

- A publication of Mennonite Central Committee
- July–August 2002
- Volume XXXIV
- No. 4



SECURITY—AT WHAT COST?

Civil Liberties in a New Era

BY DAVID M. WHETTSTONE

May God grant us the courage and opportunity to speak up for those who are not treated justly.

“In contrast to the church, governing authorities of the world have been instituted by God for maintaining order in societies. Such governments and other human institutions as servants of God are called to act justly and provide order. But like all such institutions, nations tend to demand total allegiance. . . . Even at its best, a government cannot act completely according to the justice of God . . .”

—*Confession of Faith in a Mennonite Perspective*, Article 23, “The Church’s Relation to Government and Society,” 1995.

Post-Sept. 11, U.S. policy is largely committed to an unceasing war on terrorism. This commitment reconfigures our relationship to the rest of the world and will have a steady impact on our daily lives.

While government is both a servant and an authority, it asks many things of us. Ideally, its role is to preserve, protect, and even promote civil liberties. Civil liberties encompass many rights which foster peace. In an open society or a democracy, they include the right to free speech, religious freedom, and due process under law.

Many U.S. Americans take these privileges for granted and believe that civil liberties will never be taken away in one particular action or moment. However, erosion of such rights can happen through a series of government actions or laws, coupled with a lack of accountability and public disinterest.

This issue of the *Washington Memo* attempts to give an overview of the state of civil liberties in this country, as well as highlighting some of the concerns raised around the world.

Martin Shupack examines the situation of prisoners from the Afghanistan conflict now held at Guantanamo Bay, Cuba (p. 3). David Whettstone gives an overview of the “USA PATRIOT Act” and other related civil liberty issues (p. 4). Elisabeth Harder explores whether immigrants under detention in the United States are receiving fair treatment and due process (p. 5). Patrick Neri presents a record of U.S. support for states who fail to uphold human rights (p. 6). Our guest writer, Ms. Sharifa Alk-hateeb, attests to the experience of civil rights/liberties infringements upon Muslim- and Arab-Americans (p. 7).

May God grant us the courage and opportunity to speak up for those who are not treated justly. At stake is freedom and fairness for all of us—at home and across the globe. ■

IN THIS MEMO

Balancing Act	2
Guantanamo Detainees	3
Capital Quotes	3
Losing Civil Liberties?	4
Liberty for Foreign-Born?	5
Depraved Security	6
American Muslim Speaks	7
Sound the Trumpet!	8

BY J. DARYL BYLER

**A free society at home
cannot be sustained while
acting unjustly abroad.**

Balancing Act

Recent travel to Iraq illustrated contrasting ways in which governments balance individual liberties and national security interests.

At U.S. and European airports, security screening was intense. Many times I emptied my pockets, stepped through metal detectors, was frisked or asked to take off my shoes.

In Iraq, our MCC group met with an Iraqi cabinet minister and other high-level officials. Not once did we get searched or asked to step through a metal detector. However, we had a government “minder” with us most of the time to monitor our activities and conversation.

The United States has always placed a premium on individual liberties. But public safety is also a high value. Until Sept. 11, most Americans assumed it was possible to have both.

Since Sept. 11, U.S. officials—in the name of national security—have eroded individual liberties, in small ways for most of us and in significant ways for many Arab-American and other recent immigrant communities.

In its annual report, Amnesty International criticizes the U.S. government for detentions of some 1,200 persons—mostly foreign nationals—“on the basis of mere suspicion of involvement in ‘terrorism.’”

The United States is not alone. According to the report, “a number of governments rushed through legislation and other ‘anti-terrorism’

measures in the name of security . . . [including] indefinite detention without trial, special courts based on secret evidence, or cultural and religious restrictions—sometimes creating shadow criminal justice systems.”

Irene Khan, Secretary General of Amnesty International, warns, “Security can not and must not take precedence over human rights.”

God has established governing authorities to uphold the common good (Romans 13:4) and to “punish those who do wrong” (1 Peter 2:14). States are not to collectively detain and punish *groups* of people. Rather, restrictions on individual liberties should be based on credible evidence—not upon whims, nationality or skin color.

But there is a broader issue as well. If the United States hopes to enjoy a secure future that also fosters individual liberties, then it must increasingly become concerned with these same benefits for others in the global family.

A free society at home cannot be sustained while acting unjustly abroad. Ali A. Mazrui, director of the Institute of Global Cultural Studies at State University of New York, writes cogently, “U.S. liberty at home may never again be completely safe if U.S. imperialism abroad continues unabated.”

Indeed, biblical shalom—peace and security based on the practice of justice—seeks the well-being of the entire global family. Theologian Walter Brueggeman asserts that, “the biblical vision of shalom functions always as a firm rejection of values and lifestyles that seek security and well-being in manipulative ways at the expense of another part of creation, another part of the community, or a brother or sister.”

Promoting individual liberties while protecting national security interests will always require a bit of a balancing act. This is a healthy tension.

But when nations persist in acting unjustly, this balancing act becomes impossible to manage. And individual liberties will always take a beating in the name of protecting national security. ■

WASHINGTON MEMO is written by Mennonite Central Committee U.S. Washington Office staff. It interprets national legislation and policy, seeking to reflect biblical concerns for justice and peace as represented in the work and statements of MCC U.S. and Mennonite and Brethren in Christ churches. All biblical quotes are from the New Revised Standard Version, unless otherwise noted.

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Washington Memo (USPS 130-310) is published bi-monthly by Mennonite Central Committee, Akron, PA. Periodical postage paid at Akron, PA. This issue went to press June 14, 2001.

HOW TO SUBSCRIBE: Washington Memo subscription rates are \$10 for one year; \$18 for two years. Send request and check to MCC, PO Box 500, Akron, PA 17501-0500. For address changes, send your old address with your new address to MCC. Allow 2–4 weeks for address change. POSTMASTER: Send address changes to MCC, PO Box 500, Akron, PA 17501.

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Law or Vengeance for Guantanamo Detainees?

BY MARTIN SHUPACK

The first prisoners from Afghanistan arrived at the U.S. naval base in Guantanamo Bay, Cuba on January 11, handcuffed, shackled and wearing taped-over ski-goggles. They were placed in 8' by 8' open-air, cage-like cells without walls. They slept on pads on concrete floors, lacked running water and used buckets for elimination.

In May the detainees were moved into a permanent prison. The smaller 6' by 8' cells have walls on three sides, metal beds, sinks with running water and flushing toilets. Camp Delta currently houses 384 prisoners from 34 countries, all accused of being Taliban or Al Qaeda fighters.

The U.S. government so far has denied detainees access to legal counsel, courts or family members. Defense Secretary Rumsfeld says they may be held indefinitely, even if acquitted of wrong-doing.

While reluctantly agreeing that the detainees are covered by the Geneva Conventions, the Bush administration says they are "unlawful combatants," not "prisoners of war." The detainees cannot appeal this decision to a competent tribunal, as required by international law.

"Prisoner of war" status would give detainees charged with war crimes the right to be tried before a regular U.S. military court, with the same due process guarantees as a courts-martial. Instead, they will likely face special military commissions.

The draft rules for these commissions violated principles in the Bill of Rights and international law. The final rules corrected some of these abuses. They provide for public trials, access to defense attorneys, a stan-

dard of proof "beyond a reasonable doubt," rights against self-incrimination, and the defense's ability to see the prosecution's evidence and cross-examine witnesses.

Nevertheless, "hearsay," or second-hand evidence, will be allowed. The commissions can impose the death penalty by unanimous vote (conviction requires only a two-thirds decision). Defendants can only appeal rulings to a special three-person panel appointed by the Secretary of Defense.

Critics also lament that the Bush administration's distorted interpretation of the Geneva Conventions could be used to deny "prisoner of war" status to regular armed forces. "They may not realize it," says a Human Rights Watch official, "but the administration has effectively declared U.S. Special Forces fighting in Afghanistan to be unlawful combatants [because they do not wear military uniforms]." ■

CAPITAL QUOTES

"We hope that someday your government will not do everything with force."

—Yusuf al-Saka, council vice-chair, Evangelical Protestant Church of Baghdad, to MCC delegation visiting Iraq in May 2002.

"You know, I often tell people that if you want to respond to what has happened to our country, you can do so with prayer. But as important, you can do so by loving your neighbor like you'd like to be loved yourself. If you want to fight evil, do some good."

—President Bush, at National Hispanic Prayer Breakfast (Congressional Quarterly, May 15, 2002).

"It's the hardest thing to do, to take a weapon out of the budget. It is just so easy to put one in."

—Edward C. Aldridge, Undersecretary of Defense, on the Pentagon's efforts to cancel the \$11 billion "Crusader" mobile artillery program over Congress' objections.

Pontius' Puddle



Are We Losing Our Civil Liberties?

BY DAVID M. WHETTSTONE

Changes in civil liberties raise unsettling questions. Who belongs? Who do we feel safe with?

Whether most U.S. Americans realize it or not, regulations regarding their civil liberties and the practices of law enforcement have changed. Since Sept. 11, the “USA PATRIOT Act” (“Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act”) has been the main response to terrorism.

This recent law could be used to:

- minimize judicial supervision of federal telephone and Internet surveillance by law enforcement authorities;
- expand the ability of the government to conduct secret searches;
- give the Attorney General and the Secretary of State the power to designate domestic groups as terrorist organizations and deport any non-citizen who belongs to them;
- lead to broad investigations of U.S. citizens for “intelligence” purposes; and
- enable the indefinite detention of non-citizens who are not terrorists on minor criminal charges or immigration violations.

[You can view the entire law by going to the “Public Law” section at www.thomas.loc.gov and picking Public Law No.: 107-56.]

On May 30, Attorney General John Ashcroft issued new guidelines relaxing restrictions on the FBI, giving them greater freedom to investigate domestic groups and individuals. Many officials had insisted that existent guidelines stay in place. They were preventive measures against verified abusive, illegal counterintelligence efforts against civil rights era and peace activists and persons, including the Rev. Dr. Martin Luther King.

In the aftermath of Sept. 11, Attorney General John Ashcroft stated, “I’m deeply concerned about the civil liberties of all Americans. I’m especially concerned about the civil liberties of Arab-Americans and Middle Eastern Americans who are patriotic citizens. . . .” Recently, Muslim-based institutions were raided by law enforcement in Virginia to explore possible connections to terrorism (see p. 7 for more information).

There has also been a backdoor approach in Congress to create a national ID card. The “Driver’s License Modernization Act of 2002” (H.R. 4633) would mandate the standardization of state drivers’ licenses. It suggests embedding biometric identifiers (using some part of a person’s biological makeup for verification) in licenses. This would enable multiple government and private industry applications *and* abuses of the card.

Other forms of terrorism prevention include efforts to revitalize Neighborhood Watch Programs and Operation TIPS—the Terrorist Information and Prevention System (for truckers, letter carriers, train conductors, utility employees and others). These programs ask fellow citizens to report on people who are “unfamiliar” or who act in ways that are “suspicious” or “not normal.”

Changes in civil liberties raise unsettling questions. Who is a “citizen” and who is not? Who belongs? Who do we feel safe with? We are at great risk of losing an inclusiveness and fairness that has the potential to benefit everyone. For the Christian, such developments pose a serious challenge to the higher goal of building a beloved community.

Perhaps MCC’s *Faith, Power and Politics: Questions and Answers* puts it best: “Romans 13 states that God has established authorities to support good and oppose evil. Our nations’ best ideals call for freedom, justice and peace for all people, but government actions often fall short of ideals. Our call to governments to live up to these ideals and to God’s mandate is both biblical and patriotic in the best sense.” ■

Liberty and Justice for All, or Just for the U.S.-Born?

More than 1,200 immigrants in the United States were arrested and detained in the “anti-terrorism” sweep immediately after Sept. 11, 2001. Almost all were Muslim men from the Middle East, Africa or southern Asia. Most were arrested for minor immigration violations, such as overstaying a visa, while others were named “material witnesses” to terrorism and held without being charged with a crime. Most of those arrested have since been cleared of any connection to the attacks or to terrorist groups.

In the midst of deeply intentional secrecy about those detained, it is difficult to assure that they are treated humanely and fairly. Not knowing who is, or even precisely how many are, in detention has frustrated the attempts of immigrant advocacy groups to ensure that those who desire legal representation have access to it.

The U.S. Department of Justice argues that national security exceeds the public’s right to know who is being kept in its jails, why and for how long. It also contends that revealing the names of detainees might put them at risk for attack by U.S. “vigilantes” or thwart the nation’s counter- terrorism efforts.

Court hearings for immigration violations by these “special case” detainees have also been held in secret. On Sept. 21, the nation’s chief immigration judge barred the public, press, and family members from attending them.

But federal and state courts on three recent occasions rejected these policies of secrecy by the U.S. government. In late May, a New Jersey judge ruled against the categorical closing of every deportation hearing to the public. The court did acknowledge that hearings may still be closed on a case-by-case basis to prevent disclosure of sensitive information.

The outcome of the closed proceedings is that most of the immigrants arrested in connection with the events of Sept. 11 have already been quietly deported. A few dozen were still thought to be in detention at the end of May.

Was, or is, justice being served? It is almost impossible to determine in these individuals’ cases. But the legal procedures employed by the U.S. government are, at best, questionable.

According to Amnesty International, the indefinite detention of foreigners without charge or access to counsel is a “significant human rights failing” of the United States. Indeed, our failure to guarantee the rights of detained immigrants undermines the United States’ moral authority to criticize human rights abuses abroad. ■

BY ELISABETH T. HARDER

“By the time of the next hearing I will have been here for four months. . . . Why am I imprisoned? Why in solitary confinement? And why under maximum security measures? I have many questions and no answers. What are they accusing me of? Nobody knows.”

—LETTER FROM A DETAINEE HELD FOR AN IMMIGRATION VIOLATION, BROOKLYN

FOOD STAMPS FOR IMMIGRANTS

As part of the 1996 “welfare reform,” Congress declared that immigrants were no longer eligible for food stamps and other anti-poverty programs. Although immigrants work and pay taxes, their safety net was removed.

Advocates, including MCC, have been calling for restoration of these benefits to immigrants who qualify. The campaign was gaining momentum last year, but its outcome was in doubt after Sept. 11.

Fortunately, the issue was picked up again this spring. As part of the farm bill, Congress restored food stamps to some lawfully-present immigrants. Now disabled immigrants, children and those who have lived in the United States for the last five years can again receive these benefits if they need them.

Depraved Security Measures

BY PATRICK E. B. NERI

The indiscriminate distribution of foreign military aid has created havoc for recipient countries.

September 11, 2001 provided a historical opportunity for the United States to initiate a peaceful response to terrorism. However, the United States—reputed to be the world’s most powerful nation and considered a front-runner in democracy, liberty and human rights—chose the path of war.

Since Sept. 11, the United States has pursued questionable means of attaining peace and security by providing foreign military assistance and lifting sanctions on several countries.

- In October 2001, Congress waived a 1998 sanction on U.S. arms exports and military assistance to Pakistan and India.
- In January 2002, the United States lifted an eight-year-old ban on arms sales to Tajikistan.
- In March, the Bush administration requested \$31 million for specialized military training in Colombia, while asking Congress to remove several human rights restrictions on military aid, training and fumigation operations.
- In April, President Bush ordered that Nigeria be provided \$4 million in military training services.
- In May, U.S. special forces began a “training and equipping” program in Georgia as part of a \$64 million military package.
- The United States requested an estimated \$5 billion for its “war on terrorism” budget in FY 2003.

While the United States has developed stronger military relationships with other countries, its concern for human rights has diminished. The Bush administration has been inattentive to the cries of those whom it deems insignificant. On May 6, 2002 the Bush administration withdrew from the 1998 treaty on International Criminal Court, tasked to hear cases of war crimes and crimes against humanity.

Moreover, the United States’ anti-terrorism mantra has become an excuse for country leaders to justify human rights abuses. Russian President Vladimir Putin, Philippine President Gloria Macapagal-Arroyo, Egyptian Prime Minister Atef Obeid, Israeli Prime Minister Ariel Sharon, Chinese Foreign Minister Tang Jiaxuan and a spokesman for President Robert Mugabe of Zimbabwe, among others, now defend their respective governments’ actions as a response to terrorism.

The indiscriminate distribution of foreign military aid has created havoc for recipient countries, increasing political unrest and human rights violations. In the Philippines for example, nearly 55,000 people have been displaced by the Philippine-U.S. joint military operations against the Abu Sayyaf, a radical Muslim group listed by the United States as a terrorist organization. Meanwhile, members of an International Peace Mission to Basilan, where the military exercises are held, reported human rights violations by the military.

The United States’ stance on terrorism has undermined efforts for peace and justice throughout the world. Furthermore, it has created a depraved sense of security rooted in the exercise of military force, supremacy and subjugation.

Real security cannot be achieved by might or by power, but by God’s Spirit (Zechariah 4:6)—the Spirit that calls for reconciliation (2 Corinthians 5:18), justice (Isaiah 1:17) and liberation of the oppressed (Luke 4:18). ■

An American Muslim Speaks Out

IN OTHER'S WORDS

Before Sept. 11 there were 30 years of work developing positive community relationships between Muslim- and Arab-Americans and their neighbors. Sept. 11 shook that work to its roots. Muslim- and Arab-Americans are [now] not trusted generally, because of the actions of 19 people.

The "USA PATRIOT Act of 2001" solidified the use of secret evidence allowed under the "Anti-Terrorism Act of 2000." It also furthered all kinds of intrusive surveillance, including entering people's homes without their knowledge. Most people thought this law was directed at non-U.S. citizens. But that is not so.

For example, on March 20, there were raids on Muslim institutions in northern Virginia, including non-profits, libraries, seminaries and businesses, as well as eight private homes. Federal agents broke down doors, handcuffed people, and took jewelry, money, children's homework, personal diaries and other papers. Muslim women were photographed without their head scarves. For Muslim women such as these, that feels exactly like being photographed naked. Several dozen people were affected by these raids, and all but two were U.S. citizens.

There have also been many incidents throughout the country of hate crimes and personal abuse. Three times since Sept. 11 strangers have come up to me and yelled curses. For example, I was eating in a restaurant with friends when someone came up to my table, screamed curses in my ear and ran out.

• • •

Security is essential and should be accomplished using every legitimate means to apprehend actual criminals. But an atmosphere should not be created in which an entire group of people is demonized and viewed with suspicion by the U.S. government and society.

Our government is not taking adequate care to target only criminals. My daughter's friend and her two brothers from Saudi Arabia came to Boston to visit their sick father. When they arrived FBI agents were waiting in their hotel room. The agents jumped out at them, banging my daughter's friend's head against the wall. She had to have several stitches. But the Saudi family had done nothing wrong whatsoever. This happened simply because the family's name was spelled similarly to that of an accused terrorist. This is the kind of broad, indiscriminate abuse by law enforcement officials that Muslim- and Arab-Americans fear.

• • •

I encourage people to read the "USA PATRIOT Act" (see p. 4 for more information) and to look critically at media coverage. When you find something unfair or slanted, respond with a letter to the editor or call the station. Write a letter to your congressional representative and discuss it at church. If possible, reach out to a Muslim and get to know him or her personally. Fear breeds hatred. Getting to know someone makes fear disappear.

We should be vigilant in protecting the best of what the United States has. We should recommit ourselves to uphold every person's civil liberties, to ensure that each person is treated with dignity and respect. As Americans our civil liberties are in grave danger.

Each of us can do our part, even if it is just to talk to someone else about the importance of civil liberties. The worst thing is the silence. Few are speaking out about what is happening. When people begin to speak out, things can change.

I'm a U.S. citizen, born and raised in the United States. But because of what government agencies are doing, there is no place in this country where I'm not afraid, even in my own home. That's not right. ■

BY SHARIFA ALKHATEEB

Sharifa Alkhateeb serves as president of the North American Council for Muslim Women. She spoke with Martin Shupack in May regarding the civil liberties of Muslim- and Arab-Americans. Excerpts of her comments are included here.

Fear breeds hatred.

Getting to know someone makes fear disappear.



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SOUND THE TRUMPET!

ISSUE	SUMMARY	ADVOCACY NEEDED
GLOBAL AIDS	Congress is about to decide on the amount of money to spend in 2003 to address the global HIV/AIDS pandemic that kills 8,000 people each day, a slight majority of whom are women and children.	Ask your members of Congress to appropriate \$2.5 billion as the U.S. contribution to the Global Fund for AIDS, Tuberculosis and Malaria.
IRAQ	There is growing dissent within the Bush administration about going to war with Iraq. Meanwhile, Aug. 6 marks 12 years of U.N. sanctions. U.N. officials in Iraq do not expect significant changes under the new "smart" sanctions. Infant mortality rates have doubled in the last decade and child malnutrition rates are still high.	Urge President Bush and your representatives to work for a more constructive relationship with Iraq. Remind them that military actions and sanctions do not build trust or create conditions for peace.
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)	TANF, the nation's primary public assistance program, funds state initiatives to move low-income families into employment and provide some cash assistance. The House already passed a bill that would drastically raise work requirements, while the Senate hopes to vote on their bill by August.	Urge your senators to support a TANF bill that encourages education and training, provides adequate funding for childcare and other work supports, and includes legal immigrants.

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