

# **ARE HUMAN RIGHTS MOVEMENTS THE NEXT VICTIMS OF THE WAR ON TERRORISM?**

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## **I: INTRODUCTION**

Human rights movements the world over now face three mortal challenges: terrorism, be it of individuals, groups or states;<sup>1</sup> the war on terrorism;<sup>2</sup> and market fundamentalism.<sup>3</sup> Human rights movements have monitored, documented, and publicized human rights violations by terrorists, the war on terrorism, and market fundamentalism in the name of the constitutions, rule of law, social justice, peace, tolerance, basic needs, life and livelihood of all global citizens, humanity and the survival of the world. The question of the survival of the human rights movements now is whether the movements are the next victims of war on terrorism.

To attempt to answer this vital question the story of the Kenyan human rights movement is told. In the past three decades Kenya has been the target of terrorist attacks three times: on New Year's Eve 1980, Aug. 7, 1998, and Nov. 28, 2002. We will never know how many other attacks were attempted and foiled. Since the 1998 attacks, the vibrant Kenyan human rights movement has been discussing in earnest the question why Kenya is a target of terrorist attacks. Since the attacks on America on Sept. 11, 2001, the Kenyan human rights movement has also been discussing the root causes of terrorism. These discussions on why Kenya is a target of terrorism

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<sup>1</sup> Nobody the world over denies that the problem of terrorism must be addressed. Terror attacks that have taken place anywhere in the world must be condemned without reservations. Citizens of the world must fight terrorism. Human rights movements the world over have made this point very clear, even to the propagandists who claim that the positions of the human rights movements do not condemn these terror attacks unequivocally and unconditionally.

<sup>2</sup> The War on Terror must not be an excuse to violate the right of the peoples to self-determination and the right to life, and indeed, the whole gamut of the rights of citizens. The human rights movements are arguing that the threat of terror is being manipulated to subvert the very core existence of human rights. What the human rights movements are saying is that they are not interested, as indeed the citizens of the world are not, in arguments that there is no need for war on terror. What the human rights movements are also saying is that the War on Terror must not be a disguise for advancing vested interests that violate rights of the citizens of the world. Human rights movements that the world over have given proposals on the world solidarity to fight terrorism that is based on the rule of law, international law and the respect for human rights.

<sup>3</sup> The word "fundamentalism" has been properly used, albeit in different contexts, by Joseph Stiglitz, *Globalization and its Discontents* (London: Penguin, 2002); Tariq Ali, *The Clash of Fundamentalisms: Crusades, Jihad and Modernity* (London: Verso, 2002).

and what the root causes of terrorism are have intensified with the publication, by the Kenyan government, of the *Suppression of Terrorism Bill* in March 2003. The timing of the publication of this bill could not have been worse. Kenyans were preparing for the constitutional conference, which started in April 2003, to debate the draft constitution. The draft constitution has a modern bill of rights that is a great improvement on the South African bill of rights. Besides the impending constitutional conference, it was thought that the new popular government would resist the imposition of such a legislation instigated by the US and Britain.<sup>4</sup> The Kenyan human rights movement thought that the new government would use this popularity to engage the US in a dialogue on this issue of the war on terrorism and other related issues. While the previous regime had been unpopular and spineless when defending the sovereignty of Kenya, the new popular regime was expected to act differently. The hopes of the Kenyan human rights movement were perhaps politically naïve.

*The Suppression of Terrorism Bill* is yet to be debated in Parliament. It is important to share with the human rights defenders gathered here what the Kenyan human rights movements see as possible solutions to saving the global human rights movements from either being rendered impotent or, worse, being killed. In this paper I will address these solutions to human rights movements, be they national, regional, continental or international. It is the belief of the Kenyan human rights movement that the roles that the human rights movements in the United States and Europe, Russia, Japan and China will play in these solutions will be fundamental to the survival of human rights movements the world over. I will also make a recommendation for governments in the South, the kind of recommendation the Kenyan human rights movement has made to the Kenyan government.

In advancing the possible solutions and a recommendation, I fully recognize that history records some important voices that protest in the name of justice, but these voices recorded throughout history are too few. Nazism was evil and was justly fought; so was Japanese aggression, and later colonialism and foreign domination of all forms. In challenging the victor's justice after the Second World War, these few

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<sup>4</sup> American diplomats in Nairobi always respond that Kenya borrowed its draft bill from the Tanzanian legislation. *The Prevention of Terrorism Act, 2002* of Tanzania does have similar provisions. What is rarely stated is that the Tanzanian legislation borrowed heavily from the USA Patriot Act.

voices attacked the bombing of Dresden in Germany, the firebombing of Tokyo and the dropping of atom bombs on Hiroshima and Nagasaki.

We salute the dissenting voices of the American people and other citizens of the world who have opposed the conduct of the war on terrorism and the imposition, by the US, of legislation on terrorism on sovereign but weak nations of the South. However ineffectual and notwithstanding their position on the fringes, these voices are important. Human rights movements must also be a part of these voices of justice.

## **II: THE KENYAN HUMAN RIGHTS MOVEMENT: A BRIEF HISTORY**

The history of the Kenyan human rights movement can be extracted from the various historical works in Kenya.<sup>5</sup> A comprehensive history of the human rights movement in Kenya is yet to be written.<sup>6</sup> When it does get written it will no doubt analyze the historical roots of the movement to pre-colonial times. As Mamdani argues, "given what we know today of the slave revolts in Antiquity, can we assume

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<sup>5</sup> For example, Cynthia Bradley, *The Giriama and British Colonialism: A Study in Resilience and Rebellion, 1800-1920* (Berkeley: University of California Press, 1981); Robin Cohen, *Resistance and Hidden Forms of Consciousness among the African Workers*, ROAPE 19 (1985); R. J. Cummings, *Aspects of Human Portage with Special Reference to the Akamba of Kenya: Towards Economy History, 1820-1920*, Ph.D. Dissertation, University of California, 1975; T. Zeleza, "Establishment of Colonial Rule, 1905-1920" in Ed. Ochieng, *A Modern History of Kenya 1985-1980* (Nairobi: Evan Brothers (Kenya Ltd.; 1989), p. 32; Ed. B.A. Ogot, *Kenya in the 19<sup>th</sup> Century*, HADITHI 8 (Nairobi: Anyange Press, 1985) pp. 1-32; M. Singh, *History of Kenya's Trade Union Movement* (Nairobi: EAPH, 1969); Stichter, "The Formation of a Working Class in Kenya," in Sandbrook & Cohen, eds., *The Development of an African Working Class: Studies in Class Formation and Action* (Toronto: University of Toronto Press, 1975); Furedi, *The Mau Mau War in Perspective* (Nairobi: Heinemann, 1989); Edgerton, *Mau Mau: An African Crucible* (New York: Free Press, 1990); Kinyatti, *Mau Mau: A Revolution Betrayed* (London: Vita Books, 2000); Alamin Mazrui, "Ideology, Theory and Revolution: Lessons from the Mau Mau," *Race and Class* xxviii, 4, 1987, pp. 53-61; Mutunga, "Building Popular Democracy in Africa: Lessons from Kenya," in Oloka-Onyango, Kibwana and Peter, *Law and the Struggle for Democracy in East Africa* (Nairobi: Claripress, 1996) 199; Tandon, *In Defence of Democracy*, (Kampala: UDNIS Publications, 1979); Odinga, *Not Yet Uhuru* (Heinemann, 1967); Kaggia, *Roots of Freedom* (Nairobi: EAPH, 1975); Kanogo, *Squatters and the Roots of Mau Mau* (London: Heinemann, 1987); Anyang' Nyong'o "State and Society in Kenya: The Disintegration of the Nationalist Coalitions and the Rise of Presidential Authoritarianism 1963-1978," in *Africa Affairs* (1989), 229; Thiong'o, *Detained* (Nairobi: Heinemann, 1979); Kenyatta, *Suffering Without Bitterness* (Nairobi: EAPH, 1968).

<sup>6</sup> There are, however, publications that have dealt with the issue generally, for example, Issa Shivji, *The Concept of Human Rights in Africa* (London: Codesria Series, 1989); Sandbrook, *The Politics of Basic Needs: Urban Aspects of Assaulting Poverty in Africa* (Toronto: University of Toronto Press, 1982); Mamdani, *Social Movements and Constitutionalism in the African Context*, CBR WORKING PAPER NO. 2, (May 1989). For a history of a human rights organization see, Mutunga & Mazrui, "Rights Integration in an Institutional Context: the Experience of Kenya Human Rights Commission" in *Buffalo Human Rights Law Review*, Vol. 8 (2002), 123.

that these revolts in no way shaped the thinking of slaves, and gave rise to a conception of rights tending to simultaneously legitimate their revolt and to undermine the legitimacy of their masters' practices?"<sup>7</sup> East Africa had its share of slavery and slave trade.

The violation of human rights by British colonialism in all aspects of the lives of Kenyans will be easier to document. The invasion, occupation and domination of the Kenyan people by the British were resisted by the Kenyan people. Whether we analyze the land struggles, the resistance to forced labour, racial discrimination in areas of transport, housing, jobs, education, health and other facilities, the struggles for the right to vote, the right to have representatives in the legislature, the struggle against the imposition of British culture, the struggle for the right to organize as workers, peasants, professionals, or the massacres committed in the process of invasion, occupation and domination, the common denominator remains one of struggle for the human rights of the Kenyan people.

The struggle for *Uhuru* (independence) invoked the human rights discourse, especially after the second world war. The Universal Declaration of Human Rights was perpetually invoked to demand sovereignty, to denounce foreign occupation and domination and to demand an end to racial discrimination. As Issa Shivji states, "Democratic reforms, let it be said for the umpteenth time, is the prerogative of the people. It is the exercise of their sovereignty and their self-determination. That is what the struggle for independence and liberation was all about. It was the struggle of the African people to reclaim their humanity and dignity and the right to think for themselves and to chart their destiny."<sup>8</sup>

The post-colonial period has its own history of violations of human rights. Various groups in Kenya campaigned against these violations besides external groups like Amnesty International.<sup>9</sup> The struggle for academic freedom has been waged since the 1960s when institutions of higher learning were set up. Like during the colonial period these struggles were for the whole gamut of human rights. During the Cold War years and the consolidation of political dictatorship in Kenya, other than Amnesty International, Western interests paid very little attention to the human

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<sup>7</sup> *Ibid*; 2

<sup>8</sup> Good Governance, Bad Governance and the Quest for Democracy in Africa: An Alternative Perspective, A plenary lecture presented to Nordic Africa Days, Uppsala, Sweden, October 3-5, 2003, 12 (Mimeo.).

rights situation in Kenya. Western governments acquiesced in the abolition of multi-party politics, rampant corruption, political assassinations, detentions, torture, the denial of the right to vote among other rights that those Western governments claimed to protect and promote.

With the end of the Cold War, Western governments supported the embryonic human rights movement that challenged the political dictatorship. There were considerable investments in a civil society that was becoming vibrant<sup>10</sup>. Human rights groups mushroomed in the urban areas with many of them getting registered as NGOs. It is the human rights activists who agitated for a new constitution as a basis of firm multi-party democracy in Kenya.<sup>11</sup> Constitutional reform was an entry point to major social reforms that were required in Kenya in all fields of the country's existence.

The struggle for human rights was a struggle for democracy and social transformation in Kenya. Invoking the human rights discourse has taught human rights activists the following lessons:

- Human rights discourse is a progressive discourse against all forms of dictatorship.<sup>12</sup>
- Human rights discourse is a discourse of economic, social, cultural and political transformation.
- Human rights discourse is shield and defender against unmitigated market fundamentalism.

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<sup>9</sup> See Mutunga. "Building Popular Democracy." *Op.cit.* note 3.

<sup>10</sup> Up to 1990 only the religious organizations and the Law Society of Kenya challenged the dictatorship but not always in a consistent manner. The women and labour movements were appendages of the dictatorship.

<sup>11</sup> This history is captured in Mutunga, *Constitution-Making from the Middle: Civil Society and Transition Politics in Kenya 1992-1997* (Nairobi & Harare: Sareat & Mwengo, 1999). While secular civil society played a crucial role in the period covered in this book the religious organizations through the *Ufungamano Initiative* became leaders of the movement that led to the draft new constitution. As at the time of writing this paper the broad components of civil society are holding meetings to ensure that Kenya gets a good constitution without further delay.

<sup>12</sup> The story of the Kenya human rights movements in the last decade illustrates this point very clearly. The human rights discourse was used to fight for political pluralism, and the right to organize among other rights. Civil society itself became vibrant by invoking the human rights discourse because it needed to organize, assemble, the right to speak and the freedom of movement as well as the right to vote. Fully operationalizing the Vienna Declaration of 1993 the human rights discourse was invoked to criticize unmitigated globalization and its engines, namely, the World Bank, the IMF and the WTO. Draconian colonial and neo-colonial laws in the Kenyan statute books were also challenged on the basis of the discourse of rights. Above all, the agitation for a new constitution in Kenya, as a new social contract in the country, was at all times, pegged and founded upon the human rights discourse.

- Human rights discourse has promoted strong and vibrant movements of women, children, youth, persons with disabilities, and minorities in Kenya.
- Human rights discourse is a basis of alternative politics in Kenya.
- Human rights discourse is a weapon against foreign domination, exploitation of the Kenyan people and their resources and is a fundamental cornerstone of our sovereignty.

In the last decade Kenya has seen a vibrant civil society that is build around the struggle for human rights. We invoked human rights to usher in multi-party democracy. We invoked human rights to grant Kenyans the whole gamut of rights. It is through the struggle for human rights that there has been a regime change in Kenya. It is through the struggle for human rights that demands are being made on the current government to support the completion of the constitution-making project, end corruption, establish a truth, justice and reconciliation commission, ensure the nation's stolen resources are returned and ensures that Kenya stays on a truly democratic trajectory. It is against this background that the publication of the *Suppression of Terrorism Bill* was seen as the clawing back of all the gains made by the human rights movement since the early 1990s.

The criticism of the *Suppression of Terrorism Bill* has been based on various reasons. Ten of these reasons follow:

- There exists a sufficient legal regime to combat terrorism in Kenya.
- If the bill became law it would be unconstitutional under the current much maligned constitution of Kenya. This is because the bill of rights in the current constitution does reflect some liberal democratic values that the *Suppression of Terrorism Bill* undermines and subverts.
- The bill is an imposition by the US and Britain and it borrows heavily from the *USA Patriot Act*, the *British Prevention of Terrorism (Temporary Provisions) Act* of 1989 and the *Suppression of Terrorism and Communism Act* of apartheid South Africa.
- The bill, if it becomes law, will be rendered unconstitutional by the new constitution if the bill of rights in the draft constitution becomes operable.
- The bill is an affront on the nation's sovereignty.
- The bill, if it becomes law, will hinder progressive democratization in Kenya as it gives the state and its institutions draconian powers.
- The bill, if it becomes law, will claw back all the concessions that Kenyans have consolidated against the dictatorship for the last decade.
- The bill, if it becomes law, may be the death of the human rights movement in Kenya.
- The bill, if it becomes law, will outlaw the growth of alternative politics in Kenya.
- The bill exposes the US and Britain as hypocritical, perfidious and duplicitous in their pronounced support of human rights at home and abroad.

There is a need for dialogue on the new bill. Indeed, the Law Society of Kenya has drafted a new bill that attempts to bring a compromise between the demands made by the US on the Kenyan government and the criticisms advanced against the bill by Kenyans. With such legislation on terrorism existing in neighbouring Tanzania and Uganda, Kenya will be hard put to resist the pressure from the US. Human rights movements in Uganda and Tanzania are supporting the efforts of the Kenya human rights movement against the bill as a basis of agitating for the repeal of the legislation on terrorism in their countries. The human rights movements in Uganda and Tanzania have seen how the terrorism legislation can be used to attack political enemies and to silence civil society. It is worth noting that the vibrancy of civil society in East Africa is only a decade old, and the signs are that the legislation on terrorism is already impacting negatively on the gains made by the civil society in those countries in the last decade.

### **III: WHAT CAN BE DONE**

#### **A: A Recommendation to All Governments**

The criticisms against the *Suppression of Terrorism Bill* in Kenya are powerful and worthy of consideration by the government of Kenya and, indeed, all other governments that already have such draconian legislation in their statute books. These criticisms also ought to be taken seriously by the US government. They should be taken seriously by the human rights movements in the US, Britain, Europe, Russia, Japan and China in solidarity and for the protection of the human rights movement in Kenya and other movements in the South.

#### **B: What the American Human Rights Movement and other Movements in the G8 and China can do**

What should the human rights movements in the US, Britain, Europe, Russia, Japan and China do in protecting the human rights movements the world over? There are challenges that, in my view, the American human rights movement must focus on and take a distinct leadership in. The movements in Britain, Europe, Russia, Japan and China could then take a leaf from the leadership of the American human rights movement. What can the American human rights movement, then, do?

Following the attacks on America (one of the worst one-day massacres in the last decade, rivaled only by the massacres of the first days of the Rwandan genocide of

the Tutsis in terms of numbers), the various national, regional, continental and international human rights movements took the following measures: the movements expressed anguish about the lives lost in the bombings, invoking the human rights discourse; the movements invariably stated that any expression of political opinion by an individual, group or state that is against humanity must be condemned without conditions or reservations; and the movements reiterated that the right to life is fundamental to humanity and the human rights discourse protects the right to life at all costs. Secondly, the human rights movements declared the murders of innocent American citizens crimes against humanity, and the accomplices of the dead perpetrators had to be captured and prosecuted in the appropriate courts. International law and international institutions were invoked as capable of handling the matter. The suspects in the 1998 bombings in East Africa were arrested and prosecuted in US courts. They had legal counsel, and after the trials they were sentenced to life imprisonment. What was being urged about the murders of the American citizens of the September 11<sup>th</sup> bombings, as implied by the Human Rights Watch, was that the US should not commit similar crimes against the humanity of other countries because the world would cease to distinguish the difference between the US state and the terrorists. It was, indeed, implied that if Osama bin Laden and other suspects were apprehended, they should be tried, just like their comrades in East Africa and the Libyans who were accused of the Lockerbie bombing.<sup>13</sup> Indeed, judicial systems<sup>14</sup> become very powerful when they try, according to the law and procedures, those individuals we would want to see dead.

It is all too apparent now that the second position of the human rights movements was not heeded by the US state. While the Bush administration constantly talks of "war on terrorism," the FBI and other relevant institutions carry out investigations into the murders resulting from the September 11<sup>th</sup> attacks on the basis that these attacks were criminal acts. Before these investigations have been completed and the surviving perpetrators have been tried by the due process of law, the Bush administration's "war on terrorism" had been declared and was being waged against

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<sup>13</sup> Let us not forget that In 1993 the World Trade Center bombers tried and convicted through regular American courts.

<sup>14</sup> The judicial systems are capable of handling cases arising of terror attacks. There are precedents all over the world to support this. Where weaknesses are identified necessary reforms can be undertaken. Professor Makau Mutua has written: "Terrorism can be reduced substantially through good policing, effective surveillance and interdiction on our borders, professional intelligence and the use of existing criminal laws.

Afghanistan. Furthermore, the Bush administration had threatened to bomb other countries (perhaps sixty according to President Bush) that support or harbour terrorists. The war of "liberation" against Iraq also sought to find out if Iraq was supporting and harbouring terrorists. This position taken by the US state seems to reflect Voltaire's dictum that "to be a good patriot one needs to become the enemy of the rest of the world."

There are worrying scenarios in the world as a result of the attacks on America including the escalation of xenophobia especially against Arabs, but targeting all immigrants, and this is not happening in the US alone. There is evidence of xenophobia in other countries. In Italy, for example, the Northern League (part of the coalition of parties that now govern the country) has proposed that all undocumented workers should be treated as potential terrorists. The anti-globalization movement has been demonized and has been accused as the enemy of "western civilization." There have been wide spread restrictions on civil liberties in the US, and debates on similar restrictions are taking place in the UK and other countries. The West seems, after the September 11<sup>th</sup> attacks, ripe for neo-MacCarthyism, Nazism and fascism. The human rights movements in the West, and indeed all human rights movements, must be aware of these new challenges. Whatever successes the human rights movements have made in the areas of women's rights, civil liberties (for example the ICC) and other human rights areas are now in danger of being clawed back.

So far, in my opinion, the human rights movements have sought a better understanding of **what** has happened on September 11, 2001, but have not sought an understanding of **why** it has happened. The human rights movements are yet to respond to **why** the Bush administration ignores the human rights movements' position on the "war against terrorism." This is an issue that every American citizen is sensitive about. Indeed, attempts to discuss why the attacks occurred are invariably greeted with hostility or accusations that one is condoning or rationalizing the September 11, 2001 attacks. I hope President Bush's warning (which indeed reflects a basic logical fallacy) that the world is either with the US or with the terrorists is not being taken literally. The human rights movements should not be

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We do not need to make Kenya a police state to fight the occasional acts of terror." *Daily Nation*, July 2, 2003, page 9.

intimidated and must analyze why these attacks happened and why America's "war on terrorism" persists. This analysis must take into account all voices. Only then can the human rights movements be able to lead in a world, I am fully convinced, where only human rights discourse offers words of reason, tolerance, peace and caution and a vision of survival for the world.

Let me state a few entry-points into such an analysis. I am convinced there is a need to demystify Islamic fundamentalism as intra-class conflict between the ruling classes in North Africa, the Middle East and West Asia. As George Caffentzis<sup>15</sup> rightly points out, it is the new generation of dissidents within these ruling classes that is accusing the other sections of the ruling class of being corrupt, of squandering the region's resources, and of selling out to the US. When it comes to the support of Palestine, the accusations of "duplicity and shallowness" of commitment to Islamic solidarity by these ruling classes is a common criticism by these dissidents. There are, therefore, many issues that need to be understood and which ultimately reflect fierce struggles for political power in these areas.

Clearly, the US policy in North Africa, the Middle East and West Asia has to be interrogated and problematized. The American human rights movement has to take the lead in this interrogation and problematization, for the Americans need to understand their country's foreign policy better. Let the American human rights movement revisit the devastation of Iraq, the US government's policy on the management of oil resources in these areas, and the building of American bases in Saudi Arabia. (The fundamentalists see this as a betrayal of Islam because Saudi Arabia is Islam's most sacred land.) Let the American human rights movement revisit the US policy on Israeli policies in response to Palestinian demands. Yet, the American human rights movement cannot ignore the economics and politics of oil issues in Uzbekistan, Turmenistan and Kazakhstan or the great energy reserves in or adjacent to the Caspian region.<sup>16</sup> This may clarify why the bombings in Afghanistan continued for a while. Overall, the American human rights movement must understand the role of the US in the new world order. The American human rights movement will thereafter educate the American public on the consequences of the

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<sup>15</sup> *An Essay on the Events of September 11, 2001, Addressed to the Antiglobalization Movement, October 6, 2001*

<sup>16</sup> John Maresca, "A New Silk Road: Proposed Petroleum Pipeline in Afghanistan," in *Monthly Review*, Vol. 53, No. 7 (December 2001), 28.

policies of their government in these areas of the world.<sup>17</sup> Civic education is not just for the citizens of the South. Indeed, the American citizenry needs more civic education than other citizens of the world. Such a project by the American human rights movement will assist in part in answering the question the American public has asked of its leaders after the September 11<sup>th</sup> bombing, "Why do they hate us so much?"<sup>18</sup> The answers so far given by the American political leadership to the American people is a mix-up of half-truths and falsehoods. Indeed, it is the fundamental duty of every American to change the current foreign policy of the US, a role in which the American human rights movement has to play a part.

I have also read write-ups by American academics, among them George Caffentzis, calling for the "long list of real connections between "terrorist networks" and the personnel of the Bush administration" to be revealed. There is a claim that the reason why heads have not yet rolled in high places in the Bush administration after what has been called "massive intelligence and security failure" attested by the September 11, 2001 crimes is because of these connections. It is through these connections that the training and financing of the very organizations that are now

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<sup>17</sup> Professor Makau Mutua of SUNY Buffalo Law School has on November 9, 2003 written:

"I am afraid that Iraq was more viable under Saddam Hussein. I cannot predict when or whether the American military will crush Iraq resistance. But I will not be surprised if Iraq becomes a failed state, like Somalia, or a vortex for violence, like Lebanon. I need not add that the Middle East, already a troubled region, does not need another epicenter for mayhem. A volatile and seething Iraq, combined with a ruthlessly repressed Palestine, is a crucible for damnation.

Yet, this is what America may beget the world; another cauldron. It seems hard to imagine, in fact, that the Iraq mess started in Afghanistan after the September 11 attacks on America. Since then, America has descended into a deep state of paranoia in which the war on terror and security have virtually disappeared human rights as a calculus for both domestic and foreign policy in many states. Surprisingly, the US has led the way – at home and abroad – in abrogating basic freedoms and human rights.

Life, as we used to know it in America, has changed. The terrorists have scored a major victory because the Bush Administration has already curtailed a number basic democratic rights. The irony is that it was the United States that vehemently opposed the Soviet invasion and occupation of Afghanistan two decades ago, a fact that hastened the collapse of what Ronald Reagan called the Evil Empire. Will Afghanistan and Iraq drag America down? Or will sense prevail in the Congress and force a change of policy?

I am sure of one thing. The blatant disregard of basic rights by the most powerful state sends a terrible message to the international community and other states. With such an example from Washington, how do we expect leaders like Zimbabwe's Robert Mugabe, or Ariel Sharon of Israel, to exercise restraint in dealing with opponents to their policies? On the contrary, it just emboldens them to crack down harder and to then point to America in their own defense. So, paradoxically, the so-called leader of the free world is giving aid and comfort to the commission of atrocities.

But I am afraid that America has gone beyond the power of demonstration alone. Washington is now pushing other states to curtail and suppress the basic rights of their own citizens in the name of security and war against terror." *Sunday Nation*, Nairobi, Kenya.

<sup>18</sup> I would recommend very strongly that all Americans read Sardar & Davies, *Why do People Hate America* (New York: Disinformation, 2002).

being hunted down under the banner of “terrorism” took place. Some of the personnel in the current Bush administration served during Bush’s father’s administration when the training and financing took place. As a parting shot to all this, *The Wall Street Journal* (28/9/01) reported that the President’s father works for the bin Laden family business in Saudi Arabia through the Carlyle Group, an international consulting firm, as do other close associates of the President like former Secretary of State James Baker. These vested interests in the war should be revealed by the human rights movements. It is also worth noting that the American and other human rights movements in the West have had a marginal interest in the military and industrial complexes of the developed countries as root causes of human rights violations. Now is the time to move this marginal interest to the centre stage of human rights projects.

It has been argued that the American and human rights movements in the West inquiry into the September 11, 2001 attacks should also focus on the new foreign investment law in Saudi Arabia that has sought to globalize the economy of Saudi Arabia.<sup>19</sup> Saudi Arabia’s policy for the last seventy years has restricted foreign investment to the margins of its national investments. Economic and political reasons have been cited for this change of policy. It has been argued that this change in policy may have triggered the desperation that resulted in the September 11<sup>th</sup> attacks on America. This is an hypothesis George Caffentzis<sup>20</sup> has proposed, and it is worthy of testing along with others.

I am convinced that the crucial question here is whether the human rights movement in the US and similar movements in Britain, Europe, Russia, Japan and China will take up this challenge.<sup>21</sup> Nonetheless, I must make a strong recommendation that the underlying causes be the subject of thorough investigation by these movements.

### **C: The Relations between Various Movements**

What about relations between the human rights movements in the South and those in the North in the struggle for the survival of human rights? The relations between

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<sup>19</sup> George Caffentzis, *op.cit.* note 8.

<sup>20</sup> *Ibid.*

the human rights movements in the North and those in the South have not attracted any serious and continuous attention. Within African countries we have seen human rights and development NGOs from the North firmly place one foot in the state houses of our countries, the bastions of human rights violations, and the other in our slums, the glaring and striking reflections of the violations of the whole gamut of human rights in our countries. There have been alliances between the national human rights NGOs and those from the North when both have faced authoritarian pieces of legislation aimed at destroying the independence of civil society. No sooner are such projects concluded than the "hostility" between "political" and "development" NGOs resumes. Serious criticisms have been leveled against development NGOs for fostering the culture of dependence in our countries in supporting, however unwittingly, dictatorships and foreign domination. National human rights NGOs are raising questions about the very presence of international human rights NGOs in our countries.

The formation of strong national, regional and continental human rights movements and networks should be the basis of firm building blocks for the international human rights movement. It is important that such a movement starts at the national level where networks between human rights groups become strong. They in turn raise issues of regional nature to by-pass the limitations of the nation-state and bring the regional movements together. The same process is good for continental human rights movements, the South-South solidarity of human rights movements, and giving the intellectual and political direction to the international human rights movements, from below, so to speak.

#### **D: What Human Rights Movements Can Collectively Do**

What I want to do now is to comment on what the human rights movements can do on this issue of terrorism and human rights. My opinion is that what human rights movements can do on this issue of terrorism and human rights revolves around the following questions:

- Shall the human rights movements **collectively** join the anti-globalization movements? Some of the human rights movements are members of the World

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<sup>21</sup> This challenge is not without its dangers. The challenge may be perceived as arguing that there is no need for war on terror. The global propaganda machine is of course against this challenge. Who other than these human right movements will take up this challenge?

Social Forum; others have participated in marches against capitalism and against globalization; others are members of initiatives against the WTO, IMF and World Bank; and others have organized campaigns against multinationals to guarantee the human rights of workers. What is missing is the collectivity and connectivity. The International Council on Human Rights Policy (*ICHRP*) cautiously and conditionally answers this question in the affirmative. The Council states at page 48 of its publication<sup>22</sup> as follows: "However, joining with larger groups of campaigners who are united by common ethical values (but are not necessarily interested in their legal expression) involves risk. The two qualities that human rights organisations distinctively bring to advocacy are knowledge of the law and a precise grasp of institutional procedures. Certainly, they can 'shame and blame' those who are guilty; but so can others. The rich and passionate campaigning tradition of human rights organisations is often most effective when criticism is accompanied by precise descriptions of legal obligation. Where human rights organisations can use their well-honed capacity for argument to add credibility and effectiveness to an alliance, this will clearly be valuable. On the other hand, if human rights advocates, taken as a whole, were to surrender legal rigour for a more imprecise rhetoric, campaigns for justice would scarcely be stronger - but the ability of human rights organisations to defend vulnerable people effectively would be much reduced. Once again, in a period of polarisation this is a particular challenge. Human rights organisations cannot afford to stand on the edge of events, or be seen to be compulsively parsing law; but they might do harm to the cause of human rights if, from weakness or passion, they give themselves up to the forces of polarisation and put 'loyalty to the cause' before accuracy."

The anti-globalization movements are about economic, social, cultural and political justice. The movements challenge the economic, social, cultural and political rights of globalization. The anti-globalization movements, in my view, highlight the limitations of the human rights organizations and their discourses. These anti-globalization movements want and struggle for a new world order. Whether the movements reflect a mixed-bag of various ideologies and politics, their crusade and quest for change is their common denominator. The narrow project of human rights organizations can find a place in the anti-globalization movement as long as they do

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<sup>22</sup> *Human Rights After September 11* (Versoix: 2002).

not describe the broader project of the movements as “imprecise rhetoric,”<sup>23</sup> “weakness or passion,” or “loyalty to the cause.” The anti-globalization movements are dealing with global forces that have little or no faith in or respect for “precise descriptions of legal obligations.” I see conflicting visions within the human rights movements on the issue of these anti-globalizations movements and their relevance to the work the human rights movements do. What has to be done now is to debate these conflicting visions and see whether the human rights movements can establish concrete ideological and political positions on the issue.

- The position of the human rights movements on “new imperialism,” “defensive imperialism,” and “re-colonization” may on the surface appear clear.<sup>24</sup> With the movements’ clear position on the issues of sovereignty, the right of peoples to self-determination and the entitlement of a social and international order in which rights and freedoms can be fully realized, one can be excused for coming to such a hasty decision. Let us debate this issue seriously. Will the human rights groups and their movements in the North support the struggles of the human rights movements in the South when the latter resist any categorization of imperialism?
- How will the human rights movements the world over mainstream the “dissenting voices”<sup>25</sup> in the North which are currently “on the fringes and largely ineffectual?”<sup>26</sup> I guess we need to discuss the principle of non-partisanship<sup>27</sup> and

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<sup>23</sup> In the mass action in Genoa, would the words on a demonstrator’s T-shirt, “You G8. We are six billion!” constitute an imprecise rhetoric?

<sup>24</sup> Yash Tandon, NEPAD and the Conflict Resolution in Africa in the Light of September Eleven.” Mimeo. March 2002. At page 17 Tandon writes: “ At the end of March 2002, Tony Blair’s political adviser, Robert Cooper, provoked a controversy in Britain by publicly arguing a case for ‘defensive imperialism’ that would involve recolonisation of states that posse security threat to the Empire. In a policy pamphlet titled ‘Reordering the World’ published by the Foreign Policy Centre he made three significant points:

- One. When dealing with the more-fashioned kind of state outside the post-modern continent of Europe, we need to revert to the rougher methods of an earlier era – force, pre-emptive attack, deception.
- Second: The opportunities, perhaps even the need, for colonisation is as great as it ever was in the 19<sup>th</sup> century.
- Third: What is needed, then, is a new kind of imperialism... We can already discern its outline: an imperialism which, like all imperialism, aims to bring order and organisation but which rests today on the voluntary principle.

These are the words of no lunatic, nor an armchair academic. These come from the highest policy-making structures of British government under Blair.”

<sup>25</sup> *Ibid* 14.

<sup>26</sup> *Ibid*.

<sup>27</sup> See Mutunga, “So, What Really is Non-Partisanship?” in ed., Athena Mutua, Eyes on the Prize (Nairobi: Kenya Human Rights Commission, 2003), 31. What I can add here is that non-partisanship is earned not just professed. There has to be some articulated basis for the claim that one or an organization is non-partisan. Such basis allows one to engage and disengage from alliances depending on such articulated basis. Kenya Human Rights Commission has a policy that articulates that basis. It is also important to offer tangible evidence of non-partisanship through clear minded and principled actions. Non-partisanship is not the only credible stance for a human rights organization. Partisan stands have lots of honourable precedents

the state-civil society relations in a more in-depth fashion. Do the human rights movements in the North accept that human rights violations are everywhere in the world including in the North? Do they accept Noam Chomsky's argument that we cannot address terrorism of the weak against the powerful without confronting "the unmentionable but far more extreme terrorism of the powerful against the weak?"<sup>28</sup> Do they accept the principle that the lives of other citizens of the world outside the North have a value? Do they accept Samir Amin's argument that "we must realize that there can be no united front against terrorism without a united front against international and social injustice?"<sup>29</sup>

- It is now clear to the human rights movements the world over that the conservative Right in the USA is on the warpath against NGOs as an entry-point to waging war against the human rights movements and the anti-globalization movements. Is this campaign going to drive a wedge between the human rights movements in the world?
- The *International Council on Human Rights Policy* makes the suggestion that "Work on human rights would be strengthened if organisations outside the United States engaged more consistently with US organisations that work on national economic and civil rights." The human rights movements in the South tend to work with American human rights NGOs that focus on the South rather than on the US. Is this not an idea, that NGOs outside the US focus on the US, whose time has come?<sup>30</sup>
- Have the attacks on America acted as a wake-up call for our embryonic human rights movements to our national, regional, continental and international obligations? How strong are the networks between human rights organizations, the trade unions, women's groups, youth groups, religious organizations, the professional groups, the peasant organizations and other people's organizations? Do we realize that some of the members of organized civil society may be the death of human rights? International human rights movements can only comprise

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but the risk of losing the advantages of non-partisanship should always be taken into account. What would be modestly undesirable is to erase the line between partisan and non-partisan by saying you are one but acting as if you are the other.

<sup>28</sup> *Power and Terror: Post-9/11 Talks and Interviews* (New York: Seven Stories, 2003), 7.

<sup>29</sup> "World Conference Against Racism: A People's Victory" in *Monthly Review* 7 Vol. 53 (December 2001) 20 at page 23.

<sup>30</sup> "Given the alarming tendency towards unilateralism and militarism in the US administration, international civil society should make special efforts to engage and support American civil society organizations in their efforts to mobilize public opinion for multilateral and peaceful policy options."

strong and vibrant national, regional and continental human rights movements. Such movements must have their ideological positions very clear if they are to play positive political roles in their countries while strengthening clean global politics.

- What are human rights movements doing to ensure that these movements survive and are, indeed, permanent and irreversible? Without foreign funding many of the human rights movements in the South would die. Yet, with proper mobilization and politics, the middle classes in the South could make these movements permanent in our various countries.

#### **IV: CONCLUSION**

Human rights movements the world over have a major role to play to guarantee peace and the survival of the world. The dangers that the human rights movements face have to be confronted head on. This confrontation is only possible if the national, regional and continental human rights movements become powerful, vibrant and acquire a mass following. Such movements will strengthen the international human rights movements that are important pillars in facing the challenges posed by the enemies of human rights. The human rights movements the world over are the only engines for social justice. And it is for these reasons that the movements face mortal danger in the context of the war on terrorism.

Human rights movements the world over are based on hope, courage and less fear. These are important values for the movements and they must never be abandoned. What is required are unified, vibrant, strong and popular human rights movements the world over that the powers that be will ignore at their peril. Such a mission is not just a dream. It is a reality we have to achieve if human rights movements and the human rights defenders will survive.

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