



Half Empty or Half Full? National Security and Human Rights: The Obama Administration After One Year

IHRFG Semi-Annual Meeting, San Francisco, California
Tuesday, January 26, 2010, 9:15-10:45 am

Facilitator: **Vince Warren**, Executive Director, Center for Constitutional Rights

Speakers: **Shahid Buttar**, Executive Director, Bill of Rights Defense Committee; **Kay Guinane**, Program Manager, Charity and Security Network; **Admiral John D. Hutson**, Dean and President, Franklin Pierce Law Center

Sponsor: Proteus Fund; Open Society Institute; The Atlantic Philanthropies; Wellspring Advisors

Vince Warren opened by saying that although we have begun to understand the broad secret surveillance system operating in the U.S. and the U.S. torture program, this was not brought to light by the Bush Administration, but through media and non-profit organizations. He posed two questions to the audience: (1) How is the situation different now that President Obama is in office? and (2) What is the role that grantmakers can play? We now have the task of dismantling the national security state created by former President Bush.

Kay Guinane explained the work of the Charity and Security Network, a coordinating hub aiming to (1) reframe the conversation around security, civil society and human rights to show that there need not be a tradeoff between security and human rights. (2) act proactively and draft guidelines that translate ideas into proposed legislation. She feels cautiously optimistic that there is space for change within the current Administration.

Shahid Buttar more closely examined surveillance practices and asserted that the outbounds of these programs are still secret. We do not know how closely the government is monitoring communications. Provisions of the Patriot Act will expire soon and although an alternative reauthorization bill was drafted that included a number of civil liberties protections, the message from the White House was to pursue straight reauthorization without change.

Profiling seems to be increasing; it is no longer strictly racial, but also religious and political. The news cycle portraying the attempted attack over Christmas emphasized the need for profiling, despite the fact that this incident occurring even with profiling demonstrates that profiling is inadequate. Shahid views our situation as half empty in the short term, but with vast opportunity in the long term to rebuild a constitutional culture. He concluded by saying that project-specific funding approaches are inadequate; it is time for us to play offense and support larger infrastructural capacity building.

Admiral John Hutson discussed changes in U.S. immigration and detention policies. He sees the glass as 1/3rd full and 2/3rd empty, which is progress. He asserted that reforms we have made are not yet deeply embedded and that we are one tragedy away from a police state. The U.S. still sends detainees to Bagram Air Base and Guantanamo remains open, in the absence of a plan for addressing what to do with the remaining detainees in either location.

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He cited other examples, such as the election of a Senator in Massachusetts who has publicly stated that 'water boarding is okay' and the armed forces manual, which is the single standard for interrogation, still provides for sleep deprivation and stress positions. He sees the U.S. locked into a 'paradigm of victory' and instead calls for us to focus on education and supporting a middle class as means to address terrorism.

Vince asked each panelist to share their views on successes thus far during the Obama Administration. Kay cited the KindHearts case as a small opening, while Shahid said that while Obama started strong, he is now backpedaling. John highlighted the improvement of the view of the U.S. amongst the international community and the cessation of torture as a national policy.

Question and Answer:

Q: What do you think the prognosis is for the trial of individuals accused of participation in the 9/11 attack? What should happen?

- Many think that a conviction is more likely through a military commission rather than within the judicial system. U.S. federal courts are certainly capable and have been trying terrorism related cases for decades.

Q: Why is the glass 1/3rd full - did Obama lie? Did we misread him? Why aren't we as hopeful now?

Panelists mentioned a number of contributing factors including campaign rhetoric, the fact that is likely more difficult than Obama initially thought to erect change, and that the Administration's attention has been diverted by other pressing issues such as the economy and healthcare.

Vince responded that in a way, we got what we were expecting - an individual that is exceedingly good at the rhetoric but negotiates from the middle. In a way this has healed the nation, but also makes it near impossible to achieve consensus within the White House, as no matter what he does, someone will be alienated.

Shahid also mentioned that as Congress is majority Democrat, there is a tendency to let Obama proceed without a strong check from Congress. The Obama Administration has bent over backwards to appease the right, but there has not been a gesture of goodwill from that side.

John contended that we are now engaged in asymmetric war, where our key strength lies in our ideals and that we need to question, "why do they hate us?"

One participant asked whether there has been a change in definition as to what constitutes a terrorist to which the panel responded that there have been no formal changes with this.

Admiral Hutson recommended that funders increase support to grassroots efforts to educate Congress and policymakers and bring influential people together, such as diplomats, prosecutors and policymakers to delve deeper into these issues and learn from one another.

Vince concluded the session by posing several questions: How are funders to choose between the number of pressing issues, can they be pursued simultaneously? How are we going to dismantle the national security state and build a constitutional culture? He believes that we bought into the Obama hype because we needed to, but also that Obama could be the individual who takes a decisive step towards a constitutional culture. What is new to this discussion is bringing a human rights lens that we've generally applied internationally, into the U.S. context.