

*Human Rights in the Time of Terrorism*

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Human Rights Watch is an organization dedicated to protecting the human rights of people around the world.

We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

When the terrorists struck the World Trade Center on September 11, I watched from the window of my son's nursery school, just across the river in Brooklyn. By the end of the day, my computer was full of e-mails of support and concern from places like Rwanda and Bosnia, Sierra Leone and Cambodia, Colombia and Pakistan.

It struck me that now we were in the situation they are often in. Now we were the victims of atrocity. In the immediate aftermath of September 11, Ariel Dorfman the Chilean writer said: "Americans must now feel what the rest of us have known"

He also reminded us, of course, that the 11<sup>th</sup> of September was also the anniversary in 1973 of

- a coup which overthrew the elected government of Chile,
- which brought to power Gen Augusto Pinochet,
- which, like our September 11 led to the murder of 3,000 people
- a coup which was backed by the United States

September 11, 1990 was the murder of a leading Guatemalan anthropologist and activist Myrna Mack.

September 11, 1977 was the day anti-apartheid leader Stephen Biko was beaten in South Africa. He died the next day.

Seeing relatives wandering the streets of New York in the days after September 11, clutching the photos of their sons, fathers, wives, lovers, daughters, begging for

information, asking if they were alive or dead, I couldn't help but think of the tens of thousands of families of the *desaparecidos* in Latin America,

- people who also carried around photos,
- people who did not know if their loved ones were alive or dead.
- people whose relatives were kidnapped by US-backed governments in places like Argentina, Chile, Bolivia, and Guatemala

I do not recall these references to suggest that what happened on September 11 was not something new, both in terms of quantity and of dimension. On September 11, 2001, we entered the age of international mega-terrorism. As the deadly attacks in Spain reminded us, if a reminder was needed, there is an army of fanatics who will stop at nothing to inflict maximum, even catastrophic damage on our societies, in the hope of imposing a system that denies all the rights that we cherish.

I certainly do not recall these events to suggest that they in any way justify or explain the crimes that were committed on September 11, 2001. Nor to suggest that because the United States was complicit in other abuses, this somehow mitigates the responsibility of the 9/11 perpetrators or diminishes the tragedy of the victims.

Rather, I recall these events to insist on our shared humanity, and to urge that we look at September 11 as one point, one very disastrous point, on a continuum of human suffering that marks our world today.

- a world in which half of our six billion people still live in poverty, 24 percent in "absolute poverty."
- A world in which, two million children have died in the last decade as the direct result of armed conflict
- A world made unsafe for all by terrorism's global reach
- A world in which, as we speak, 1 million people have been forced from their homes in a campaign of ethnic cleansing in the Darfur region of the Sudan.

With this in mind, I want to address two themes today.

First, that the promotion and the spread of human rights, far from being a hindrance in the war against terrorism are, in the long run, is an integral part of the fight against extremism.

Second, that in the name of the fight against terrorism, we are creating a world in which human rights are even less respected and that this, in the long run, will undermine the fight against terrorism

## 1. Human Rights are an integral part in the fight against extremism

I am very privileged to have worked with Professor John Humphrey of Canada, one of the principal authors of Universal Declaration of Human Rights, in his later years. Professor Humphrey drew on many sources in preparing the Declaration. One that has always meant a lot to me, and I'm sorry to be parochial, was a famous speech by US President Franklin Delano Roosevelt. In the midst of World War II, during what he described as an "unprecedented" threat to the United States, Roosevelt described as the "four essential human freedoms" which he held forth as a vision for the world.

I quote

*"The first is freedom of speech and expression --everywhere in the world.*

*The second is freedom of every person to worship God in his own way-- everywhere in the world.*

*The third is freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants--everywhere in the world.*

*The fourth is freedom from fear, which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor -- anywhere in the world."*

[End of Quote]

I submit to you that if that vision of the world were a reality today, we would have BOTH freedom and security; we would both enjoy the fruits of liberty AND be much safer from terrorism.

I would argue, then, that the promotion of human rights internationally, the extension of basic right to all peoples of the world, is not just an ethical value but is also an essential tool in the fight against terrorism.

UN Secretary-General Kofi Annan pointed the way in his September 2003 address to the General Assembly: "We now see, with chilling clarity, *he said* that a world where many millions of people endure brutal oppression and extreme misery will never be fully secure, even for its most privileged inhabitants."

While terrorists themselves will not be reached by anything we can do short of surrender, we must act on the evidence that *support* for terrorism feeds off repression, injustice, inequality and lack of opportunity. As Richard Falk has said, "The message of extremism is not nearly as likely to resonate as broadly and nearly as menacingly if its animating

grievances are not widely shared in the broader affected community.” The concept of human security which former Foreign Minister Lloyd Axworthy emphasized in recent years is key to addressing the roots of support for terrorism. As described by the Canadian government, this is a “people-centered approach to foreign policy which recognizes that lasting stability cannot be achieved until people are protected from violent threats to their rights, safety or lives.”

A recent National Research Council report, “Discouraging Terrorism,” finds that: *and I quote* “terrorism and its supporting audiences appear to be fostered by policies of extreme political repression and discouraged by policies of incorporating both dissident and moderate groups responsibly into civil society and the political process”. Numerous studies have found a direct correlation between a lack of civil liberties and terrorism and support for terrorism. These studies and polls also show that even among those who support terrorism, who support suicide bombings, overwhelming majorities support the basic values of democracy and individual freedom and yearn to enjoy their benefits.

Where there is democracy and equality, where there is hope, where there are peaceful possibilities for change, terrorism is far less likely to gain popular support.

Global security – our own security from terrorism - is thus enhanced by the success of open societies that foster respect for the rule of law, promote tolerance, and guarantee people's rights of free expression and peaceful dissent.

## **2. We are undermining Human Rights**

So leads me to my second point, that U.S. policies in the war on terror are leading in the opposite direction. The campaign against terrorism has seen the erosion of the rule of law rather than its enforcement. Human rights have been undermined at the very time they most need to be upheld.

In making this point, I want to make it clear that I do not challenge the need for vastly increased security measures and police work as well as enhanced international cooperation to combat terrorism and deprive terrorists of financial support. We must all, especially those of us living in urban centers, traveling on planes, trains and using mass transportation, confront the terrorist reality. Every day I take a NYC subway over the Manhattan bridge, in the knowledge that terrorists have sought to blow up the adjacent Brooklyn Bridge. I expect and demand my government will do all it can to protect me and my family from terrorist attacks. I recall the concern here in Canada last month when the Auditor-general warned of serious flaws in Canadian security measures introduced since the 9/11 attacks.

Around the globe, there is an unprecedented assault on liberties.

I don't need to go into the details of abuses in the United States. Guantanamo is known in Canada and around the world as a symbol of the United States' contempt for the rule of law. I hope that the US Supreme Court, which has just heard cases on Guantanamo and

the indefinite incommunicado detention of so-called “enemy combatants” will play its Constitutional role of checking unbridled executive power and guaranteeing fundamental liberties.

But I do want to speak about :

- The threat of these new US practices as a bad example to the rest of the world, and
- The globalization of abuses in the post-9/11 world

a) the threat of a bad example

Recently, my Human Rights Watch colleague Tom Malinowski attended a meeting between US Deputy Secretary of Defense Paul Wolfowitz and a renowned Arab advocate of democracy who was taking a risk at home merely by meeting a Bush administration official. This brave man expressed gratitude for President Bush’s commitment to democracy in the Muslim world. But he also pointedly told Wolfowitz that the administration’s own willingness to compromise human rights in fighting terror is undermining its campaign for liberty in the Middle East. “Every dictator in the region is pointing to America’s example as an excuse to crack down on dissent,” he said.

That statement is borne out by our own research, in the Middle East and elsewhere. Let me give you just a few examples:

The Malaysian law minister said that detentions under its draconian Internal Security Act (ISA) were “just like Guantanamo Bay.” Other Malaysian officials have cited the U.S. Patriot Act, a piece of legislation that increases the government's surveillance and detention powers, as justification for detention without trial

Eritrea justified its lengthy detention of the founder of the country’s leading newspaper by citing the widespread post- 9/11 detentions in the United States.

In fact, our researchers report that in countries like Malaysia and Yemen, the authorities even threaten detainees – falsely of course – that they will hand them over to the Americans to be sent to Guantanamo.

Indeed, around the world, countries are cynically attempting to take advantage of the war on terror to intensify their own crackdowns on political opponents, separatists, and religious groups, or to suggest they should be immune from criticism of their human rights practices.

By waving the anti-terrorism banner, governments such as Uzbekistan seem to act as if they had greater license to persecute religious dissenters, while governments such as Russia, Israel, and China seem to act with greater freedom as they intensify repression in Chechnya, the West Bank, and Xinjiang.

Tunisia stepped up trying civilians on terrorism charges before military courts that flagrantly disregarded due-process rights.

Claiming that asylum-seekers can be a “pipeline for terrorists” entering the country, Australia imposed some of the tightest restrictions on asylum in the industrialized world.

Ugandan President Yoweri Museveni shut down the leading independent newspaper for a week in October 2002 because it was allegedly promoting terrorism by reporting a government military defeat.

Before he was deposed, Liberian President Charles Taylor declared three of his critics--the editor of a local newspaper and two others -- to be “illegal combatants” who would be tried for terrorism in a military court.

Obviously, its difficult for the United States, once a leading voice on issues of international human rights, to talk about these abuses, given its own record.

Earlier this year, a US State Department spokesman urged the government of Azerbaijan to release or charge opposition activists arrested in protests there. A reporter asked if that principle applied to the detainees in Guantanamo Bay or just to Azerbaijan. The spokesman had no answer, and when Azerbaijan came up at the department briefing the next day, the “charge or release” formulation was dropped. Similarly, a U.S. diplomat in Malaysia recently told Human Rights Watch that “we can’t really say much” about the indefinite detention of government opponents in that country because of Guantanamo Bay.

The silencing or the discrediting of the US’s voice on matters of global human rights makes Canada’s voice all that much more important.

#### b) the globalization of abuse

Now to a certain extent of course, governments have always subordinated human rights to other concerns, during the Cold War, for instance, but just as September 11 stands as a symbol of a new *globalized* form of terrorism, **what we have seen in response to September 11 is a new *globalized* pattern of human rights violations that includes off-shore prisons, cross-border arrests that verge on kidnappings, and the “rendition” of terror suspects to countries where information is beaten out of them.**

I would like to highlight two such areas.

Firstly, many of the abuses that we have seen have an *extraterritorial* dimension: The classic case, of course, has been camp X-Ray at Guantanamo Bay, which the Bush administration deliberately chose as a detention facility in an attempt to put the detainees beyond the reach of the US courts and their jurisdiction.

According to the US government, it is free to imprison the Guantanamo detainees indefinitely. Indeed, the U.S. government has argued that U.S. courts would have not have jurisdiction over these detainees *even* if it they were being tortured or summarily executed.

But similar problems are posed by the US's detention of terrorist suspects in other locations in second countries. Indeed, Guantánamo may not be the worst problem; it may even be a diversion from more extreme situations. Perhaps out of concern that Guantánamo will eventually be monitored by the U.S. federal courts, the Bush administration does not hold its most sensitive and high-profile detainees there. Terrorism suspects like Ramzi bin al-Shibh and Khalid Sheikh Mohammed are detained instead in undisclosed locations abroad, with no access to Red Cross visits or any sort of neutral oversight of their treatment.

In Iraq, we have now all seen the pictures of U.S. military personnel subjecting Iraqi detainees to humiliating treatment. The brazenness with which the soldiers conducted themselves, snapping photographs and flashing the 'thumbs-up' sign as they abused prisoners, suggests they felt they had nothing to hide from their superiors. Indeed, there are now reports that their superiors in military intelligence urged such behavior to create better conditions for interrogation. This is all the more disturbing because the United States has failed to provide clear or consistent information on its treatment of some 10,000 civilians held there - and has provided no information at all for at least 200 so-called "high security detainees."

In Afghanistan, the US is also holding civilians in a legal black hole at separate detention facilities at Bagram, Kandahar, Jalalabad and Asadabad military bases. – with no tribunals, no legal counsel, no family visits and no basic legal protections. A report we released in March presents compelling evidence suggesting that U.S. personnel have committed acts against detainees amounting to torture or cruel, inhumane, or degrading treatment. Released detainees have said that U.S. forces severely beat them, doused them with cold water and subjected them to freezing temperatures. Many said they were forced to stay awake, or to stand or kneel in painful positions for extended periods of time. Three people have died in US custody there, and two of the deaths were ruled homicides by U.S. military doctors who performed autopsies. The Department of Defense has yet to explain adequately the circumstances of any of these deaths.

A second concern are cross-border arrests and transfers. Human Rights Watch has discovered a troubling trend - Nationals of second or even third countries are being handed over and transferred from one country to another without due process, without resort to regular extradition proceedings and often in situations where they may face torture, cruel, inhuman and degrading treatment, unfair trials or even the death penalty. In

Canada, the case of Maher Arar, with whom I am pleased to share the podium today, is well known, but it is not the only case.

As I am sure most of you know, in September 2002, the U.S. government apprehended Mr. Arar, a dual Canadian-Syrian national, in transit from Tunisia through New York to Canada, where he has lived since he was 17. After holding him for nearly two weeks, U.S. authorities flew him to Jordan, where he was driven across the border and handed over to Syrian authorities, despite his repeated statements to U.S. officials that he would be tortured in Syria and his repeated requests to be sent home to Canada.

In doing so, the United States denied him any kind of due process or the opportunity to contest their claims that he was connected to terrorism, and, in stark violation of The UN torture convention, to which the United States is a party, it expelled him to a state where he would likely be tortured.

Mr. Arar was released without charge from Syrian custody ten months later and related how he was tortured repeatedly, often with cables and electrical cords, during his confinement in a Syrian prison. The U.S. government has still not explained why it sent him to Syria rather than to Canada, where he resides; why it believed Syrian assurances that he would not be tortured to be credible in light of the government's well-documented record of torture, including designation as a country that practices systematic torture by the U.S. Department of State's 2003 Country Reports on Human Rights Practices; and why it did not even attempt to monitor his treatment in Syria.

We are pleased that Canada is engaged in a formal inquiry into Mr. Arar case. The Canadian government has recently made motions to the inquiry to resist disclosure to Mr. Arar, his counsel and the Canadian public of information on grounds of national security and relations with foreign governments. Legitimate concerns about national security on the part of the Canadian government, however, should not be used to deny Mr. Arar fair access to information that might enable him to clear his name and permit Canadians to fully understand what Canadian officials did or did not do in relation to the torture of a Canadian citizen in Syria. We also ask the U.S. government to fully cooperate with the inquiry.

But as I said Mr. Arar's ordeal is part of a larger phenomenon. The United States has still not answered charges leveled in the Washington Post which, citing numerous unnamed U.S. officials, described the rendition of captured al-Qaeda suspects from U.S. custody to other countries, such as Uzbekistan, Pakistan, Egypt, Jordan, Saudi Arabia and Morocco, where they were tortured or mistreated. These countries, like Syria, are ones where the United States itself has criticized the practice of torture. Indeed, in at least one case, U.S. operatives were involved in the transfer to Syria of a dual German-Syrian national arrested in Morocco, a move protested by the German government.

Let me refer to two other cases which illustrate this global practice.

Last June, five prominent muslims - a Kenyan, Sudanese, Saudi and two Turkish nationals - were arrested in the middle of the night in the small African country of

Malawi in a joint security operation involving Malawi police and the US CIA. Although a Malawi high court judge issued an injunction barring their deportation, and ordering the authorities to charge the men or release them on bail, the five were flown out of the country, their whereabouts unknown, sparking three days of rioting by Muslims against Christians in the ethnically diverse country. Only five weeks later did the detainees reappear, in Khartoum, Sudan, after having been interrogated for a month, apparently by the CIA in Zimbabwe. The President of Malawi has apologized to the families and the BBC reported him saying that he did not approve of the arrest but acquiesced in order to please the Americans.

In another case, the Bush administration sought the surrender in Bosnia of six Algerian men who were suspected of planning attacks on Americans. After a three-month investigation, Bosnia's Supreme Court ordered the men's release from custody for lack of evidence. When rumors spread of U.S. efforts to seize the suspects anyway, Bosnia's Human Rights Chamber -- which was established under the U.S.-sponsored Dayton peace accord and includes six local and eight international members -- issued an injunction against their removal. Yet in January 2002, under U.S. pressure, the Bosnian government ignored this legal ruling and delivered the men to U.S. forces, who whisked them out of the country and to Guantanamo.

In addition, the governments of Austria, Canada, Georgia, Germany, Sweden, Turkey, the United Kingdom and the United States have all sought to return terrorist or national security suspects to countries where torture is a widespread or systematic problem, including Egypt, the Philippines, Russia, Sri Lanka, Syria and Uzbekistan. Some individuals have in fact been returned and were then tortured or seriously ill-treated. I am pleased to say that in a January 2002 decision, the Suresh case, involving a man to be sent to Sri Lanka, the Canadian Supreme Court -- in marked contrast to the US actions in the Arar case - upheld the principle that diplomatic assurances that a returnee will not be tortured should not be relied upon when they are proffered by a state that practices torture or that does not have control over forces that perpetrate acts of torture

Around the world, human rights are being assailed in the name of the international campaign against terrorism, but these cross-border practices pose a unique challenge to the rule of law internationally because many of them fall outside the jurisdiction of established courts.

Two weeks ago, with the support of Canada, the United Nations Commission on Human Rights approved a Mexican-led initiative to monitor how governments are fighting the campaign against terrorism and whether counterterrorism measures are compatible with international standards. A new expert will now be appointed to assist the incoming U.N. High Commissioner for Human Rights, Canadian Supreme Court Justice Louise Arbour, in dealing with these new phenomena, as well other abuses in the war on terror, which include

- increased use worldwide of prolonged, incommunicado detention without judicial review,
- torture and other physical and psychological mistreatment of detainees and
- security measures that discriminate and curtail freedom of expression and association.

Canada has a long history of standing up for human rights internationally. In recent years, Canada has been a particularly strong ally of the human rights movement in issues like

- creating and defending the International Criminal Court, now presided by Canadian judge Philippe Kirsch,
- adopting the treaty to ban anti-personnel landmines, and
- establishing a treaty to bar the use of child soldiers

There is now a greater need than ever for Canada to be a firm voice in defense of human rights worldwide. Canada can use its close relationship with the United States to be critical of these self-defeating US policies that I have described. It can build on its experience in peace-keeping and its pioneering role in defining the international “responsibility to protect” to help the international community respond to the worst crises – such as the one we are witnessing today in the Darfur region of the Sudan. And it can promote its vision of “human security” to speak out in favor a world in which all people are guaranteed their basic rights.

Thank you.