

A Human Rights Agenda for Global Security

Irene Khan

Where ... do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.

—Eleanor Roosevelt

Human rights are often used by governments as a cloak to put on or cast off according to political expediency, and the UN is often powerless to render states accountable for their adherence to international law and human rights performance. In the words of Michael Ignatieff: “Human rights treaties, agencies, and instruments multiply and yet the volume and scale of human rights abuses keep pace. In part, this is a problem of success—abuses are now more visible—but it is also a sign of failure. No era has ever been so conscious of the gap between what it practices and what it preaches.”

That gap was accentuated in the aftermath of the September 11, 2001, attacks as governments geared up to fight “the war against terrorism.” It deepened with the military attacks on Iraq. The drive for global security appeared to be trumping human rights with impunity.

This chapter identifies the key challenges posed to human rights by the global security agenda. Recognizing that a narrowly focused security agenda has failed to make the world either safe or free, it argues for a paradigm shift in the concept of security. At the center are not the concerns of states but the human rights of people in the quest for a safer, more just world.

Security for Whom?

In September 2002, when I was Secretary General of Amnesty International, I led a delegation to Burundi just days after a massacre in which some 174 civilians had been killed by the army in a remote village. There were only four survivors. My colleagues and I went to the local hospital to meet them. One of them was a girl of six named Claudine. She could not remember her family name, but she recalled in vivid detail the way in which her grandfather, father, stepmother, and two sisters were killed and her baby brother was bayoneted to death by soldiers. She had somehow managed to crawl between the legs of the soldiers and escape in the commotion without being noticed. A neighbor found her wounded, naked, and unconscious in the forest and had brought her to the

hospital, but neither the neighbor nor the hospital had the means to buy her any clothes. That is why Claudine, the youngest of the four survivors of a bloody massacre, was still wrapped in a blanket ten days later when we saw her.

The next morning in my meeting with President Buyoya, I asked him what action he would take to protect civilians in the conflict. He replied, “Madam, you do not understand—we are fighting a war to protect our national security.”

There was an unfortunate familiar ring to his response. How often have those words—“national security”—been used by governments to justify the killing of civilians, the torture of dissidents, the persecution of minorities, or the attack on political opponents?

Backlash Against Human Rights

The erosion of human rights by governments in the name of security is not new. What is new is the zeal with which governments have launched a frontal attack on the very framework of human rights in recent times.

In the days, weeks, and months that followed the attacks of September 11, almost every country in the world—from Australia to Zimbabwe—expanded its powers, lawfully or unlawfully, to investigate, arrest, detain, and to restrict people’s rights of assembly, free speech, and fair trials.

Between 2000 and 2011 the United Kingdom adopted a range of counterterrorism laws that expanded the definition of terrorism, increased the period of pre-charge detention, introduced and modified the control order regime and increased the use of closed tribunal proceedings and stop and search powers and curtailed the right to protest.

The United Kingdom had adopted a tough antiterrorist law in 2000 that had already led to the banning of twenty organizations, including al Qaeda. Yet, within weeks of September 11, the British Parliament rushed through another piece of legislation permitting the government to detain, on the basis of secret evidence and without charge or trial, foreigners suspected of involvement in terrorism but who could not be deported. The United Kingdom was the only country in Europe to seek derogation from the European Convention on Human Rights to allow introduction of such a measure. Seventeen men were imprisoned under the Act in high security institutions. Following a ruling by the Law Lords, the highest Court in the UK, the men detained under the Act were released in 2005, but immediately put under “Control Orders,” tough measures akin to administrative detention in their own homes, imposed by the Home Secretary. Control Orders were abolished in 2011 with the Terrorism Prevention and Investigation Measures Act (TPIM) and replaced with a TPIM notice by the Home Secretary, which has greater judicial oversight and a two-year limit but is basically a

control order in almost all but name. Until a 2005 ruling to the contrary by the House of Lords, the Special Immigration Appeals Commission, which hears the detention hearings, took the position that evidence extracted from a third party through torture could be relied on by the Commission to rule on the detentions.

Many repressive regimes have used the so-called war against terrorism as a license to clamp down on political dissidents or minority groups. Others have escaped international scrutiny and censure of their appalling human rights records by professing to join “the global coalition against terrorism.”

The enthusiasm of governments to fight “terrorism” has not been dampened by the absence of a common international definition of the term. On the contrary, governments have chosen to define it as broadly or as narrowly as their national, strategic, or political interests call for, making it a shifting concept that is tied to political and ideological interests and, therefore, open to abuse and misinterpretation.

At the international level, for many governments, terrorism signifies an act of violence for what they do not consider to be a good cause. At the domestic level, antiterrorist laws often cover acts that are already criminalized, and so the focus is not on the act or its impact but on the motive. The propensity for abuse is aggravated by the fact that antiterrorist laws are notoriously vague.

In September 2001 the UN Security Council adopted resolution 1373 which imposed binding obligations on all UN member states to take counter-terrorism measures in a broad range of areas, including border control, information exchange, asylum and refugee policies, and extradition, but failed to remind States of their obligation to do so without undermining human rights obligations. It took another two years for a Security Council resolution relating to terrorism to make any mention of human rights. Even the UN has deferred to security over human rights.

Leading the Pack

It is interesting to note the use of the term “war on terror” by the George W. Bush administration. By speaking of “war,” it sought to deny the applicability of human rights. By speaking of “terror,” it tried to avoid the application of international humanitarian law. By combining the two into a war without geographic or temporal limits, it tried to create a zone of action that is a legal black hole. By taking it one step further to the doctrine of preemptive attack, it made the world a potentially more dangerous place.

Under the Bush administration, the United States arbitrarily detained hundreds of its Arab and Muslim residents. It designated two of its own citizens as enemy combatants, depriving them of legal counsel and *habeas corpus*. It did both without even resorting to the draconian provisions of the Patriot Act, which was rushed through Congress in the wake of the September 11 attacks in 2001.

Doublespeak brings disrepute to human rights but is a common phenomenon among governments. While professing to promote justice, the Bush administration actively tried to undermine international justice and the International Criminal Court through bilateral agreements granting impunity to its own nationals. The message that there is one set of laws for the powerful and another for the rest of the world not only promotes impunity for abuse but also undermines the universality of human rights.

While professing to make the world more secure, the Bush administration undermined the collective security that international law and international institutions offer. It detained hundreds of prisoners (including minors) at Guantanamo Bay, in defiance of the provisions of the Geneva Conventions (a policy the Obama administration continued despite promises to the contrary). Detainees were threatened by the Bush administration with military trials that would violate U.S. as well as international standards of justice, leading one commentator to describe the violations as “the Pentagon’s Kafkaesque justice system.” In Britain, Lord Justice Steyn, a judicial member of the House of Lords, described the U.S. military commissions as kangaroo courts, a concept derived, as he put it, “from the jumps of the kangaroo ... the idea of pre-ordained arbitrary rush to judgment by an irregular tribunal which makes a mockery of justice.” The U.S. government has ignored allegations of torture and ill treatment by its officials at Bagram in Afghanistan. It has refused to investigate mass murder by its allies in Afghanistan or ill treatment of civilians by its soldiers in Iraq. Some of its actions in Iraq were reminiscent of the violations of international humanitarian law by the Israeli army in the Occupied Territories: house demolitions, humiliating restrictions on movement of civilians, and failure to investigate civilian killings.

Some governments have seen the actions of the Bush administration as an encouragement to jettison human rights in times of crisis. Others have used it to vindicate their own practices. For instance, the Israeli government has quoted the missile attack by the United States on al Qaeda suspects in Yemen as justifying its own targeted executions of Palestinians in the Occupied Territories.

Collateral Damage

In a climate of fear where even the most powerful and protected feel vulnerable, people are easily persuaded that the price for safety is the erosion of liberty. Yet there is no empirical evidence to show that restraining freedom strengthens security on a sustainable, durable basis. On the contrary, the drive for security at the cost of human rights, far from making the world a safer place, has made it more dangerous by encouraging secrecy, shielding governments from scrutiny, promoting double standards, undermining international institutions and the rule of international law. To those consequences of the backlash against human rights must be added others. The “war on terror” and the war in Iraq have created a deep sense of injustice and alienation that has permeated and deeply divided societies and communities in a way not seen since the end of the Cold War. There is also a growing cynicism about the universal value of human rights. Discriminatory antiterrorist laws in some countries targeted only foreigners or foreign-born citizens or encouraged racial profiling. This kind of stigmatizing is a source of danger, encouraging a climate in which xenophobia and racism flourishes. Muslims, Arabs, and Asians are easy targets of Islamophobia. On the other side, anti-Semitism has also reemerged with the resurgence of Islamic and other political extremism. Political rhetoric about “good and evil,”—“you are with us or against us,” “the forces of evil,” “them and us”—has widened this gulf.

New seeds of social discord and insecurity are sprouting between citizens and noncitizens. Racism and xenophobia are latent in all societies, but in some European countries they feature blatantly as some politicians exploit people’s fears and prejudices for short-term electoral gains. Some aspects of the media have played into this strategy, dehumanizing and demonizing foreigners, foreign-born citizens, refugees, and asylum seekers. They are pointed out as a source of danger and become an easy target for hate speech and violence. Those who need their rights protected the most have become the ones most at risk of attacks.

The increasing polarization between communities has strengthened the hands of those who have always feared the powerful appeal of human rights and who, in turn, are using arguments based on cultural and religious norms to undermine human rights in the Islamic world and in Islamic communities in the Western world. Cultural relativism is being used as a ground to delegitimize the universality of human rights, not only by some fundamentalist and extremist groups but also by some governments in non-Western countries.

Whether at the hands of Christian, Islamic, or Hindu fundamentalists, a common casualty of the “war on terror” has been women’s human rights. Western countries manipulated the global security agenda in the name of women’s human rights but did little to protect women in Afghanistan or Iraq. The backlash against human rights and the growth of fundamentalism have combined to tighten

restrictions on women in Iraq, for instance, and have reinforced the excuses for violence against women in the name of religion, custom, culture and tradition.

Heightened security concerns have also increased pressure on human rights defenders. In many countries, governments have clamped down on activism as a security threat in itself. Activists and particularly small local groups have found that their space for action has shrunk, and that they are viewed with suspicion and even hostility.

In some countries, it has become more difficult to garner public support for human rights work. Human rights advocates work through the pressure of public opinion. The basic premise of their work is that human rights violations anywhere are the concern of people everywhere. It is difficult to mobilize public opinion in affluent societies in favor of human rights when people fear that their own safety might be at stake. It is difficult to promote international solidarity for human rights among ethnic minorities, among the poor and the vulnerable, when they see themselves as the targets, rather than the beneficiaries, of the international security agenda.

Human rights groups have been accused of double standards: of failing to condemn armed groups and “terrorists,” while criticizing governments who respond to them. The truth is that most armed groups are not as susceptible to the tactics that human rights advocates apply. “Naming and shaming” is hardly likely to have any impact on al Qaeda! Undoubtedly, human rights groups need to do more to find the levers of pressure on armed groups—for instance, through pressure on allies and supporters, or through exposing the “sources” that provide arms and funds to these groups. But there is no doubt that attacks on civilians by armed groups are a clear violation of international human rights and humanitarian law and can sometimes amount to crimes against humanity and war crimes. Those who commit such crimes must be brought to trial in accordance with international standards. Those who support them, whether governmental or private actors, should be exposed as being complicit in the crime and therefore also liable under international law.

An Agenda for Change

Restrictions on liberty have not paid dividends in greater security. The backlash against human rights indicates that the world today is less free. But the insurgency in Iraq, the anarchy in Afghanistan, and the spate of suicide bombs and attacks in crowded cities from Mumbai to Moscow also show that the world today is less safe.

Building a safer world requires a paradigm shift in the approach to security. Real security comes through respect of human rights and the rule of law. Insecurity and violence are best tackled by effective, accountable states that uphold, not violate, human rights. A trade-off between human rights and security is both unprincipled and shortsighted.

Security and human rights are not incompatible. Governments have the right, indeed the duty, to protect people from attacks by armed groups or individuals but they are obliged to do so within the rule of law and the framework of international human rights. It is possible to carry out both obligations within the human rights system. Human rights treaties are drafted by governments that are acutely aware of security concerns that range from internal subversion to international armed conflict. The treaties therefore grant governments the power to protect legitimate security interests without unduly restricting fundamental freedoms.

Governments are not entitled to respond to terror with terror. Just as criminal violence is best addressed through better—not brutal—policing, so too insecurity and violence are best tackled by effective, accountable states that ensure the security of their people by upholding, not violating their rights.

There is now—slowly but surely—a better understanding of the balance between security and liberty, at least among some parts of the judiciary. The U.S. Supreme Court decided to examine the legality of detention of some of the people held at Guantanamo and ruled several times against the Bush administration. A U.S. Circuit Court of Appeals panel issued a ruling barring the President from declaring a U.S. citizen an “enemy combatant” without Congressional authorization. A German court upheld the right to a fair trial of a man suspected of terrorist activities and dismissed the charges against him. Legislatures in the United Kingdom and the United States have been less ready to expand antiterrorist powers of the executive. European governments have refused to extradite to the United States any suspected terrorists without a guarantee against the application of the death penalty. A number of countries, including Brazil, have refused to sign bilateral impunity agreements with the United States.

Addressing Real Sources of Insecurity

Building a safer world also means looking at the real sources of insecurity from which millions of people suffer. Promoting security is not just about fighting a war against terrorism. It is about looking at threats more broadly and understanding them in the context not of state but people’s security.

For many people the threat to personal security does not lie in terrorist attacks but in the failure to eradicate extreme poverty and preventable diseases, to arrest and treat the spread of HIV/AIDS, or to halt the flow of small arms. For many women, life will continue to be insecure as long as they are unprotected from violence in their homes and communities. For many people, real security will remain illusory as long as police, courts, and state institutions in their country remain inept or corrupt.

A war was fought to rid the world of weapons of mass destruction. Yet the real weapons of mass destruction are small arms and conventional weapons, which kill almost four hundred thousand people a year. The uncontrollable proliferation of light weapons makes it easier to recruit children to fight wars. The world is awash with small arms: there is one weapon for every ten people and there are enough bullets produced each year to shoot every man, woman and child on this planet, twice. Developing countries spend about \$22 billion a year on weapons. For \$10 billion, they could achieve universal primary education.

The uncontrolled trade in arms puts the world at risk. In the name of combating the so-called war on terror, many governments, led by the United States, have relaxed controls on exports to governments that are known to have appalling human rights records, among them Colombia, Indonesia, Pakistan, and Israel.

A global problem needs a global solution. An arms control treaty has been in the making in the UN for many years. The permanent members of the UN Security Council are the main producers and traders of weapons. Whether or not an effective treaty will be adopted eventually depends on their willingness to address this problem. Their failure to do so will call into question not only their commitment to human rights but also their responsibility as guardians of international security.

Directly as well as indirectly, women's rights have suffered under a narrow security agenda. For many women, gender violence is the greatest threat to security that they face. In many countries there are no laws to protect women. Even where there are laws, police and the judiciary fail to apply them properly. In some countries discrimination against women is severe, creating an environment in which women are routinely suppressed and attacked. Poor women are more exposed to violence and less able to escape it than women of wealthier means.

All women have the right to be free from violence by state or private actors. Governments need to introduce legislative and judicial changes to protect women's human rights. More support must be given to women's groups to organize themselves against violence. More investment must be made in education for girls and employment for women.

Extreme poverty is a major source of insecurity for millions of people. In a world where globalization has brought unbelievable affluence and wealth to many, absolute poverty has persisted

and inequality has grown. The Universal Declaration of Human Rights proclaims that people have the right not only to liberty and freedom of expression but also to a standard of living adequate for their health and well-being, including food, housing, and medical care. Reorienting the security agenda in favor of human security and human rights will require enormous commitment and investment by governments and the international community, financial institutions and business leaders, and civil society. It will require a new approach to aid and trade. New funds must be found to meet the social needs of poor and marginalized communities. New money must be found to help countries build fair and effective justice and policing systems, so that legal justice can go hand in hand with social and economic justice.

Globalizing Human Rights

Global insecurity, far from diminishing the value of human rights, has actually heightened the need to respect them. The failure of the international community to effectively uphold those rights only underlines the importance of human rights defenders and activists in bringing about change.

Local human rights groups, social movements, and activists are the real lifeblood for change around the world, opening up societies, and fighting for international standards of human rights and good governance. They are also an important antidote to attacks on human rights by governments, armed groups, or others. Together with international human rights organizations they form a global civil society that exposes abuse, challenges injustice, and strives for greater accountability.

The challenges facing human rights activists today are stark: to confront the threat posed by callous, cruel, and criminal acts of armed groups and individuals; to resist the backlash against human rights created by the single-minded pursuit of a global security doctrine that has deeply divided the world; and to redress the failure of governments and the international community to deliver on social and economic justice.

The power of people to bring about human rights change should not be underestimated. Human rights provide a tool to human rights defenders. They give voice to the powerless: the prisoner of conscience, the prisoner of violence, the prisoner of poverty. They bring hope to millions. Human rights are a banner to mobilize people globally in the cause of justice and truth. They provide a fractured world with a glue to bind people in favor of equality, freedom, and justice, and against violence and abuse. They offer a powerful and compelling vision of a better and fairer world for all men, women, and children, and provide a concrete plan of how to get there. That is why a sustainable agenda for global security is an agenda for human rights.