Human rights activists in many parts of the world share a rising sense of alarm about the new challenges of promoting human rights in the context of heightened global concern about the threat of terrorism. Pre-existing conflicts in different parts of the globe have been sustained and exacerbated by being characterized as fronts in the global war on terrorism; a designation that governments appear to believe gives them greater latitude to disregard the constraints of international human rights law and humanitarian law. Previously peaceful countries have seen tractable, if difficult, political problems escalate into violence as governments have resorted to military force as a preferred method in confronting a terrorist threat. Everywhere human rights activists are wrestling with a sea-change in what might be called the presumptive norm in international affairs that prior to September 11, 2001, saw adherence to international human rights standards as generally desirable, whereas now the primacy of respect for international human rights standards is routinely challenged and questioned in word and deed by governments of all kinds, democratic and undemocratic alike.

Too many governments are declaring that it is acceptable to violate human rights in the war against terrorism. For example, the Indonesian President, Megawati Sukarnoputri, instructed soldiers that they “should not be afraid of abusing human rights in Aceh,” where the army is engaged in a long running counterinsurgency campaign that has been recast as part of the global war against terrorism.

New legislation, policies, and practices have proliferated in the name of increased security, some of them inimical to human rights and to the long-term fight against terrorism. Human rights and humanitarian norms, an important bulwark against terrorism, have been relegated to secondary importance.

Even as some strong voices have spoken out on the need to hold those who wage terror against civilians accountable under international law, many governments have seized upon the war against terrorism to turn their backs on international standards and to turn back the clock of human rights protection. Human rights defenders who press for adherence to international standards are among those targeted by many governments for repression.

Human rights promotion has been impeded by a variety of negative developments:

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1) Human Rights Defenders Increasingly Equated with Terrorists

Efforts of human rights defenders have been denigrated as being supportive of terrorism and insufficiently attentive to the imperatives of national security threats. Human rights defenders who spoke out against repression as a response to the threat of terrorism have themselves been subjected to attack for their criticisms.

Defaming human rights defenders as terrorist sympathizers is an old device. The post-September 2001 global emphasis on the primacy of counterterrorism gave new potency to such criticisms and gave them a veneer of international respectability.

- Former Indian Deputy Prime Minister L. K. Advani, in November 2001, called for the passage of a new Prevention of Terrorism Act that would curtail numerous previously protected rights and freedoms. He stated: “If the opposition opposes the ordinance they will be wittingly or unwittingly helping terrorists.”

- In the United States, Attorney General John Ashcroft, in testimony before the Senate Judiciary Committee on December 7, 2001, said: “To those who scare peace-loving people with phantoms of lost liberty, my message is this: Your tactics only aid terrorists for they erode our national unity and diminish our resolve….They give ammunition to America's enemies and pause to America's friends. They encourage people of good will to remain silent in the face of evil.”

Human rights defenders are among the voices speaking out for a measured and effective response to the threat of terrorism. Steps taken to silence these voices include broad controls on freedom of expression, association, and movement—and measures to intimidate, demonize, brutalize, imprison, exile, or murder the individuals who stand up for human rights.

2) Undermining Legal Protections

Governments have, in many cases, invoked the war against terrorism in implementing policies and practices at the national level that side-step due process of law and set aside fundamental human rights guarantees. These affect basic freedoms for all but often have a particular impact on human rights defenders—in some cases leading to threats to their lives and liberty and in all cases constraining their ability to protect the rights of others.

Counterterrorism measures have been used as a justification for noncompliance with international human rights standards — and domestic law — by a wide variety of governments. For example, Former President of Georgia, Eduard Shevardnadze stated in December 2002, after coming under criticism for colluding with Russia in the violation of

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4 “Ashcroft: Critics of new terror measures undermine efforts,” CNN.com, December 7, 2001
the human rights of Chechens, that “international human rights commitments might become pale in comparison with the importance of the anti-terrorist campaign.” Simultaneously, the efforts of human rights defenders have been denigrated as being supportive of terrorism and insufficiently attentive to the imperatives of national security threats. For example, in Colombia, the government of President Alvaro Uribe, which came to power in May 2002, has stated that its struggle against guerrilla forces is “working to the same ends” as the U.S.-led global war on terrorism. It has stepped up its military campaign against insurgents and has frequently accused human rights defenders of “serving terrorism and hiding in a cowardly manner behind the human rights flag,” to use the president’s own words.

3) The Intensification of Civil Conflicts

The context of the global war against terrorism has intensified extreme nationalist and sectarian sentiment in many countries, building added pressures to curtail rights protections, particularly of minority communities, on grounds of national security. The often-longstanding tensions between governments and their opponents, particularly in situations involving violent separatist or nationalist movements, have been augmented by the new emphasis given to combating international terrorism. Violence has intensified in the Philippines, Russia, China, and India, and minority Muslim communities have suffered disproportionately from violence and deprivations of rights that have been justified by governments as a legitimate response to the threat of terrorism.

Other long-standing internal conflicts, that are not influenced by religious sectarianism, in countries like Colombia, Indonesia, and Nepal, have also been recast as fronts in the war against terrorism since September 2001. Mainstream politicians and media in countries like Israel and Russia discuss positions previously considered extreme and unreasonable, like population transfers of minority ethnic and religious groups. With public fear heightened by political leaders emphasizing national vulnerabilities, it becomes increasingly difficult for activists to promote a human rights agenda.

The example of Thailand is particularly striking. For decades Thailand has distinguished itself from other countries in Asia by the ability of those in power to find peaceful solutions to problems that in other countries have provoked full-fledged civil wars. On April 28, 2004, the Thai security forces massacred 107 young Muslims armed with only machetes thereby inflaming and injecting an unprecedented level of violence into the troubled relations between the government and the small Muslim minority in southern Thailand. The government claimed a victory against terrorists and Muslim opposition groups issued violent threats of revenge attacks against Thai civilians and tourists.

4) The Weakening of State to State Peer Pressure

At the interstate level, governments have shown greater deference towards other states implicated in violations of human rights, if they justify their conduct by reference to counterterrorism. For example, Australian Foreign Minister, Alexander Downer declared in June 2003, that the military crackdown in Aceh by the government of Indonesia was “justified,” despite the resultant suffering of the civilian population in the region, and the reports of widespread violations of human rights. The United States has expressed its appreciation of the support it has received in the “war on terrorism” from a wide range of governments that are notorious for their violations of human rights, including Pakistan, Uzbekistan, and Tunisia.

State to state peer pressure as a factor in human rights promotion and protection has been greatly weakened, thus undermining one of the most important techniques available to human rights activists for bringing pressure to bear on human rights violators. For example, in May 2002, prior to a meeting between former Malaysian Prime Minister Mahatir and President Bush, Minister of Justice Dr. Rais Yatim met with Attorney General Ashcroft and discussed national security measures employed by both countries to combat terrorism. The United States government had previously criticized the Malaysian Internal Security Act (ISA), which among other things, permits protracted detention without charge or trial. Minister Yatim remarked:

I believe that after the meeting there will be no more basis to criticize each other’s systems, specifically the ISA, because if they do that, then the Patriot Act, which is quite similar in nature to the ISA, could come into a position of jeopardy itself: Ashcroft seemed to understand the existence, need and the future of the ISA in as much as we understand the Patriot Act.9

The minister was correct in his prediction. At the subsequent meeting between President Bush and the Malaysian Prime Minister there was no public criticism by the United States of the ISA.

Governments that were previously criticized for human rights violations that occurred during counterinsurgency campaigns have felt vindicated by the newly permissive attitude towards departures from international human rights standards in the name of security. For example, President Kumaratunga of Sri Lanka remarked: “When countries like Sri Lanka fought against terrorists, developed nations worried only about the human rights of terrorist organizations.”10 The government in Colombia also pointed to what it saw as a double standard in Western attitudes. Referring to antiterrorism measures passed in the United States, United Kingdom, France, and Spain it stated: “For these countries, [the measures] are to defend democracy, liberty, and the citizens’ rights, but in our country they are called authoritarian measures that violate human rights

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treaties, when we are clearly working towards the same ends.”\textsuperscript{11} Human rights defenders were weaker and more vulnerable to attack because of this erosion of international disapproval of human rights violations for whatever pretext.

5) Mixed Messages from the United States Government on Human Rights

In countries that are aligned with the United States in the war against terrorism, including several states notorious for their poor human rights practices and disregard of democratic principles, unqualified U.S. support and aid have continued despite continuing violations.

Colombia, Indonesia, Pakistan, the Philippines, and Uzbekistan have all received a substantial increase in U.S. foreign assistance since September 2001, some of it direct military assistance, as well as closer formal military cooperation, especially in the field of counterterrorism. Pakistan was designated a Major Non-NATO Ally (MNNA) of the United States in May 2004, despite a lack of progress towards democracy by President Musharraf. Many observers have noted that: “The major non-NATO ally declaration may serve to embolden the Pakistan government, and reinforce the notion that it may continue along its current path without undertaking democratic reforms.”\textsuperscript{12} When the President of Pakistan visited the White House in 2002, President Bush remarked: “President Musharraf is a leader with great courage, and his nation is a key partner in the global coalition against terror.”\textsuperscript{13} President Bush did not voice concern about the Pakistani government’s human rights record during his public remarks.

Even when the United States has criticized human rights violations in these countries, as it has continued to do in the annual \textit{Country Reports on Human Rights Practices} and elsewhere, the governments concerned have been able to weigh that against the practical cooperation and material assistance they have continued to receive. In such circumstances, the strength of the verbal reprimands in official human rights statements is diminished.

In Russia, the government’s brutal tactics in Chechnya had become a target of growing national and international criticism by 2001. After September 11, the Russian government has increasingly sought to justify its harsh military actions in Chechnya as a response to the Chechens’ ties to Al-Qa’eda and global Islamic terrorism. No resolution criticizing Russian practices in Chechnya has been presented to the United Nations Human Rights Commission since 2002, in contrast to previous years. Nonviolent human rights defenders have been openly criticized as friends of terrorists, even as their work exposed them to violent reprisal from all sides of the conflict.

\textsuperscript{12} For example, Prosser Andrew, “U.S. Arms Transfers to America’s Newest major Non-NATO Ally,” May 3, 2004, Center for Defense Information. Available at: http://www.cdi.org/friendlyversion/printversion.cfm?documentID=2197
\textsuperscript{13} The White House, “U.S.–Pakistan Affirm Commitment Against Terrorism,” February 13, 2002.
Similarly, an internal conflict involving the Muslim Uighur minority in northwestern China was also portrayed by the Chinese government as its front in the global war against terrorism. The post-September 11 climate has aided the Chinese government’s long-standing suppression of internal political dissent throughout the country, including its intolerance of independent human rights activists.

6) **Proliferation of Exceptional Laws that Violate Human Rights Standards**

Many states have either implemented new national security laws or found new validation for pre-existing emergency legislation by claiming to be following the examples of the United States. These laws invariably undermine human rights protections. Because definitions of terrorism employed by these laws are often both vague and sweeping, their effect is to substantially increase unchecked executive power. In some countries, the U.S.-led war on terrorism has had a direct impact on domestic human rights conditions. Elsewhere, domestic factors have provided the primary motive for worsening human rights conditions. Often, nonetheless, states invoke the U.S. example of to mask or justify violations.

States that had already proclaimed states of emergency or imposed sweeping national security legislation have found new validation for their previously criticized actions in the post-September 2001 world. Authoritarian governments felt emboldened to declare that U.S. departures from international human rights norms showed that their own methods of addressing security threats had been right all along. President Mubarak of Egypt, for example, declared that the new U.S. policies proved “that we were right from the beginning in using all means, including military tribunals, to combat terrorism...”

Human rights defenders who spoke out against repression as a response to the threat of terrorism have themselves been subjected to attack for their criticisms. For example, in the Russian province of Krasnodar, the regional authorities used the new Law on Extremist Activities, passed in July 2002, to order the summary closure for six months of the Krasnodar Human Rights Center, an organization that had monitored violations occurring in Chechnya and the North Caucasus. Prior to the passage of the new law, the organization would have been able to contest the closure order in court while continuing with its work, but the new law left it with no legal redress.

7) **U.S. Policy Discrediting Human Rights**

In a deeply polarized global political environment, where many U.S. policies are controversial, human rights defenders with any perceived or actual association with the United States now face added threats and pressures. This is a particular problem for human rights advocates in the Middle East and the broader Muslim world, a vast region spanning from Indonesia to West Africa that has been repeatedly identified by the Bush administration as the target of a “forward strategy for freedom.” The U.S. government is,

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if anything, placing more emphasis on this aspect of its counterterror policy. For example, on February 5, 2004, President Bush compared the war on terror to the challenges confronting Winston Churchill during the Second World War. He told an audience at the Library of Congress in Washington D.C.:

Our great challenge (i)s support the momentum of freedom in the greater Middle East. The stakes could not be higher. As long as that region is a place of tyranny and despair and anger, it will produce men and movements that threaten the safety of Americans and our friends. We seek the advance of democracy for the most practical of reasons: because democracies do not support terrorists or threaten the world with weapons of mass murder.

America is pursuing a forward strategy of freedom in the Middle East. We’re challenging the enemies of reform, confronting the allies of terror, and expecting a higher standard from our friends.\(^{15}\)

In recent years, the U.S. government has become publicly identified in the region with many of the issues of democratization, good governance, promotion of the rule of law, and human rights that are the core concerns of human rights activists in the region. In many countries of the region, attention to serious problems in these areas may be considered progress after decades of apparent indifference. However, regional governments and their supporters, who have reason to feel threatened by the types of reforms promoted by the United States, have found it easy to criticize the U.S. proposals and brand local human rights activists as tools of broader U.S. policies. They focus on what is widely viewed as hypocrisy in U.S. policy: where the United States is curtailing rights protections at home while promoting human rights and the rule of law abroad. In this context, many critics view U.S. human rights initiatives as cynical tools aimed at reinforcing U.S. political domination throughout the world. Some criticism goes so far as to say that U.S. actions after September 2001, have demonstrated that western championing of human rights was “never more than thinly disguised self-interest,” and that, “the United States has given up all credibility as a critic of other states’ human rights practices.”\(^{16}\)

Skepticism about U.S. motives and actions has created a paradoxical situation. The United States cannot be seen as a human rights violator that flouts international legality and as a friend of anti-democratic leaders who disparage human rights if, at the same time, it wishes to be taken seriously as the promoter of liberty and democracy in the greater Middle East or elsewhere in the world.


\(^{16}\) See, for example, remarks by the Permanent Representative of Singapore to the United Nations at New York, Kishore Mahbubani, to an international conference organized by the International Peace Academy, New York, November 7, 2003.
8) The Negative Example of U.S. Policy

There was a pronounced shift in the global discourse about human rights after September 2001. It was a shift brought about because of the perception that when challenged by the threat of terrorism, the most powerful country in the world violated human rights in the name of upholding national security.

Since September 11, 2001, the international community’s progress toward protecting human rights for all has suffered a setback—not least because the leaders of the United States government itself appear to have lost confidence in the very framework of law the United States has been so instrumental in developing.

The relationship between the U.S. government and the people it serves has dramatically changed; this “new normal” of U.S. governance is defined by the loss of particular freedoms for some, and, worse, a detachment from the rule of law as a whole.17

The undermining of U.S. compliance with fundamental human rights standards has serious implications for human rights norms in scores of other countries. The consequences of changing U.S. policy have been more serious where partner governments, confident that they are needed for the global “war against terrorism,” feel new liberty to violate human rights.

There is a widespread belief among human rights activists in many parts of the world that U.S. disregard for international human rights principles has set a negative global pattern. The arguments for this view are compelling. The views and actions of the United States carry great influence in all parts of the world. Moreover, the United States has been a leading member of the contemporary international human rights system from its inception in 1948. Since the presidency of Jimmy Carter in 1976, human rights have played an increasingly prominent part in U.S. foreign policy under both Democratic and Republican administrations. Therefore, it is only natural that governments around the world should look closely at U.S. practice and rhetoric as a guide to their own compliance with international standards.

This is not to say that the United States is responsible for human rights violations committed by other governments. It is not. Each government is obliged to abide by the international human rights treaties it has ratified. Human rights violations were widespread prior to September 11, 2001, and they continued to be so afterwards, often for many of the same reasons.

For decades the United States has been a leading voice for human rights around the world and a lynchpin of the international system of human rights protection. This

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multilateral system functions imperfectly without U.S. participation and leadership. At
the present time, there is a case to be made that the United States is pulling in the
opposite direction, undermining the multilateral system for human rights promotion and
protection that has been painstakingly constructed over more than 50 years.

REPAIRING THE DAMAGE: Human Rights and Security as Complementary
Concepts

The idea of human rights and security being antithetical—a reversal of the logic of the
drafters of the Universal Declaration of Human Rights, and a consequence of short
memories and political opportunism—or linked in negative correlation, is profoundly
damaging to the work of human rights defenders. Within such an intellectual construct
those promoting human rights are characterized as obstacles to security, if not supporters
of terrorism.

U.N. Secretary General Kofi Annan has set out an alternative vision of the
complementarity of human rights and counterterrorism:

Our responses to terrorism, as well as our efforts to thwart
it and prevent it, should uphold the human rights that
terrorists aim to destroy. Respect for human rights,
fundamental freedoms and the rule of law are essential
tools in the effort to combat terrorism—not privileges to be
sacrificed at a time of tension.18

Perhaps the greatest damage done to the international human rights system, with human
rights defenders on the front line has been the erosion of state compliance with
international human rights standards as the presumptive international norm. The pretext
of counterterrorism has sparked a race to the bottom in state’s observance of international
human rights. The adoption by the United Nations General Assembly of the Declaration
on Human Rights Defenders in 1998 was an important indication of this growing
international consensus. The Declaration codified the right to promote and protect
human rights as a normative standard.

Weakening the international standards and mechanisms for human rights
promotion and protection, or shaking the international consensus on human rights, has no
connection to implementing effective policies against terrorism. Building conditions
within states where human rights defenders operate freely helps to create an environment
where terrorism does not prevail. All governments should reaffirm their commitment to
support the essential work of human rights defenders.

18 Statement of Secretary General Kofi Annan to a special meeting of the Security Council’s Counter-
Terrorism Committee with International, Regional, and Sub-Regional Organizations, New York, March 6
There are perhaps reasons to be hopeful that the international mood among nations on the need to satisfy both rights and security concerns in counterterrorism policy has subtly shifted in the past year. Today some governments and many civil society organizations are increasingly emphasizing the need to more scrupulously protect human rights in times of crisis and not least in the fight against terrorism. This is argued on its own merits—and as an important contribution to halting lawless attacks on civilian lives and property in the long term. The reaction of much of the world to the terrible attack on a school in Beslan, Russia earlier this month, and the recommendations of the bi-partisan 9/11 Commission in the United States are indicators of growing support for human rights promotion to be an integral part of effective counterterrorism measures.

Respect for human rights, democracy, and the rule of law is an essential antidote to the conditions which give rise to terrorism. In contrast, the abuse of basic rights in the course of efforts to combat terrorism can ultimately be self-defeating—blurring the distinction between those who stand for the rule of law and those who defy it.

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19 For example, the 9/11 commissioners recommend: “One of the lessons of the long Cold War was that short-term gains in cooperating with the most repressive and brutal governments were too often outweighed by long-term setbacks for America’s stature and interests.” The 9/11 Commission Report, Authorized Edition, W. W. Norton, New York, p. 376.