, the Bush regime wants a vast network of civilian ‘volunteers’:

[42] According to the White House, Operation TIPS (Terrorist Information and Prevention System) [...] would recruit one million volunteers in 10 cities across the country who would be encouraged to report suspicious, ostensibly terrorism-related activity. The program will target volunteers who because of their work as, for example, utility technicians or cable installers are ‘well-positioned to recognize unusual events’, the White House says. (Peace Corps Online)²³

[43] In one of the most misguided responses to the terrorist attacks, President Bush is proposing a program to recruit one million volunteers to act as spies and informants against their neighbors. Initially, the proposed program would have recruited letter carriers, utility workers, cable installers, and workers in the transportation, trucking, shipping, maritime, and mass transit industries, whose jobs allow them access to private residences to report ‘suspicious’ activity. (ACLU)²⁴

This modest proposal having been providentially blocked by Congress, the scenario was ripe for Patriot Act II.

2.2 The discourse of Patriot Act II

The ‘Justice Department’s ‘draft’ of ‘Patriot Act II’, whose official title is the ‘Domestic Security Enhancement Act’, dated January 9, 2003 was secretly forwarded ‘for comment’ on January 10 to Speaker of the House Dennis Hastert and ‘Vice-President’ Cheney,²⁵ and posted by the Center for Public Integrity (CPI) on the Internet on February 7.²⁶ Like Patriot I, Patriot II make no attempt whatsoever to define the term ‘patriot’ (or any derivative), which occurs exactly zero times (except as the name of the predecessor act); ‘terrorist/terrorism’ occurs 353 times out of a total word-count of 36,664 — almost twice the density in Patriot I. I also find ‘security’ at 79 uses (not counting in ‘Act’ titles), up from 35 in Patriot I — four times the density — predictably, in 8 contexts it’s being ‘threatened’ and another 8 ‘endangered’.

Like Patriot I and plausibly for the same reasons I suggested there, the discourse of Patriot II mostly consists of technical tinkering to ‘amend’ previous legislation. But this time around, the purpose is not to authorise billions of dollars in ‘appropriations’ — hardly needed when the government must still be straining to spend all the cash from Patriot Act I, as analysed above. Still, in line with the drastic increases in penalties noted in sample [25], fines for ‘violators’ are jacked up five times over, from \$10,000 to \$50,000, and from \$50,000 to \$250,000; hordes of violators would be needed to make a dent in the costs of Patriot I. Besides, the Act would exempt the ‘increasing and variable number of government officials — including Cabinet and subcabinet officers, congressional leaders, and Justices of the Supreme Court — [who] have begun to receive protective services’, from paying income tax on this extra money (sec. 205).

A more significant difference is that the ‘draft’, though stamped ‘confidential — not for distribution’ at the top of every page, opens with a ‘Section-By-Section Analysis’ evidently intended as a public (or at least congressional) advocacy of why previous legislation needs to be ‘amended’. Existing laws are thematically faulted as ‘ineffective’ (505) and ‘unduly cumbersome’, (504), imposing ‘unnecessary and dangerous delays and greater administrative burden’ (101), ‘not including effective criminal deterrence’ (502), plus ‘handicapping officers’ and ‘frustrating their operations’ (312). Regulations are portrayed as restrictive, wasteful, and risky:

[44] These provisions are restrictive regarding the sharing of information among federal agencies with relevant responsibilities. This is in conflict with current needs and with the broad principles favoring the sharing of intelligence among federal agencies under the USA PATRIOT Act (129)

[45] the government is forced to divert valuable resources to litigating this question [namely, whether to ‘approve the government's request’ for the secret ‘submission of sensitive evidence’]. And even worse, a request for confidentiality itself can be a security breach: the government risks disclosing sensitive national-security information simply by explaining in open court why the information should be redacted. (204)

Since Patriot II came from the same source, the complaints lodged against Patriot I are richly ironic:

[46] The USA PATRIOT ACT [...] did not adequately address the need for enhanced information sharing authority in relation to state and local officials and foreign governments (311)

[47] The language utilized inadvertently created a lack of clarity concerning the continued validity of the pre-existing authority of the courts to issue search warrants for

the disclosure of e-mails outside of their districts. [...] This threatens to be a serious practical problem when information gathering in the United States is needed in response to requests by foreign law enforcement agencies (121)

[48] If not corrected, this anomaly [concerning] exceptions from the limitations on interception and disclosure of wire, oral, and electronic communications [...] will result in the loss of valuable and necessary intelligence exemptions to the pen register and trap and trace provisions (110)

[49] The existing limitation could complicate or prevent the prosecution of persons convicted of non-violent terrorist offenses (410) [‘convicted’ without being ‘prosecuted’?]

[50] Typographical and other errors in the USA PATRIOT Act provisions are preventing prosecutors from fully utilizing that Act's tools. (428)

[51] The current expatriation statute [...] fails to take account of the myriad ways in which, in the modern world, war can be waged against the United States. (501)

How those 120 agents with riot gear and military aircraft who swooped down on one Arab student [41] could ‘utilize the Act’s tools’ even ‘more ‘fully’ is hard to imagine, much less how typos could be ‘preventing’ it [50].

Kindred complaints were lodged against Freedom of Information Act [51] and the National Security Act [52], e.g.:

[52] Although existing exemptions permit the government to protect information relating to detainees, defending this interpretation through litigation requires extensive Department of Justice resources, which would be better spent detecting and incapacitating terrorists. (201)

[53] [Although] the National Security Act [...] creates a legal obligation for the recipient to provide the requested information, they do not specify any procedures for judicial enforcement in case the recipient refuses to comply with the request. (129)

Sample [53] points to the main thrust of Patriot II: breaking down civil resistance to the government’s comprehensive demands for information by sharply increasing the coercive force of Patriot I. Now, a ‘refusal to comply’ can lead to ‘contempt’ charges, presumably with fine or imprisonment, viz.:

[54] In the case of a refusal to comply with a request for records, a report, or other information, [...] the court may issue an order requiring the person to comply with the request. Any failure to obey the order of the court may be punished by the court as contempt thereof. (128)

[55] if a person refuses to comply with an order of the court to cooperate in the installation of a pen register or trap and trace device, [...] the Foreign Intelligence Surveillance Court has the same authority [...] to impose contempt sanctions. (109)

The penalties for publicly disclosing that you have ‘provided access by authorized investigative agencies to financial records and information, consumer reports, and travel records’ (129) may be even worse:

[56] This Subsection makes it an offense for an officer of a financial institution to notify other persons about a grand jury subpoena or an administrative subpoena issued by the Department of Justice for records of the financial institution. The offense is punishable by up to a year of imprisonment, or up to five years of imprisonment if the disclosure was made with the intent to obstruct a judicial proceeding. (129)

The Section imposes the same ban upon an ‘insurance company’. The irony of naming this ‘offense’ an ‘unlawful disclosure’ is all the more pungent because prior to Patriot I, precisely these secret ‘disclosures’ to government agents were prohibited by law.

Whilst Patriot I authorised ‘computer forensic laboratories for seized or intercepted computer evidence’ (816), Patriot II stipulates access to your entire computer (called a ‘multi-functional device’):

[57] This section [...] makes it clear that authorization of electronic surveillance with respect to a device, unless otherwise specified, may be relied on to intercept and access communications through any of the device's functions. The section also effectively allows a search warrant for other information retrievable from the device (whether or not related to the intercepted communications) to be combined with the electronic surveillance order. (124)

To invoke a dire need for secrecy, the tactic of hinting at a link between ‘consumer’ and ‘terrorist’ figures more clearly than in Patriot I:

[58] to avoid alerting terrorists that they are under investigation, this provision would prohibit (absent court approval) disclosing to a consumer the fact that law enforcement has sought his credit report. (126)

Again more clearly than in Patriot I (sample [39]), this scare tactic is applied to the ‘alien’ to justify secret arrest and imprisonment [59], and denial of release [60]:

[59] Publicizing the fact that a particular alien has been detained could alert his co-conspirators about the extent of the federal investigation and the imminence of their own detention, thus provoking them to flee to avoid detention and prosecution or to accelerate their terrorist plans before they can be disrupted. (201)

[60] This section would [...] deny release to persons charged with [...] offenses that are likely to be committed by terrorists [...] because of the unparalleled magnitude of the danger to the United States and its people posed by acts of terrorism, and because terrorism is typically engaged in by groups — many with international connections — that are often in a position to help their members flee or go into hiding. (405)

But Patriot II trumps Patriot I in imagination by invoking terrorism as a pretext to limit disclosure of industrial dangers to the environment:

[61] the Clean Air Act [...] requires private companies that use potentially dangerous chemicals to submit to the Environmental Protection Agency a ‘worst case scenario’ report detailing what would be the impact on the surrounding community of release of the specified chemicals. Such reports are a roadmap for terrorists, who could use the information to plan attacks on the facilities. [...] The revised section will require that public access be limited to ‘read-only’ methods, and only to those persons who live or work in the geographical area likely to be affected by a worst-case release. (202)

So to qualify for a ‘road map’, terrorists must go live next door to the target. (The term ‘read-only’ means you can read but not ‘remove, copy, or take notes’, sec. 202).

Still, the ‘aliens’ were definitely the ones singled out for the most imaginative treatment. Patriot II legalises sudden deportation, officially called ‘expedited removal’ (according to one section, within 14 days), for ‘all aliens, not just nonpermanent residents’; and ‘expands the expedited-removal-triggering crimes to include’ ‘possession of controlled substances, firearms offenses, espionage, sabotage, treason, threats against the President, violations of the Trading with the Enemy Act, draft evasion, and certain alien smuggling crimes’ — these excoriated as ‘far more serious than aggravated felonies’ (504).

Thus, ‘permanent residents’ are not exempt:

[62] Nor is there any reason to distinguish between aliens who are permanent residents and aliens who are not: for both types of aliens, the fact of a criminal conviction suffices to establish that a person is removable. (504)

Whether ‘illegal activities’ were committed is declared irrelevant [63]; and ‘acts’ need merely ‘appear to be intended’ [64].

[63] Requiring the additional showing that the intelligence gathering [...] on behalf of a foreign power [...] violates the laws of the United States is both unnecessary and counterproductive, as such activities threaten the national security regardless of whether they are illegal. (101)

[64] The definition of ‘international terrorism’ [...] covers acts which by their nature appear to be intended for the stated purposes. Hence, there would be no requirement to show that the defendants actually had such an intent. (402)

Astoundingly, not even US citizens are exempt: the omnipotent ‘Attorney General’ can declare them ‘aliens’ too, merely on the basis of an ‘inferred intent’, which again need not be ‘shown’ [65].

[65] An American can relinquish his citizenship [and] be expatriated if, with the intent to relinquish nationality, he becomes a member of, or provides material support to, a group that the United States has designated as a ‘terrorist organization’, if that group is engaged in hostilities against the United States. [...] The intent to relinquish nationality need not be manifested in words, but can be inferred from conduct. (501)

The most imaginative provision of all is about where to send them:

[66] The Attorney General may direct that an alien be removed to any country or region regardless of whether the country or region has a government, recognized by the United States or otherwise.

As of this writing, Patriot Act II has not been formally introduced into Congress. Yet intriguingly, on January 9, 2003, the same day it was secretly forwarded to Speaker of the House Dennis Hastert, the full Senate witnessed the formal introduction of Senate Bill S. 22, called the ‘Justice Enhancement and Domestic Security Act’, by a list of Democrats reading like a Who’s Who of ‘left-wing liberalism’ (by my own definitions), including Tom Daschle (presenter), Edward Kennedy, Hilary Clinton, Joseph Biden, Patrick Leahy, Charles Schumer, Mark Dayton, Richard Durbin, Jon Corzine, and Jack Reed. Despite the similarity of title, presumably a coincidence, this bill was intended to redirect the legislating trend of Patriot I (which it occasionally cites) rather than sharpen the force.²⁷ Senate Bill S. 22 does ‘provide \$12 billion over three years to support public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism’. But the agenda is utterly distinct from Patriot II. Support is projected not for more wiretapping and electronic surveillance technology to watch over suspicious ‘consumers’ and aliens’, but for protection of children against abuse, abduction, and

pornography; protection of the elderly ('seniors') against crime and against mistreatment in nursing homes; assistance to victims of crime; compensation of persons wrongfully convicted; benefits for officers ('hometown heroes') injured or incapacitated while on duty; protection of the cultural and archaeological history of native Americans; protection of whistleblowers in government agencies; increased use of DNA in sexual assault investigations; rescue of innocent persons from the death penalty; and drug education and prevention programs, including drug treatment alternatives to prison. Tougher laws are projected not for locking up people who refuse to provide information to the government or have disclosed that they did so; but for 'identity theft' of social security or bank account numbers; immigration of war criminals and human rights abusers; perpetration of toxic hoaxes; and sale of firearms to juveniles and believed delinquents.

Again quite distinct from Patriot II, this bill has apparently received no publicity. The title 'Justice Enhancement and Domestic Security Act' is almost unknown on the Internet, and returns zero hits in the on-line Washington Post and Los Angeles Times, and one false hit (for Patriot II) in the New York Times.²⁸ So only the Congressional Record²⁹ for January 9, 2003, pp. S137-S157 proves that the bill was ever introduced. In contrast, 'Domestic Security Enhancement Act', while not found the Washington Post and just once each in the Los Angeles Times and the New York Times, scored 3,189 hits on the Internet. Apparently, the controllers of mass media were more effective in stonewalling the left-wing 'Bill' than the right-wing 'Act'.

4. The fork in the road

The discourse of the 'new patriotism' signals a determined plan of the Bush regime to polarize American society between 'for us' and 'against us', to use their own pet phrase — between 'patriots' and 'terrorists'. In effect, the regime has brought home the 'war on terrorism' as a pretext to suspend constitutional rights. And recent events unmistakably reveal how the whole world will be affected if this polarisation takes root: the entire planet and outer space too, will be dominated by the very nation whose 'leaders' have placed their signatures on a plan calling for 'multiple, simultaneous major theater wars'. On Sept. 10, 2001, the 'New American Century' group sent a letter to 'The Honorable [sic] George W. Bush' advocating military action against Syria and Iran.³⁰

At this stage, any course but ideological and discursive resistance points the way to economic and ecological disaster. Mass media have left a discursive vacuum in which 'patriotism' would be associated such constitutional rights as freedom of speech and opinion, protection of privacy, and a fair open trial by one's peers — and not, as the 'Patriot Acts' intend, the abrogation of those rights with methods that deserve to be called terrorism themselves. This vacuum must be speedily filled by a mass exercise of free speech too populous and too determined to be intimidated and browbeaten by 'persons acting under color of law' (Patriot I) and 'Americans for Victory Over Terrorism' [18].

Numerous commentators have speculated that the regime is only waiting for another 'terrorist attack', or the threat of one, to push through Patriot II.

Now more than ever, CDA is called upon for its 'critical' perspective and discursive engagements with ideological discourse, whether public or 'confidential'. Our status as discourses analyst must be intimately balanced with our status as deeply concerned citizens in a vertiginously polarizing world, and as practitioners of a counter-discourse of economic and ecological sanity.

Notes

1. For texts accessed electronically, page numbers are not available.
2. Historically the model may have been the 'German Democratic Republic', which might well have been named 'People's Republic' ('Volksrepublik') like its eastern neighbours, but for having to stand out against the 'Federal Republic'.
3. Robert W. Tracinski, *The Moral Basis of Capitalism*, at www.capitalismcenter.org/Philosophy/
4. At <http://environmentalism.aynrand.org/>
5. From a proposed employment contract for management consultants, posted at www.plainenglish.co.uk/goldenbull.html#gleeds
6. In a commentary on a draft of my *New Introduction to the Study of Text and Discourse*.
7. At www.newamericancentury.org
8. Known as the 'Father of the House of Commons', he is famous for speaking his mind. This quote appeared in Kurt Nimmo, 'The Committee for the Liberation of Iraq: PR Spinning the Bush Doctrine', *Counterpunch*, November 19, 2002. Compare Jim Lobe, 'The Chicken Hawk Factor', at www.alternet.org, September 9, 2002; and the 'Chicken Hawk Database' of the *New Hampshire Gazette* at www.nhgazette.com/chickenhawks.html. None of the Bush regime but Colin Powell have seen combat. Draft-dodger Cheney told reporters that he 'had other priorities in the sixties than military service'.
9. Bill Moyers, 'This is Your Story — The Progressive Story of America. Pass It On.' *Common Dreams NewsCenter* at <http://www.commondreams.org/views03/0610-11.htm>.
10. At www.bushwatch.com/weinertsept.htm
11. Tom Gutting, of the *Texas City Sun*; Dan Guthrie of the *Grant's Pass Dial*; Tim McCarthy of the *Littleton Courier*
12. Sami Al-Arian, University of South Florida; Kenneth Hearlson, Orange Coast College; Richard Berthold, University of New Mexico.
13. At www.freeexpression.org/patriot.htm
14. At <http://sf.indymedia.org/features/police/>
15. At www.mediaresearch.org/cyberalerts/2002/c...20517_extra.asp
16. Posted at [/www.electpd.org/hr3162.pdf](http://www.electpd.org/hr3162.pdf)
17. At www.prorev.com/may2.htm

18. At NOOT www.infowars.com/print_patriotact2_analysis.htm
19. At www.aclu.org/Files/getFile.cfm?id=11812
20. This word-count is finledt by a large number abbreviations and paragraph labels. Other interesting frequencies: Attorney General 121, Secretary of the Treasury 49, Secretary of State 45, but Secretary of Defense just 2.
21. Alternately, the Act could be an agglomerate of ‘segments previously rejected by Congress’, and ‘in the aftermath of Sept. 11’, ‘cobbled together, reintroduced and handily passed. (Ellen Taylor in the Los Angeles Times at www.latimes.com/news/local/clv/la-clv-soundingoff).
22. At www.policestate21.com
23. Based on ACLU reports and posted at www.peacecorpsonline.org/messages/messages/2629/1008582.html
24. At [://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=10783&c=206](http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=10783&c=206)
25. Barbara Comstock, Director of Public Affairs for the Justice Department, denied it was forwarded. But the ‘Department of Justice control sheet’ proving this transaction was obtained by PBS and iis posted at www.publicintegrity.org/dtaweb/downloads/Story_01_020703_Doc_2.pdf.
26. At www.publicintegrity.org/dtaweb/downloads/Story_01_020703_Doc_1.pdf
27. I found the charge that it incorporated ‘many provisions’ of Patriot II as ‘pork barrel riders’ (Alex Jones) utterly untrue; and, given the timing, I doubt its authors could have even seen Patriot II.
28. Senate Bill S. 22 is rare on the Internet, mostly to repeat Jones’ falsehood (Note 27); and is not searchable in the on-line news sources, which confuse it with innumerable other ‘Senate Bills’.
29. Posted at www.dancesafe.org/new/articles/s22.pdf
30. Posted at www.newamericancentury.org/Bushletter.htm

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