

OPEN SOCIETY

SOROS FOUNDATIONS NETWORK NEWS
WINTER | 2002

NEWS



After the Attacks



OPEN SOCIETY NEWS

WINTER 2002

SOROS FOUNDATIONS NETWORK

CHAIRMAN

George Soros

PRESIDENT

Aryeh Neier

EXECUTIVE VICE PRESIDENT

Stewart J. Paperin

VICE PRESIDENT

Deborah Harding

SENIOR POLICY ADVISOR

Laura Silber

DEPUTY DIRECTOR

James Goldston

DIRECTOR OF U.S. PROGRAMS

Gara LaMarche

DIRECTOR OF NETWORK PROGRAMS

Elizabeth Lorant

EXECUTIVE DIRECTOR OF OSI—BUDAPEST

Katalin E. Konec

Open Society News

EDITOR

William Kramer

ASSISTANT EDITOR

Sarah Miller-Davenport

CONTRIBUTING EDITOR

Ari Korpivaara

DESIGNER

Jeanne Criscola/Criscola Design

PHOTOGRAPHY

AP/Wide World Photos: pages 3, 7, 14, 20

Teun Voeten: pages 4 and 16

Steven Rubin: pages 5 and 9

Edward Grazda: page 8

Leslie Fratkin: pages 10 and 12

Staton Winter: page 18

COVER PHOTOS

AP/Wide World Photos

People fleeing area near the World Trade Center, New York City,

September 2001 (TOP) PHOTOGRAPHER Gulnara Samoilova

Refugees fleeing fighting near Iranian border, Afghanistan,

October 2001 (BOTTOM)

The numerous nonprofit foundations established by the philanthropist George Soros are linked together in an informal network called the Soros foundations network. At the heart of this network are the regional, national, and local foundations that operate in more than 50 countries around the world. These foundations share the common mission of supporting the development and maintenance of open society. To this end, they operate and support an array of initiatives in educational, social, and legal reform. *Open Society News*, published by the Open Society Institute in New York, reports on the programs and grantees of the foundations in the network. For additional information, see the Soros foundations network website at www.soros.org or contact the Open Society Institute, 400 West 59th Street, New York, NY 10019, USA; TEL (212) 548-0600; FAX (212) 548-4605; or E-MAIL wkramer@sorosny.org

ISSN # 1706-9606

© 2002 Open Society Institute

www.soros.org

EDITOR'S NOTE

The September 11 terrorist attacks on America and the war in Afghanistan have prompted a host of responses from individuals, organizations, and governments around the world. For the Soros foundations network, the aftermath of September 11 has had a resounding impact in areas ranging from the protection of immigrants in the United States to the promotion of human rights in Uzbekistan.

This issue of *OSN* examines some of the key areas of concern that have emerged since September 11 to call attention to the importance of protecting and strengthening open society values in this time of crisis.

By including materials from the "After the Attacks" section of the Soros website (www.soros.org), this issue of *OSN* also highlights the many ways the Soros network is helping the public understand the ramifications of September 11. In addition to essays and editorials by prominent open society advocates, the "After the Attacks" section on the web features forums and discussions with leading policymakers, experts, and activists. It also provides information about where and how people can get help in dealing with the sadness, anger, and confusion created by terrorism and war.

TABLE OF CONTENTS

- 3 Open Society as a Response to Terror
- 5 Protecting Civil Liberties at a Time of Crisis
- 8 Immigrants: Security's Scapegoats
- 10 Defending and Strengthening Open Society After the Attacks
- 14 Challenges and Opportunities for International Human Rights
- 16 Assembling Afghanistan
- 18 Islam and Open Society: An Inevitable Conflict?



“ The United States seeks to lead a global coalition against terrorism, but it too must place open society principles front and center if its leadership is to have force beyond the assertion of military might. ”

Open Society

New York City fireman signaling rescue workers

as a Response to Terror

Should efforts toward building open societies take a back seat to fighting terrorism? Are the two incompatible? The following essay, based on contributions from OSI’s director of U.S. Programs, Gara LaMarche, and Anthony Richter, director of the Central Eurasia Project, maintains that building open societies is critical to preventing the ignorance, anger, and hate behind the attacks and some of the reactions they have prompted. ■

GARA LAMARCHE, ANTHONY RICHTER

The September 11 attacks and their aftermath underscore more than ever the interconnection between open society in the United States and around the world. There is a broad consensus on what is at stake in the fight against

terrorism: as President Bush and many others have put it, we are fighting to preserve an open society. What is less often said or understood is that an open society is the strongest weapon against terrorism.

It is no coincidence that closed societies, which restrict the press and independent associations, flout the rule of law, and repress women and minorities, are the havens and breeding grounds for terrorism. Democracies accountable to public opinion and scrutiny rarely attack one another, or face catastrophes like famine and large-scale environmental degradation.

Much of the Open Society Institute’s international expansion in recent years, beyond its original focus on Central and Eastern Europe, has been in countries that are predominantly or substantially Islamic. Close to a third of the countries in the OSI network have large Muslim populations, including many of Afghanistan’s neighbors in Central Asia as well as Albania, Azerbaijan, Bosnia and Herzegovina, Indonesia, Kosovo, and Turkey, and such West African countries as the Ivory Coast, Mali, Nigeria, and Senegal. Our commitment to the promotion of open society principles in the countries of Central Asia is stronger than ever.



Shrapnel-damaged wall,
Kabul, Afghanistan

The United States seeks to lead a global coalition against terrorism, but it too must place open society principles front and center if its leadership is to have force beyond the assertion of military might. Central Asian governments can offer short-term assistance in the fight against terrorism, but promoting open society in the region is the best route to long-term success. Cooperating with regimes that continue to deny fundamental freedoms to their citizens not only makes the U.S. complicit in repression, but stokes anti-American resentments that make it impossible for this country to speak with moral authority to the millions around the world who want nothing more than to live in an open society respectful of human rights and dignity. To win the support of skeptical populations, especially in the Islamic world, it is more important than ever that the U.S. apply uniform standards to enemy and ally alike. In addition, the short-term multinational coalition that the U.S. has assembled in pursuing Al Qaeda cannot be sustained if the United States persists in flouting its obligations as a global citizen, abrogating the Kyoto treaty on global warming, and working to weaken the International Criminal Court.

How the U.S. behaves at home is a critical part of this equation, and many of the administration's measures of the last few months fail this test. These include the detention, often without charges or access to counsel, of over a thousand immigrants; the "voluntary" questioning of many thousands of others; and the plans to use military tribunals—lacking basic requirements of fairness such as the right to a lawyer of one's own choosing and the right to appeal—to try suspected terrorists.

Some of the administration's antiterrorism measures raise grave civil liberties questions on their own terms, but they also undermine American

efforts to lead the fight against terrorism and press other countries to uphold the rule of law and protect human rights. Spain has, understandably, refused to extradite terrorism suspects who might be tried before a tribunal that could sentence them to death on the basis of a split verdict, with no possibility of appeal. Peru and other countries that the U.S. has properly criticized in the past for the use of secret military courts cannot have failed to notice that in our own confrontation with terrorism, we do not practice what we preach.

According to U.S. Attorney General John Ashcroft, we should all keep silent about such hypocrisy and avoid any criticism of the government's actions. In an extraordinary assertion, he warned that those who even raise questions about the administration's antiterrorism policies give aid and comfort to the nation's enemies. As OSI stated in a full-page *New York Times* ad taking issue with the attorney general's smear:

"When we look back at crises in our history, including the two world wars of the last century, we are often shamed that more did not speak out about incursions on liberty that to many seemed justified by the imperatives of the moment. America will be a stronger country, and its response to the challenges of terrorism more effective, if we encourage and protect dissent and criticism precisely when it is most important."

FOR MORE INFORMATION

To find out more about OSI's responses to September 11 and U.S. Programs, visit www.soros.org, "After the Attacks," and www.soros.org/usprograms. For comprehensive, up-to-date information about Central Asia in English, Arabic, and Russian, visit www.eurasianet.org.

Morton Halperin warns that the rush to strengthen homeland security threatens fundamental rights long synonymous with American society. The Bush administration, encouraged by the easy passage of antiterrorism legislation, has taken a number of actions that indicate the balance between national security and civil liberty has shifted dramatically to the detriment of liberty without any guarantee of security. ■

MORTON H. HALPERIN

Civil libertarians understand as clearly as anyone else that the events of September 11 change America, and they support efforts to track down those who perpetrated these acts, and to take effective steps to deter terrorist attacks on Americans at home and abroad.

Where they may differ with others is in their skepticism that expanding surveillance authorities and taking other steps that reduce civil liberties is the most effective way to prevent further attacks. They also fear that new powers given to the government will be used against targets other than the terrorists we all have in mind. And they insist that whatever changes are made in the law be made carefully, following normal procedures and with a serious effort to balance national security and civil liberties.

What has happened so far gives us concern on all three counts. Since September 11 we have seen threats to civil liberties in four areas: government efforts to control debate and limit access to information, incarcerations of large numbers of people in a very troubling manner, the rushed passage of an antiterrorism bill, and presidential assertions of inherent authority to limit liberty most notably by the order on military tribunals.

RESTRICTIONS ON DEBATE AND INFORMATION

The effort to control public debate began on September 11 when those in the news media who criticized the president for not returning immediately to Washington received phone calls from the White House warning

Protecting Civil Liberties at a Time of Crisis

them that this was not the time to second guess. Later, those who criticized the calls were attacked in public. More ominously, the national security advisor called the major networks and then the print media to warn against running the full text of Osama bin Laden's statements. Assertions that coded messages might be transmitted ignored the fact that the full text would be available on other networks and on the Internet and that the U.S. networks broadcast an English translation. Clearly, the administration was most interested in preventing the American people from hearing directly what the terrorists had to say.

The government is also going to great lengths to keep control of its own information. Websites have been shut down and briefings for Congress curtailed, at least before the Congress complained. The attorney general issued a new directive on the Freedom of Information Act (FOIA) in which he reversed the existing presumption in favor of secrecy, warned agencies not to disclose information that the FOIA did not require be disclosed, and promised to vigorously defend decisions to withhold information.

None of this is to say that the government does not have the right to withhold information which would benefit our adversaries, including the terrorists, and which is not essential for public debate on the issues we face. Clearly the administration is going beyond that in its efforts to intimidate the news media and suppress information.

DETENTION WITHOUT DUE PROCESS

The incarceration of hundreds of people for months after the terrorist attacks is also deeply disturbing. The government has refused to even give out the names of the people being held or explain why they are being detained. Press reports suggest that judges have issued gag orders and that attorneys feel under pressure not to challenge the procedures for fear that it will lead to their clients being subjected to greater punishment. One of the hallmarks of a constitutional state, and of the U.S. Constitution in particular, is that the people have a right to know who is arrested and for what reason, and to have a magistrate decide in public if the detention is justified. This right protects not only individual detainees but also the public and society for it stops the government from mounting secret prosecutions that do not abide by the rule of law. In a time of crisis, there may be reason to hold some people, but not in this manner.

Given what the government has done using pre-September 11 authorities, it is hard to see why it thought it needed additional powers to detain immigrants. Yet the government sought such powers, along with a broadening of its surveillance authority and its right to pass information between law enforcement and intelligence agencies. The antiterrorism bill passed on October 25 permits the government to use the much less stringent provisions of the Foreign Intelligence Surveillance Act (FISA), which was intended only for intelligence gathering, to compile evidence of a crime

that would lead to the indictment of citizens as well as aliens. This means that the government can wiretap without probable cause and conduct secret searches of homes and offices without any kind of notice before or after the search or any kind of accounting of what was seized. Another provision purports to authorize the government to delay notice of a search in all criminal investigations, not just in cases of suspected terrorist activity.

AN OVERLY BROAD ANTITERRORISM BILL

Civil libertarians recognize along with everyone else that the government may well need additional powers to deal with international terrorists determined to kill Americans at home and abroad. But they also realize that a careful and deliberative process must be followed when the government moves aggressively to expand its powers at the expense of individual freedoms.

What is troubling in this case is that in the drafting and passage of this bill, no such process was followed. The administration refused to identify what emergency authorities it might need to prevent additional attacks while a careful examination was conducted of what exactly went wrong and how, or even if, existing powers proved inadequate. It refused to limit the new powers to investigations of terrorists who threaten Americans, and it refused to meet with outside experts to discuss how to narrow the provisions so that civil liberties are not violated.

MILITARY TRIBUNALS

The presidential order authorizing the secretary of defense to create military tribunals to try alleged terrorists, including people arrested in the United States, is among the most troubling actions. Without any consultation with the Congress or the public, the president claimed the right to detain people, hold them indefinitely, and then try them under procedures which violate the constitution and our commitments under international law. While there may be room for military tribunals to try people captured on the battlefield, those proceedings must adhere to basic requirements of due process. People captured elsewhere must be tried in civilian courts with a presumption of innocence.

Morton H. Halperin was appointed the director of the OSI Washington Office on January 1, 2002. He is a senior fellow of the Council on Foreign Relations. He also chairs the advisory board of the Center for National Security Studies and is on the board of the Constitution Project.

FOR MORE INFORMATION

The following websites provide updates on civil liberties issues and legislation: www.gwu.edu/cnss/; www.lchr.org/index.htm, and www.cdt.org

“ Civil libertarians recognize that the government may well need additional powers to deal with terrorists determined to kill Americans at home and abroad. But they also realize that a careful process must be followed when the government moves aggressively to expand its powers at the expense of individual freedoms. ”

ANTHRAX FEARS

In October, Marines demonstrated anthrax clean-up techniques in front of the U.S. Capitol. Deaths from anthrax distributed through the mail heightened public fears about terrorism and increased support for more security measures—even at the cost of civil liberties.





Immigrants: Security's Scapegoats

In the past, OSI's U.S. Programs advocated fair treatment of immigrants through the Emma Lazarus Fund. Antonio Maciel, who directed the fund until it concluded operations in 1999, provides an overview of recent immigration policies and the implications of new immigration legislation that has followed the September 11 attacks. ■

ANTONIO MACIEL

In the wake of the September 11 attacks there have been intense efforts to revise United States immigration policies to supposedly protect national security.

This latest crackdown on immigrants is a response to September 11 that must be taken seriously. Equally important, but less apparent, is the fact that the terrorist attacks strengthen an anti-immigrant backlash in America that has been growing for years.

Indeed, official scrutiny and restrictions upon immigrants have been steadily increasing since 1996 when Congress enacted laws that dramatically curbed the rights of most noncitizens. The legislation excluded noncitizens from welfare benefits. It linked immigration and crime policy and recast complex migratory and refugee protection issues in law enforcement terms. At the same time that the 1996 laws added the stigma of criminality, they failed to add the protections of the criminal justice system, such as right to counsel and procedural protections.

With the 1996 legislation, the "civil" detention system of the Immigration and Naturalization Service (INS) has become the fastest-growing prison system in the United States. According to the Lutheran Immigration and Refugee Service (LIRS), as many as 200,000 individuals are detained annually by the INS, some for hours or days, others for weeks or months, and some for years. These detainees include asylum seekers, torture survivors, women, children, and long-time legal permanent residents with U.S. spouses and children. Over 60 percent are held in remote city and county jails. Only 11 percent are represented by legal counsel.

Now there are disturbing signs that the climate of fear created by the attacks of September 11 is prompting a response that will allow for further restrictions on immigration and continue the trend toward criminalizing individual immigrants.

“ According to the National Immigration Forum, the National Council of La Raza, and others, most people are adamant about not having any of their civil rights and liberties curtailed, yet are comfortable in having the rights of immigrants limited in the name of “national security” and “fighting terrorism.”

In the two months following September 11, more than 1,000 foreign-born individuals were apprehended, and many whose links to terrorism have not been shown remain in custody.

New antiterrorism legislation immediately expanded the ranks of immigration enforcement personnel, increased powers for border enforcement, further stripped away procedural protections for immigrants, and provided that individuals suspected of involvement with terrorism can be held without charges. Conversations with attorneys are no longer confidential, and the INS may hold such individuals indefinitely.

And with the Bush administration’s efforts in creating military tribunals—a radical measure last implemented during World War II by President Franklin D. Roosevelt to try Nazi saboteurs—our country is faced with serious attacks not only on the rights of immigrants, but the rights of all.

The events of September 11 show the necessity of paying proper attention to the national security of the United States and to the protection of its borders. But as Dmitri Papademetriou of the Migration Policy Institute has warned, such national security measures must be balanced against the rights of immigrants and of all U.S. residents, citizen and noncitizen alike. Thus, while tighter border enforcement and reforms to the entry inspection system may be necessary and defensible, the stripping of basic substantive and procedural protections of immigrants is not.

The Bush administration has gone to great efforts in its gestures toward Arab Americans and Muslims and in denouncing racial profiling and discrimination against these communities, but its policies are having the opposite effect. Actions of Congress and the administration, such as the indefinite detention of immigrants without charges and military tribunals, are further reinforcing notions that immigrants in general, and Arabs and Muslims in particular, are “dangerous” and must be monitored and controlled.

In addition to legislation and law enforcement, public discourse and attitudes toward immigrants have also changed since September 11. Many people who condemn racial profiling feel it is defensible when applied to “suspected terrorists” (with the suspicion based solely on religion—Muslim—or national/ethnic origin—Arab or Middle Eastern). According to the National Immigration Forum, the National Council of La Raza, and others, most people are adamant about not having any of their civil rights and liberties curtailed, yet are comfortable in having the rights of immigrants—of “others”—limited in the name of “national security” and “fighting terrorism.”

Incidents of prejudice against “Arab”-looking people in the United States, both immigrant and native born, have increased significantly in recent months. The National Asian Pacific American Legal Consortium has recorded over 200 incidents of bias against its constituents since September 11, a 300 percent increase over historical levels. Ironically, the Sikh-American

community has been especially affected, due solely to physical appearance. One particularly public incident, broadcast on local news channels in Ohio, involved two U.S.-born Sikhs being harassed and taunted at a Cleveland Browns football game.

Individual immigrants and immigrant communities are not the only ones being targeted; nonprofits serving them are also the subject of attacks. In New York, the Legal Aid Society, which has provided legal representation to some immigrants in detention, was criticized by the conservative National Legal and Policy Center for using a grant from the September 11th Fund to help “Arab suspects detained by the Immigration and Naturalization Service as part of the terrorist investigation.”

Through support for organizations such as the Legal Aid Society, LIRS, and others, OSI is addressing the challenges raised by both the terrorist attacks and the responses to the attacks. Building on its work since 1996, OSI continues to be engaged with its grantees on advocacy, policy, and public education activities to preserve immigrants’ rights. It provides support for watchdog efforts, legal challenges to misplaced policies, and the documentation and publicizing of incidents and patterns of abuse.

With these activities, OSI aims to help develop an alternative discourse about immigration and security that successfully balances national security interests while protecting the fundamental rights of all those who live in the United States.

Antonio Maciel is the director of grant and program development for OSI’s U.S. Programs.

FOR MORE INFORMATION

For information about immigration issues, visit the Lutheran Immigration and Refugee Service at www.lirs.org and the National Immigration Forum at www.immigrationforum.org.



(LEFT) Muslims praying in New York

(RIGHT) Pakistani asylum seeker detained by INS in Maryland

Defending

Open Society After the Attacks



Aryeh Neier and Susan Sontag

The Open Society Institute on November 8 in New York held a panel discussion on open society in the aftermath of the terrorist attacks of September 11 and the war against Afghanistan. The panelists, Aryeh Neier, president of the Open Society Institute (OSI), and author, most recently, of *War Crimes: Brutality, Genocide, Terror and the Struggle for Justice*; David Cole, Georgetown University law professor, former Soros justice fellow, and author, most recently, of *No Equal Justice*; and Susan Sontag, author, whose most recent book is a collection of essays, *Where the Stress Falls*, together considered prospects for the future.

OSI's director of U.S. Programs, Gara LaMarche,

who moderated the session, introduced the speakers by commenting that their book titles summarized the topics under discussion: war crimes, no equal justice, where the stress falls. "Where the stress falls," he said, "is on everyone: in New York, the universalization of an insecurity that previously had been confined to certain communities; around the country, on Arab Americans or those who appear to be; around the world, clearly on those on whom the bombs fall, but also on those fighting for modernity, for human rights and dignity against fundamentalisms of various kinds."

This article consists of edited excerpts from the panelists' presentations. ■

and Strengthening

“The United States is losing the international struggle for public opinion. The war in Afghanistan reinforces a sense of American unilateralism, a sense of American arrogance, a sense that the United States feels that because we have the military might, we can do things our own way.”

—ARYEH NEIER

ARYEH NEIER: I want to make two points. The first has to do with the promotion of human rights following September 11. There has been a general sense of despondency in the international human rights community following September 11, because the U.S. government is busy making alliances with various repressive governments in order to combat terrorism and expressing a willingness to overlook what Russia, China, Pakistan, and others are doing to minorities and dissenters. I'm not quite as pessimistic about this situation as some others concerned with international human rights. To use a recent example, the *New York Times* just published two stories about human rights in Uzbekistan in about two weeks. That's probably more stories about human rights in Uzbekistan than there were in the previous ten years. It does suggest that there is an opportunity to focus attention on a certain number of these abuses by governments with whom we are engaged in alliances.

The other point I want to make has to do with the way one pursues this conflict. I believe that military action is justified. But if the Bush administration were committed to international humanitarian law, if it weren't ideologically opposed to the International Criminal Court, there is a way of pursuing this that would be a lot better.

The United States is losing the international struggle for public opinion. One reason we're losing is that the war in Afghanistan reinforces in the minds of a lot of people worldwide a sense of American unilateralism, a sense of American arrogance, a sense that the United States feels that because we have the military might, we can do things our own way.

It's not easy to wipe out terrorism, but the more people there are hostile to the United States and the more people there are sympathetic to the terrorists, the more dangerous it is for us. So I think that, quite aside from my feelings about international humanitarian law, it is in our country's self interest to pursue this conflict differently.

There probably would be an International Criminal Court right now if the United States were not opposed to it. There probably will be one by this time next year. Forty-four governments have ratified and another three will ratify in the next week or so. It takes 60 altogether for there to be an International Criminal Court.

If there were an International Criminal Court, those who committed the acts of September 11 could be indicted for crimes against humanity. Unfortunately, the court does not exist, and the statute for the court, once it becomes operational, only gives it prospective jurisdiction. But there is nothing to prevent us from going to the Security Council of the United Nations and asking for the establishment of another ad hoc criminal court or for giving the International Criminal Court retrospective jurisdiction to deal with these crimes or for giving the tribunal for Yugoslavia authority to deal with these crimes.

If there were such a court and an international indictment, the Security Council could direct the government harboring the people who committed those crimes to turn them over for trial. If they weren't turned over for trial, the Security Council could authorize a military action in order to apprehend them. This is not the only way to gain enhanced international legitimacy for the war. The Security Council could act on other grounds. What is needed is a way to make the war a multinational effort rather than the usual "go it alone" American effort.

Look at the way that would appear internationally, as opposed to the kind of war we have launched. This response would gain support that is simply lacking in the way we have proceeded. It isn't a panacea, but it would put us in a better position internationally, and I believe it would enhance all of our safety.

DAVID COLE: How should we respond at home to this newfound fear of terrorism? We ought to be careful not to overreact, not to sacrifice fundamental constitutional principles in the search for security, and not to trade the liberty of some for the purported security of the majority.

What have we done since September 11? We've passed the antiterrorism act, called the USA Patriot Act, which imposes guilt by association on immigrants. Under prior law, immigrants could be deported if they supported or engaged in any terrorist activity. Under the new law, they can be deported if they provide any kind of associational support in connection



(AT LEFT, IN PHOTO) David Cole and Gara LaMarche

“ After September 11, 65 percent of the American people say it’s okay to engage in ethnic profiling as long as it’s directed against Arabs and Muslims. I agree that we may need to sacrifice some of our freedoms for security. But in these responses we’re not balancing our liberty versus our security; we’re balancing our security versus their liberty. ”

—DAVID COLE

with a quote-unquote terrorist organization, even if their support had nothing to do with the terrorist conduct.

If this law had been in place in the 1980s, any immigrant who provided support to the African National Congress for its lawful, nonviolent anti-apartheid work, would have been deportable, summarily, presumptively, as a terrorist because the African National Congress also used violence to further its ends and was listed every year as a terrorist organization until it came to power.

Terrorist activity is defined in the immigration act to include the provision of innocent, lawful humanitarian support to any organization that we proscribe, and it’s defined so broadly that it includes the use of, or threat to use, any weapon with intent to endanger person or property. If an immigrant in a bar gets into a fight, picks up a bottle, breaks the bottle, and threatens the other person with that bottle, he is now a terrorist.

What else have we done since September 11? We’ve detained over a thousand people, not one of whom has been charged with the crime that’s being investigated, virtually all of whom are of Arab or Muslim descent,

and many of whom are immigrants. The government has provided virtually no information about who these people are, on what authority they’re detained, why they’re detained or where they’re detained.

According to the *Washington Post*, the government, in an affidavit justifying the detentions, says that investigating terrorist crimes is like constructing a mosaic, and pieces of information that look innocent, when the investigation is complete, will be shown to be dangerous. Therefore, even though everything about this person appears to be innocent, you should lock him up because in the end it may turn out, in fact, that he is dangerous.

Finally, ethnic profiling. Before September 11, 80 percent of the American public said racial profiling was wrong. After September 11, 65 percent of the American people say it’s okay to engage in ethnic profiling as long as it’s directed against Arabs and Muslims.

I agree that we may need to sacrifice some of our freedoms for security. But in each of these responses we are essentially trading the liberties of immigrants, particularly the liberties of Arab and Muslim immigrants,

for the purported security of the rest of us. That's an easy call. We're not balancing our liberty versus our security; we're balancing our security versus their liberty.

I think that kind of balancing is wrong, ineffective, and eventually comes back to haunt all of us. Wrong, because immigrants are entitled to essentially the same basic human rights that the rest of us are entitled to under the Bill of Rights.

It's ineffective because if we engage in practices that paint with a broad brush such as guilt by association, and if we short circuit procedures designed to identify true perpetrators and protect the innocent, we are unlikely to focus on the real threats, and we are likely to alienate the Arab and Muslim immigrant community. We will lose a tremendous opportunity to reach out to Arabs and Muslims in the United States, who, like all of us, are revolted by the attacks of September 11.

Such measures, in which we trade off the liberty of immigrants for the purported security of the majority, eventually come back to haunt all of us. First we sacrifice immigrants' rights, but then the sacrifice of immigrants' rights makes the unthinkable thinkable with respect to citizens.

SUSAN SONTAG: An open society is prejudiced in favor of debate, difference, diversity. I can testify at first hand to a rather changed climate of opinion in which debate is equated with dissent, dissent with dissidence, dissidence with subversion, subversion with treason.

I am astonished at the rhetorical overkill used to attack a short piece I published in the *New Yorker*, written while I was in Berlin (in a brief residency at the American Academy there) on Thursday, September 13, after spending 48 hours watching CNN. I addressed the government and media rhetoric that quickly surrounded the event, deploring the self-congratulatory identification of the United States with "the world" and with "humanity" and with "civilization." I said: this is a political event, a response to the status of and alliances contracted by the United States, not only a monstrous crime—which it certainly was. I suggested that not every negative adjective applied to the perpetrators of the attack. (Maybe "cowardly," I said, didn't apply.) I urged—this was the principal idea of the piece—deliberation in forming an appropriate and effective response.

These rather banal observations won me responses that, in a lifetime of taking public positions, I've never experienced. They included death threats, calls for my being stripped of my citizenship and deported, indignation that I was not "censored." In newspapers and magazines I was labeled a "traitor." A columnist in the *New York Post* declared that I should

be "drawn and quartered." One article had the headline "Osama bin Sontag." An article in the *New Republic* started with the sentence: "What do Osama bin Laden, Saddam Hussein, and Susan Sontag have in common?" No, the answer is not that we all, presumably, have brown eyes. The answer was that we all wish the destruction of the United States.

The point of all this is not to complain. The point is that this is a poor sign of the health of our open society. It is perhaps an inevitable consequence of the way in which the attacks of September 11 were described as plunging the country into a state of national emergency, in which the normal tolerance of disagreement evaporates, and even the most deeply rooted constitutional protections, such as habeas corpus, can be abrogated.

I am not a pacifist. I support the destruction of the Al Qaeda network. But there are several models for action. From the start, the position of the Bush administration has been that this was Pearl Harbor. The response to an act of war is war. If we say that this was a crime, a crime against humanity, another set of ideas about our response, about what measures to use to prevent this from happening again, come into play.

When we employ the concept of terrorism, we prevent ourselves from understanding as much as we could about our enemies. The term is unstable (think of the French Resistance, the Irgun, the ANC—all three were called "terrorists" by the governments they attempted, with eventual success, to undermine). But this is not the only reason to be leery. If by terrorists you mean criminals, you ignore their motivations and their revolutionary program—and there is a revolutionary current coursing through the Islamic world. We need to pay more attention to the fantasies about the United States that underlie the widespread resentment of American power among the populations of many poor countries.

How long can a country continue to understand itself to be on a war footing when there is no fixed goal? Wiping out terrorism offers the prospect of a never-ending effort. Will there also be never-ending abrogations of constitutional rights, and the climate of openness, in this country?

Deforming rhetoric can be modified, paradigms can be debated, but it will be quite a struggle. For now, the momentum is on the side of those who would mobilize the country to accept what they call "sacrifices." One hears: Nothing will be the same again. I find this one of the most sinister ideas currently in circulation. That everything is different now, that nothing will be the same again—this is clearly a license for radical changes most of us, I think, must oppose.

FOR MORE INFORMATION

To hear the entire discussion online, visit "After the Attacks" at www.soros.org.

“ An open society is prejudiced in favor of debate, difference, diversity. I can testify at first hand to a rather changed climate of opinion in which debate is equated with dissent, dissent with dissidence, dissidence with subversion, subversion with treason. ”

—SUSAN SONTAG

Challenges and Opportunities for International Human Rights

Carroll Bogert, director of communications at Human Rights Watch, examines various responses to the attacks of September 11 and their implications for international human rights. ■

CARROLL BOGERT



Taliban prisoners of war, Herat, Afghanistan

“ If due process is abandoned for suspects in the United States, how will defendants fare in Indonesia or Mexico or Albania? Repressive governments around the world are taking notice of U.S. events, and taking heart. ”

A few weeks after September 11, an e-mail came into Human Rights Watch from our able researcher in Tajikistan. She had run our office there for three years, but had never dreamed, she said, that hundreds of foreign journalists would one day descend on Dushanbe. And to her delight, not one of them was asking, “Tajiki-what?”

Maybe that’s the upside, if there is one, to the terrible events of September 11. Many Americans, and many Europeans too, are now paying attention to a little-known part of the world—so little known that some

Clinton administration officials used to refer to it jokingly as “Obscuristan.” These former Soviet republics are among the most repressive in the world today. Their citizens enjoy no freedom of speech or association or religion.

Now, of course, a country like Uzbekistan finds itself a front-line state in the U.S. war on terrorism. That new relationship may make it less likely than ever that the U.S. government will criticize Uzbekistan for its ghastly human rights record. But it does mean that more Americans than ever before will be aware of that hypocrisy.

It’s not the job of the human rights movement to decide whether or not the United States should go to war in Afghanistan. That would compromise our ability to report on the way in which the war is conducted and whether it violates international humanitarian law.

The deaths of scores of Taliban prisoners at the fort in Mazar-i-Sharif was a horrific event, and may have constituted a serious war crime. But it was not, as some journalists have suggested, one of the worst atrocities in Afghanistan’s history. As human rights crimes go, it does not compare to the Taliban’s massacre of Shia Muslim civilians in Mazar in 1998.

In its bombing campaign, the United States has made far too many targeting errors, and far too many civilians have died as a result. It has used the indiscriminate and indefensible weapon of cluster bombs. But it’s fair to say that civilians are not targets in this war, as they have been in so many other wars Human Rights Watch has covered.

In some ways, the war in Afghanistan could help refine the world’s understanding of human rights. In

particular, new attention is being focused on the systematic denial of women’s rights in Afghanistan and its neighbors. This is an opportunity for human rights activists to make good on the slogan “There are no human rights without women’s rights.” Ensuring that women have a central role in Afghanistan’s next government would be an initial achievement signaling to the world that equal rights for women in public and private life are fundamental rights in every society.

The United States has obviously become a less hospitable place for human rights since President George Bush declared a war on terror. Many Americans seem to feel that their government should do anything and everything it takes to keep terrorists at bay. Of course, not everyone thinks the U.S. should drop a nuclear bomb on Afghanistan or start torturing detainees in American jails to get information out of them, as some rather hysterical journalists have suggested. But the very fact such comments could enter the public domain shows how the national mood has shifted.

Human rights values face a daunting challenge in the restriction of civil liberties for people accused of terrorism. The country’s editorial pages and a phalanx of impressive U.S. constitutional scholars have spoken out against President Bush’s order to create military commissions to try terror suspects. So far Attorney General John Ashcroft has remained impervious to this criticism. More pressure, from a broader spectrum of American society, must be applied.

If due process is abandoned for suspects in the United States, how will defendants fare in Indonesia or Mexico or Albania? Repressive governments around the world are taking notice of U.S. events, and taking heart. Not long ago, President Robert Mugabe arrested six independent journalists in Zimbabwe. His spokesman later said: “We agree with U.S. President Bush that anyone who in any way finances, harbors or defends terrorists is himself a terrorist. We, too, will not make any difference between terrorists and their friends and supporters.”

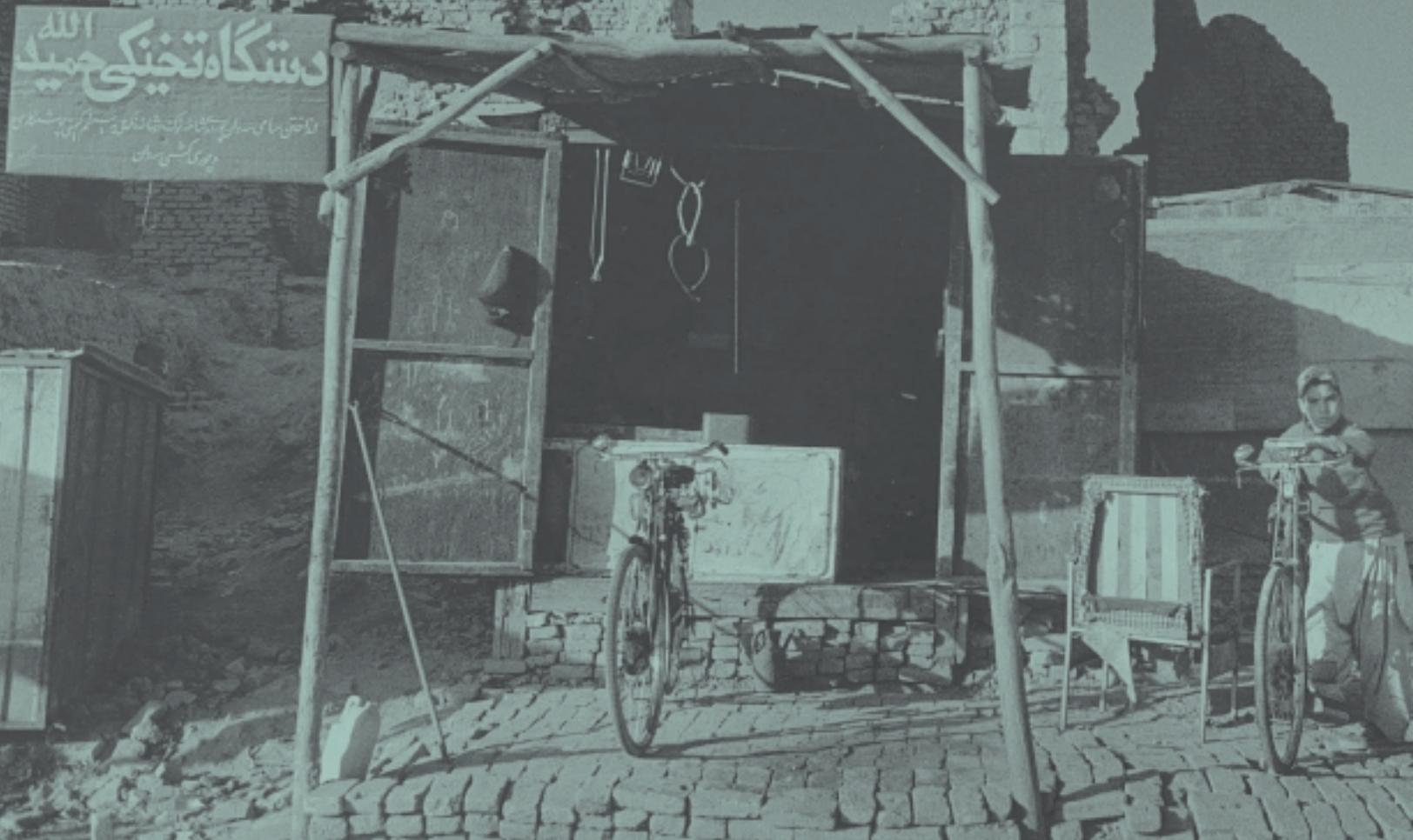
Americans have tended to think of the rights of detainees as a civil rights issue. They were raised to think in those terms. But what happens now in the United States is an urgent human rights issue—and it could affect the human rights of people all over the world.

FOR MORE INFORMATION

To find out more about how Human Rights Watch is responding to September 11, visit <http://www.hrw.org/campaigns/september11/>



Assembling Afghanistan



The best way to help Afghanistan once the fighting stops remains a challenging, and largely unanswered question. In the following essay, originally published in the *Washington Post*, Open Society Institute Chairman George Soros shares his ideas about how the international community can effectively help Afghanistan recover from years of war and instability. ■

GEORGE SOROS

The United States and its allies are winning the war in Afghanistan. But the danger is that a short-sighted vision of what our role should be once the Taliban have been removed from power still could lose the peace.

There have been encouraging words from the Bush administration that it will not “walk away” after the military campaign. But as yet there is little clear thinking about what that means in practice and how we can ensure a broader victory by helping to build a genuinely free, open, and prosperous society in Afghanistan.

We have been in similar situations before. And we have made mistakes. I personally have seen how, in the former Soviet Union and the former Yugoslavia, our initial efforts to support the transition to open soci-

“While talks proceed between various Afghan factions on an interim government, we are clearly a long way from a functioning state. The fluid political situation, combined with the lack of capacity in Kabul, means that aid delivered in the traditional manner almost certainly will be siphoned off for patronage. There is only one real alternative: giving charge of the immediate recovery process to the United Nations.”

eties, however well intended, did not work as intended. In many cases, aid created social and political problems rather than solving them.

The reason is to be found in the way that assistance is usually provided. Donors compete to deliver aid in a largely uncoordinated fashion, but they all go through the same recipient government, which can divert the resources for its own purposes. This was the case in Bosnia, where international aid served to feed local fiefdoms and was largely wasted.

In Afghanistan, this problem is writ even larger. It is a broken country. Twenty years of conflict have destroyed nearly all its infrastructure, triggered massive refugee flight, and left no national government capable of delivering basic services such as education, health care, and security for citizens.

While talks proceed between various Afghan factions on an interim government, we are clearly a long way from a functioning state. And, frankly, the past experience of the country, where competing warlords have favored ethnic rather than national interests, is not encouraging. The fluid political situation, combined with the lack of capacity in Kabul, means that aid delivered in the traditional manner almost certainly will be siphoned off for patronage.

There is only one real alternative: giving charge of the immediate recovery process to the United

Nations, which would work closely with an emerging, democratic national government until the government was ready to stand on its own feet. But it is an option that many in Washington instinctively reject, for reasons ranging from deep distrust of the United Nations to skepticism about its ability to deliver.

These concerns are misplaced. Not only does the United Nations alone have the multilateral character needed to oversee such an effort, it is uniquely equipped to take the lead in the early stages of an Afghan recovery.

First, the UN development and humanitarian agencies already have an extensive on-the-ground presence in Afghanistan, as well as a strong core of several thousand local staff that can ensure assistance is delivered by

Afghan nationals. This could be enlarged by recruiting qualified personnel from among Afghans living abroad. Many would almost certainly become the backbone of any new government. They also could ensure a central role for women as both planners and beneficiaries of a broader recovery agenda.

Second, the UN Development Program in particular—responding to similar problems from Somalia to Sierra Leone during the past decade—now has made the broad issue of crisis prevention and recovery in weak and failing states one of its core areas of work. That has left it much better equipped in terms of expertise and capacity to provide critical political and technical support and deliver “quick win” high-impact projects from agriculture to schools to clinics that can be directly administered at the regional and community level.

Third, the UN Development Program already has the necessary experience, political openness, financial controls, and transparent budgeting to coordinate aid effectively and minimize the chances of its being either stolen or misused.

Holding the purse strings so tightly would necessarily require the UN agency to play a more intrusive role than aid agencies have in the past. It would be closer to how my foundation network has functioned in the former Soviet empire. By delivering aid at the community level, we would help the political process by removing some of the urgency for an artificial, short-term political solution. This also would avoid the kind of ugly fight for spoils that has corrupted politics in other countries. Warlords could stick to their territories rather than fighting for control of Kabul as they have done in the past.

Acting as paymaster also would require some form of military protection for aid workers. But if such a force were directly linked to the delivery of effective aid services, it could not be seen as an infringement of national sovereignty.

The United Nations would play a clearly defined interim role, with its leadership lasting perhaps a year or two until a newly elected national government was able to take over. The long-range reconstruction programs would remain the responsibility of the World Bank and other development institutions.

Such a plan is not perfect, but it is the best way to avoid the pitfalls of the past. If the U.S. government refuses to follow it now, it will have to shoulder the responsibility for failure later.



Islam and Open Society: An Inevitable Conflict?

Airport, Istanbul, Turkey

Using an analysis of the Turkish response to September 11, Hakan Altınay, director of the Open Society Institute Assistance Foundation–Turkey, examines the possibilities for expanding and promoting dialogue about open society among Muslim communities. ■

HAKAN ALTINAY

In the aftermath of September 11, many observers were quick to describe the conflict at hand as a “clash of civilizations” between Islam and the West.

Familiar and easy to understand, this perspective is nonetheless a largely inaccurate and ineffective way to view the present situation.

One immediate shortcoming of this perspective is rooted in sheer numbers: there are more than a billion Muslims on this earth. It is impossible to reduce the divergent cultures, histories, and economic and political systems that these Muslims inhabit and sustain to one “civilization” headed for inevitable and violent conflict with others.

While those responsible for the attacks of September 11 may invoke Islam and its symbols, their appropriation of the faith is contested by numerous groups of Muslims and even conservative Islamists. The way in which various Muslim societies perceived and responded to the events of September 11 was often a function of their own histories.



“ While those responsible for the attacks of September 11 may invoke Islam and its symbols, their appropriation of the faith is contested by numerous groups of Muslims and even conservative Islamists. ”

In Turkey, where over 98 percent of the population is Muslim, perceptions of the tragic events of September 11 were rooted in Turkey's own experience with terrorism and had little to do with sharing, at least nominally, the same religion with the perpetrators of these acts.

From day one, Turkey was comparing the way the U.S. responded to the horrific acts of September 11 to its own response to the PKK, a Kurdish nationalist group that has advocated and practiced armed struggle for over 15 years.

Public debate in Turkey was quick to focus on U.S. antiterror legislation and how it compared to Turkey's antiterror laws. The sudden American dilemma of trying to sort out and deal with suspected terrorists, their direct supporters and those vaguely sympathetic to them struck a familiar chord with many Turks. Americans faced the prospect of having to weigh the costs of more violence and soldiers dying in combat against a profound need for retribution and justice, something Turks have wrestled with for years. And Turkey watched with interest as the world's lone superpower, seemingly committed to a new era of unilateralism, suddenly embraced new international alliances and appeals to international law. Each statement by Bush, Cheney, and Ashcroft was scrutinized. When Jonathan Alter noted in *Newsweek* that the post-September 11 world may well require revisiting old techniques and hinted that it may be time to think about torture, he captured headlines in Turkey, where widespread use of torture continues to be a major concern.

Many in Turkey expressed discomfort about characterizations of the conflict as a war between two religions.

When the Italian Prime Minister Silvio Berlusconi reportedly said that non-Christian cultures fail to nurture tolerance and respect for human rights, his views were met with severe criticism from a wide range of secular and Islamist groups. A number of prominent Islamists went out of their way to condemn September 11. Mukadder Basegmez, a member of Turkey's parliament from the conservative Islamist party, Saadet Partisi, argued that if jihad means struggle against regimes that oppress their people, then one would be obliged to do jihad against the Taliban regime and not with it or for it. Fetullah Gulen, the revered leader of a prominent religious group, condemned the attack in an ad in the *Washington Post*.

Once it becomes clear that “The Muslim world” is not a monolith, then a number of important questions arise: What more can be done? And is it conceivable to engage the opinion leaders in various Muslim societies in

a dialogue on open society?

OSI is already answering the first question by supporting an ever widening array of programs to empower citizens and meet the needs of communities in over a dozen countries with substantial Muslim populations.

OSI-Turkey is working with various partners to strengthen think tanks, build sustainable alternative media, expand legal rights programs to women in underdeveloped areas, and build a network of independent women's shelters.

The second question is equally important, but less easy to answer. Advocates for open society should engage the civil society leaders in these societies with renewed vigor. In a recent article in the *Guardian*, a renowned Turkish author, Orhan Pamuk, described the predicament of not being heard nor understood, a sentiment that is rampant in various Muslim societies. Given this growing sense of alienation among Muslims, it seems that now is a critical time to create a forum that can bring together civil society leaders from various Muslim societies. This should be a non-denominational, open-ended conversation on the ground rules for dialogue. The process has to be inclusive and help participants increase their sense of mutual respect and common values as the different societies they represent increasingly interact in a globalized world.

Some argue that the International Criminal Court is an appropriate forum. They assert that the International Criminal Court has been championed by an international group of civil society activists. They also note that once it is operational, it will be a critical tool in achieving a just order on a global scale. However, other forums may be required to discuss wider cultural issues, which are not always easily addressed by law.

The situation in the Arabic-speaking Middle East, which the perpetrators of the September 11 attacks cite as a primary source of their indignation, poses a more specific challenge. The Palestinian question is the central and organizing context in which most other issues are viewed in that part of the world. Many international initiatives, particularly U.S. sponsored ones, are seen as factors contributing to the plight of the Palestinians and not as solutions to their suffering. In this region, the extent to which the Palestinian question is made a priority and addressed will have a major impact on the success of any initiatives to engage civil society leaders in dialogue about Islam and open society.

FOR MORE INFORMATION

The following websites and e-mail addresses offer more information about OSI activities in countries with large Muslim populations: www.eurasianet.org; www.soros.org.ba (Bosnia and Herzegovina); info@kfos.org (Kosovo); and osiwa-dakar@osiwa.org (West Africa).



Candle memorial for World Trade Center victims, Jersey City, New Jersey



Open Society Institute
400 West 59th Street
New York, NY 10019
www.soros.org