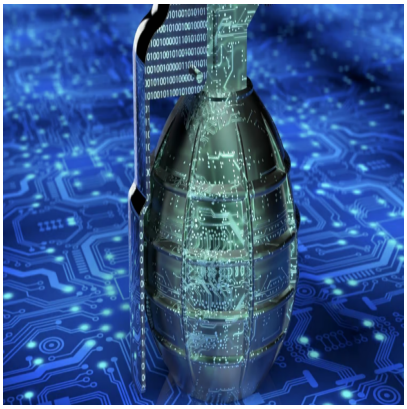

Is Censorship the Biden Era's Torture Issue?

Description

WORLD : During last month's Supreme Court hearing on a landmark case on federal censorship, Associate Justice Ketanji Brown Jackson declared, "My biggest concern is…the First Amendment hamstringing the government in significant ways."

Her comment was mystifying because that is the whole point of the First Amendment: to prevent government from nullifying freedom of speech and press.

Jackson's assertion exposed the parallels between the current case on federal censorship of social media and the torture controversies from the George W. Bush era.

Two decades ago, Bush administration lawyers secretly rewrote federal policies to assure that CIA interrogators were not "hamstrung" when they sought to flog the truth out of detainees.

When the government heaves the law and Constitution overboard, euphemisms become the coin of the realm. During the Bush era, it wasn't torture—it was merely "enhanced interrogation."

Nowadays, the issue is not "censorship"—but merely "content moderation." And "moderation" is such a virtue that it happened millions of times a year thanks to the feds arm-twisting social media companies, according to federal court decisions.

In the Bush era, torture was justified in response to "ticking time bombs." But the Senate Intelligence Committee concluded in 2014 that harsh CIA interrogations never led to "imminent threat" intelligence.

That failure was irrelevant as long as a snappy phrase exonerated tearing out toenails, waterboarding (mock drownings), rape-like rectal feeding, and pummeling people to stay awake for seven days and nights straight.

Instead of the “ticking time bomb,” Jackson last month touted mass suicide as the latest pretext for censorship in the Murthy v. Missouri case. Justice Jackson luridly warned of kids “seriously injuring or even killing themselves” by “jumping out of windows at increasing elevations” thanks to a social media “teen challenge” that the government would need to suppress.

And you don’t want all the teenagers to die, right? Washingtonians presume the First Amendment is archaic because Americans have become village idiots who must be constantly rescued by federal officials.

For both torture and censorship, Washington policymakers were presumed to be the smartest people in the room—if not the world. Yet the CIA regime was largely designed by two preening psychologists who had little or no experience conducting interrogations.

The CIA ignored its own 1989 report conclusion that “inhumane physical or psychological techniques are counterproductive because they do not produce intelligence and will probably result in false answers.”

Similarly, the lead federal agency for online censorship—the Cybersecurity and Infrastructure Security Agency (CISA)—presumed that any opinion or statement that differed from federal policies and proclamations was misinformation.

CISA simply asked government officials and “apparently always assumed the government official was a reliable source,” federal judge Terry Doughty noted in his decision last July. Any assertion by officialdom was close enough to a Delphic oracle to use to “debunk postings” by private citizens.

For both torture and censorship, there was almost zero curiosity inside the Beltway regarding what the government actually did. When the Bush administration railroaded a bill through Congress in 2006 to retroactively legalize some of its harshest interrogation methods, the Boston Globe noted that thanks to restrictions on classified information, “very few of the people engaged in the debate…know what they’re talking about.”

Sen. Jeff Sessions of Alabama, Trump’s first Attorney General, epitomized legislative absolution through absolute ignorance: “I don’t know what the CIA has been doing, nor should I know.”

(The American Conservative was one of the few political magazines that did not sweep the scandal under the rug. I wrote TAC articles on torture outrages here, here, here, here, and here.)

Similarly, when the Supreme Court heard the censorship case on March 18, the federal iron fist practically vanished. Most justices sounded clueless about the machinations exposed in earlier court decisions used to decimate the First Amendment.

In his July 4, 2023 ruling, federal Judge Terry Doughty delivered 155 pages of details of federal browbeating, jawboning, and coercion of social-media companies, potentially “the most massive attack against free speech in United States history.”

A federal appeals court followed up by issuing an injunction prohibiting federal officials from acting “to coerce or significantly encourage social-media companies to remove, delete, suppress, or reduce” content.

In the Bush era, people who were brutalized were vilified as terrorists, extremists, or enemy combatants. That blanket condemnation rested on a presumption of infallibility, as if federal agencies could never torture an innocent person. The 2014 Senate report provided a deluge of examples of hapless victims horribly abused.

Similarly nowadays, censorship is fine with many zealots as long as the targets are widely reviled groups such as anti-vaccination activists.

Many pundits viewed Covid policy critics like Southern sheriffs viewed civil rights protestors in the 1960s: they forfeited all their rights because they were up to no good.

Federal officials presumed that any assertions that disagreed with federal proclamations (such as the false promise that vaccines would prevent Covid infections) were automatically “misinformation” and could be suppressed.

Federal censorship extended far beyond Covid policy, suppressing disfavored comments on the 2020 election, mail-in voting, Ukraine, and the Afghanistan withdrawal.

Will the Supreme Court drop an Iron Curtain to shroud federal censorship like it did torture atrocities? Two years ago, the Court entitled the CIA to continue to deny its outrages despite worldwide exposes of its crimes.

The Supreme Court ludicrously declared that “sometimes information that has entered the public domain may nonetheless fall within the scope of the state secrets privilege.”

Associate Justice Neil Gorsuch dissented, warning that “utmost deference” to the CIA would “invite more claims of secrecy in more doubtful circumstances—and facilitate the loss of liberty and due process history shows very often follows.”

Gorsuch noted that the Supreme Court was granting the same type of “crown prerogatives” to federal agencies that the Declaration of Independence describes as evil.

In the Bush era, it was necessary to argue that torture was odious (alas, no one told President Donald Trump)—despite that being a self-evident truth throughout American history. In the Biden era, is it now necessary to argue that censorship is a bad thing? How in Hades did our national values go off the rails?

The Biden administration wants the Supreme Court to dismiss the censorship case because censorship victims “lack standing”—i.e., they allegedly cannot specifically prove that federal conniving directly suppressed their comments and posts.

Back in 2013, the Court disgraced itself when it used that same pretext to dismiss lawsuits on federal surveillance because the victims could not prove they were spied on. (Secrecy is convenient for shrouding government crimes.)

Justice Samuel Alito, writing for the majority, scoffed at the Supreme Court passing judgment on a case that relied on “theories that require guesswork” and “no specific facts” and fears of “hypothetical future harm.”

The Court insisted that the feds already offered plenty of safeguards to protect Americans’ rights and privacy – including the Foreign Intelligence Surveillance Court.

A few months later, whistleblower Edward Snowden revealed that the “safeguards” totally failed to prevent a vast federal illegal surveillance regime. The FISA Court has been a laughingstock for over a decade, except among its diehard devotees on Capitol Hill.

One stark difference between federal torture and censorship policies is that the latter could determine the winner of the 2024 presidential election.

Murthy v. Missouri could determine the winner of the 2024 presidential election. In the 2020 election, federal agencies suppressed millions of comments by Americans doubting the trustworthiness of mail-in ballots and other election procedures; “virtually all of the free speech suppressed was ‘conservative’ free speech,” Judge Doughty noted.

Both the federal district court and the appeals court imposed injunctions on federal agencies to prohibit them from again massively suppressing Americans’ online comments on the election.

The Supreme Court temporarily suspended that injunction when it took the current case (over the fierce dissent of Associate Justice Alito). Unless the Supreme Court revives that injunction or otherwise prohibits federal agencies from subverting free speech, another censorship tsunami could taint another national election.

How many federal crimes can the Supreme Court absolve or expunge without radically changing the relationship of Washington to the American people? Is it time to rename the Supreme Court the “Chief Tribunal for Petty Federal Crimes?”

By James Bovard

Category

1. Control-Surveillance-Privacy-Censorship
2. Crime-Justice-Terrorism-Corruption
3. Main
4. Politics-Geopolitics-Gov.-Events

Date Created
04/16/2024