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The NDAA's historic assault on American liberty

By signing into law the NDAA, the president has awarded the military extraordinary powers to detain US citizens without trial



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Do believe the hype, says Professor Turley: the NDAA, signed into law by President Obama on 31 December, authorises the US military to detain citizens indefinitely without trial. Photograph: Jacquelyn Martin/AP

President [Barack Obama](#) rang in the New Year by signing the NDAA law with its provision allowing him to indefinitely detain citizens. It was a symbolic moment, to say the least. With Americans distracted with drinking and celebrating, Obama signed one of the greatest rollbacks of civil liberties in the history of our country ... and citizens partied in unwitting bliss into the New Year.

Ironically, in addition to breaking his promise not to sign the law, Obama broke his promise on signing statements and [attached a statement that he really does not want to detain citizens indefinitely](#) (see [the text of the statement here](#)).

Obama insisted that he signed the bill simply to keep funding for the troops. It was a continuation of the dishonest treatment of the issue by the White House since the law first came to light. [As discussed earlier](#), the White House told citizens that the president would not sign the NDAA because of the provision. That spin ended after sponsor Senator Carl Levin (Democrat, Michigan) went to the floor and disclosed that it was the White House and insisted that there be no exception for citizens in the indefinite detention provision.

The latest claim is even more insulting. You do not "support our troops" by denying the principles for which they are fighting. They are not fighting to consolidate authoritarian powers in the president. The "American way of life" is defined by our constitution and specifically the bill of rights. Moreover, the insistence that you do not intend to use authoritarian powers does not alter the fact that you just signed an authoritarian measure. It is not the use but the right to use such powers that defines authoritarian systems.

The almost complete failure of the mainstream media to cover this issue is shocking. Many reporters have bought into the spin of the [Obama administration](#) as they did the spin over torture by the Bush administration. Even today, reporters refuse to call waterboarding torture despite the long line of cases and experts defining waterboarding as torture for decades.

On the NDAA, reporters continue to mouth the claim that this law only codifies what is already the law. That is not true. The administration has fought any challenges to indefinite detention to prevent a true court review. Moreover, most experts agree that such indefinite detention of citizens violates the constitution.

There are also those who continue the longstanding effort to excuse Obama's horrific record on civil liberties by blaming either others or the times. One successful myth is that there is an exception for citizens. The White House is saying that changes to the law made it unnecessary to veto the legislation. That spin is ridiculous. The changes were the inclusion of [some meaningless rhetoric](#) after key amendments protecting citizens were defeated. The provision merely states that nothing in the provisions could be construed to alter Americans' legal rights. Since the Senate clearly views citizens as not just subject to indefinite detention but even to execution without a trial, the change offers nothing but rhetoric to hide the harsh reality.

The Obama administration and Democratic members are in full spin mode – using language designed to obscure the authority given to the military. The exemption for American citizens from the *mandatory* detention requirement (section 1032) is the screening language for the next section, 1031, which offers no exemption for American citizens from the authorisation to use the military to indefinitely detain people without charge or trial.

Obama could have refused to sign the bill and the Congress would have rushed to fund the troops. Instead, as confirmed by Senator Levin, the White House conducted a misinformation campaign to secure this power while portraying the president as some type of reluctant absolute ruler, or, as Obama maintains, a reluctant president with dictatorial powers.

Most Democratic members joined their Republican colleagues in voting for this un-American measure. Some Montana citizens are [moving to force the removal of these members](#) who, they

insist, betrayed their oaths of office and their constituents. Most citizens, however, are continuing to treat the matter as a distraction from the holiday cheer.

For civil libertarians, the NDAA is our Mayan moment: 2012 is when the nation embraced authoritarian powers with little more than a pause between rounds of drinks.

- This article was [originally published on Jonathan Turley's blog](#) and is crossposted by kind permission of the author

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