

It's A Free Country: Personal Freedom in America after September 11

by Danny Goldberg, Victor Goldberg, and Robert Greenwald (eds.). New York: RDV Books, 2002, pp. 362, ISBN 0-9719206-0-5.

(Reviewed by Andrew Neal, SPIRE, May 2004)

Weighing in at 362 pages, *It's A Free Country* is a hefty tome. Many famous names and heavy hitters are presented here, including Michael Moore, Judith Butler, five members of Congress, several executive figures from various branches of the American Civil Liberties Union (ACLU), journalists, professors, law enforcement and intelligence agents and the odd musician. In all, over 50 contributions are collected together. The book aims to show that civil liberties "transcend traditional left/right divisions," and illustrate that liberty and security need not be an either/or trade-off. The editors are well connected on the American Left, and are involved with the news and entertainment media. This is reflected in the predominantly Leftist (by American standards of course) contributors and the smattering of entertainment types such as radical singer-songwriter Ani DiFranco, country rocker Steve Earle and Simpsons creator Matt Groening.

The contributions are grouped into seven mostly arbitrary categories, including the history of civil liberties, detentions and rights, and personal testimonies. Congress-people, ACLU representatives and investigators of various kinds are each given their own section. There are no 'bad' pieces as such, although there are some notable variations of style. Congressman Dennis Kucinich's "Prayer for America" will grate on European ears for example. The ACLU and professorial contributions are all exceptionally good, between them highlighting possibly every major legal and libertarian cause for concern in the US now. The contributions from Congress contain the sniping and party politicking expected from politicians, and the Republican Bob Barr seems to be included as a rather token gesture.

Ostensibly, the value of this kind of book is its variety. Its analyses venture far beyond the nuts of bolts of constitutional law or anti-terrorism policy. The recollections about racial profiling and the civil rights movement are poignant, as are the sorry tales of the flagrant disregard for civil liberties shown by most wartime Presidents. The broad expanse of the book permits much sympathetic engagement with the plight of innocent individuals, mostly Muslim males, who have fallen foul of some shocking new governmental practices truly worthy of Kafka, having their lives, families and reputations ripped apart, incarcerated, held incommunicado, not informed of their offence, moved without notice, obstructed from accessing legal counsel, and held in solitary confinement. The despair and injustice felt by these men is enough to stir the coldest heart.

To me, a very short and earnest piece by Andrew Kirkland, Assistant Police Chief in Portland, Oregon, stands out in particular. Kirkland became a minor celebrity - perhaps folk devil is a more appropriate label - when he was quoted in the New York Times as having said "No" to Attorney General John Ashcroft's edict that Middle Eastern men not suspected of any crime should be interviewed. Kirkland is not a writer. He offers a straightforward account of what then took place. Hundreds of phone calls and emails flooded his office. Many were from the press, who wanted to ask questions which he dutifully answered, explaining that based on received legal advice regarding Oregon state law, he could not carry out interviews of people suspected of no wrong doing. He also explained that the good work of community policing programs based on anti-racial profiling positions would be undone. The majority of correspondence from ordinary citizens was passionately negative, calling him a "traitor" and telling him to "do his job". Kirkland explains that one question stood out to him in particular: he was asked why, if state law prevented him from conducting the interviews, he could not just ignore the law this time, in light of the scale of the national crisis?

This captures two considerations that are absent from almost all of the arguments available here. First, it shows that there is a distinction to be made between changes to the law that are legally inconsistent or unconstitutional, and the call to disregard the law completely in the name of an emergency. It shows that there is a distinction to be made between a legal state of emergency or state of exception and a state of exception that operates at the level of practice. It shows that true democratic forces - not votes, but the will of a people - can trump political structures and the rule of law. It raises questions about how political decision and judgement work, and how they relate to political action. This leads me to the second consideration, which is that Kirkland's text points to an underlying paradox in liberal democracy. This is to be found between liberalism's emphasis on individual rights and democracy's emphasis on rule by the people, for the people. If 'the people' (the question of who the people are and who rightfully speaks for them is another question) want certain individuals or minority groups to suffer illiberal and illegal practices, then that is potentially what will happen, and apparently what has happened in the US.

These points suggest what is wrong with much of the material available in this book and on this topic generally. There is a remarkable liberal consensus that the solution to the problem of effective law enforcement, preventing terrorism, and acting as a beacon for liberty and justice in the world is to defend America's ideals. In addition to the liberal but often distasteful nationalism this brings, there is rarely any suggestion that there may be anything at fault with those ideals, or any tensions or contradictions within them that may surface in times of crisis. There is little suggestion that politics is made of deeper forces than law or constitutions. The real political issue of the day is that political power, whether from above or below, has broken free of its structural and legal shackles, perhaps temporarily due to fear, or perhaps for the long duration of this possibly endless 'war on terror'.

The main quality that this collection will impress on the reader is not a broad spectrum of political opinion that is united in its support for civil liberties, but a remarkable consensus that shows just how narrow that spectrum really is.