

The Nexus of Terrorism & WMDs: Developing a Consensus
How could a Leaders' Level G20 make a difference?

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BRIEFING NOTE

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Counterterrorism and Human Rights: An Essential Alliance

Common wisdom in some circles has it that in fighting terrorism, security and human rights are inevitably opposed – a zero sum game in which one must be sacrificed to advance the other. Embracing this understanding, many of those leading the campaign against terrorism have been reluctant to allow human rights standards to constrain their efforts. However, that approach is dangerously short-sighted and counterproductive. It undermines the U.N.-created standards that outlaw terrorism, fosters the repressive conditions that give rise to terrorist violence, and breeds resentment that discourages international cooperation and facilitates terrorist recruitment. Fighting terrorism while ignoring human rights is not only wrong; it is self-defeating. An effective counterterrorism policy will see human rights not as an inconvenient impediment but as an essential ally.

The approach of the United States illustrates the problem. Washington is hardly the only offender when it comes to ignoring human rights in the name of fighting terrorism. Others, to name just a few, include the United Kingdom, Russia, China, Israel, Uzbekistan, Malaysia, and Zimbabwe. Particularly since September 11, many governments have found that a convenient way to fend off international scrutiny of abusive practices is to wave the anti-terrorism banner, whether in a genuine effort to defeat terrorism or as a pretext to quash dissent or separatist sentiment. Yet as the leader of the campaign against terrorism and the sole superpower, Washington's conduct sets the dominant tone of the counterterrorism effort. That tone has been generally hostile to the limits imposed by international human rights and humanitarian law.

For example, the United States has refused to apply the Geneva Conventions to the Guantánamo detainees or to act in conformity with these legal requirements; threatened to try some of those detainees before substandard military commissions; detained suspects far from any traditional battlefield as alleged “enemy combatants” with the asserted power to hold them indefinitely without charge, trial, or access to counsel; employed “stress and duress” interrogation techniques and other forms of coercive interrogation that constitute at least prohibited “cruel, inhumane or degrading treatment or punishment”; seized suspects in other countries despite the objection of local courts

that convincing evidence of criminality had not been provided; and “rendered” detainees for interrogation to governments that practice systematic torture with at best flimsy, unenforceable diplomatic assurances against the suspects’ mistreatment.

Perhaps because of these rights transgressions, the United States has been hostile to efforts to enforce rights in the counterterrorism context. It initially opposed a resolution at the U.N. Commission on Human Rights insisting that the campaign against terrorism be waged consistently with international human rights and humanitarian law; fought to avoid any formal obligation for the U.N. Security Council’s Counter Terrorism Committee (CTC) to abide by human rights constraints or to develop the capacity to address human rights concerns; opposed a new U.N. inspection mechanism to prevent torture; and launched a series of attacks on the International Criminal Court.

Because the United States is so influential, these actions, and others, have profoundly challenged the international system of human rights. That system has been applied to countless nations not only in periods of stability and calm but also when they are facing security threats. For the United States, now facing its own security threat, to set those standards aside does profound harm to this body of international law. The many governments around the world who have seized on their own “war against terrorism” to violate basic rights shows how dangerously contagious this exceptionalism can be.

This disregard for human rights has also been devastating to U.S. standing in the world and, as a result, to the success of the campaign against terrorism. The global outpouring of sympathy for the United States that followed the September 11 attacks has been replaced by growing resentment of Washington. In part that resentment is the product of U.S. unilateralism and high-handedness. In part it is because of the U.S. invasion of Iraq and its unquestioning support of Israeli abusive practices. But in significant part it is the result of Washington’s hypocritical unwillingness to be bound by the same international standards to which it has long held others. That resentment has harmed the campaign against terrorism in several distinct ways:

First, this violation of human rights undermines the very international standards that explain why terrorism is wrong. Given the horrors of terrorism, it is too easy to forget that many people accept terrorism as sometimes necessary to advance a given political agenda. That acceptance is reflected in the failure of the international community, despite decades of efforts, to arrive at an agreed definition of terrorism (although the recent high-level panel report on global threats may portend the emergence of a common understanding). In the absence of a clearly agreed definition, international human rights and humanitarian law provides the clearest norms for explaining that deliberate attacks on civilians are always unlawful, whether in times of peace or war, and regardless of the political cause. To flout that law in the name of fighting terrorism is thus to weaken the only existing standards that might convince people that terrorism is always wrong.

Put another way, terrorists believe that the ends justify the means, that their political or social vision justifies the deliberate taking of civilian lives in violation of the most basic

human rights norms. To fight terrorism without regard to the constraints of human rights is to endorse that warped logic.

Second, neglecting human rights helps to create the political and social conditions that give rise to terrorism. There is obviously no single recipe for generating terrorists and much debate about the key ingredients that when added to extremist ideology create a violent mix. Some point to poverty, and certainly economic grievances play a role. Others point to failed states, and certainly the existence of lawless terrain is useful for facilitating meetings and establishing training facilities. But the key ingredient is often political repression – the absence of avenues for peaceful political change. That is, terrorists do not seem to be the poorest of the poor; many are well educated and come from reasonably affluent backgrounds. And helpful as lawless enclaves are for training purposes, terrorists have proven capable of hatching plots in the midst of advanced modern societies. Rather, what most terrorists seem to have in common is a political or social goal that they are unable to advance through an open political system. Most people, when faced with this predicament, will simply return home in frustration and, at least temporarily, abandon their political or social quest. But some minority of them will become open to recruitment by the terrorists.

An effective counterterrorism strategy will confront this political frustration by encouraging open political cultures where grievances can be pursued peacefully. Such a strategy would promote healthy civil societies and accountable governments, complete with an independent press, unfettered political parties, a range of citizens organizations, and periodic, competitive elections – in short, a political culture built on respect for a broad range of human rights. By contrast, when human rights are ignored or suppressed in the name of fighting terrorism, it leads to authoritarian governments and stultified civil society – the political environment that is most likely to give rise to terrorist violence. Accepting authoritarianism in the name of short-term assistance in fighting terrorism, as the global counterterrorism effort seems to be doing, is thus likely to be profoundly counterproductive over the long run.

Third, ignoring human rights as part of the fight against terrorism is likely to breed resentment that undermines international cooperation. The people whose cooperation is most important to defeat terrorism are the people who live in countries that are generating terrorists. They are needed to report suspicious activities and to dissuade would-be terrorists from embarking on a path of violence. Yet these individuals are also the most likely to identify with the victims of a counterterrorism strategy that ignores human rights. When they see their compatriots detained in violation of the Geneva Conventions at Guantánamo, subjected to “stress and duress” interrogation techniques at Bagram air base in Afghanistan, or mistreated by an authoritarian government whose repression is overlooked or even encouraged in the name of fighting terrorism, they are less likely to lend their support to the counterterrorism effort. Again, the advantage of ignoring human rights proves short-lived.

Finally, that same resentment facilitates terrorist recruitment. As in the case of those unable to pursue grievances through an open political system, most of those who resent

counterterrorism efforts waged in violation of human rights will grudgingly swallow their resentment and do nothing more. But of greatest concern are the relative handful of people whose resentment will open them to recruitment by the terrorists – the “swing vote.” Presumably, this swing vote represents a small percentage of the public, but even a small percentage when spread over a large population can yield substantial numbers. And it takes very few confirmed terrorists to wreak large-scale death and destruction.

Winning the hearts and minds of this swing vote is essential to the success of the counterterrorism effort. But that requires taking the moral high ground. It requires a counterterrorist strategy that scrupulously and transparently respects international standards. And it requires a positive vision of societies built around democracy, human rights, and the rule of law – something that people can be *for* – to accompany the important but partial vision of being *against* terrorism. The global counterterrorism effort as waged so far has certainly had its successes in detaining particular terrorists. But the continuing proliferation of terrorist groups suggests that this success may be superficial – that the abusive methods often used to crack down on terrorists are also generating new terrorists. To ensure that each terrorist arrested is not replaced by one or more new recruits, the counterterrorism effort should see human rights not as inconvenient obstacles but as essential partners that are integral to the defeat of terrorism.