

Obama changes rhetoric but the 'war on terror' continues to impact civil society

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Posted by AD Brown



American democracy left hanging? © AP / Rodrigo Abd

Despite a change in rhetoric, the legislation, practices, policies and structures introduced since 9/11 still inhibit society's ability to practise democracy

The recent leaks of more than 90,000 sensitive documents revealing the extent of civilian casualties in Afghanistan has yet again drawn public attention to the US-led war on terror. Even though the UK government in 2006 and the new Obama administration have renounced the language of the war on terror, fighting in Afghanistan continues, conflict drags on in Iraq and new frontlines of terrorism are emerging across the Horn of Africa and North Africa. When President Obama assumed office in January 2009, he moved quickly to abandon some of the most excessive facets of the war on terror, such as the closure of the detention facility in Guantanamo Bay and the prohibition of the use of torture, specifically water-boarding. Nevertheless, most of the practices, legislation, policies, and structures introduced since 9/11 remain deeply embedded and continue to affect civil society organisations in the US and their partners overseas. Moreover, there are few signs that the US government is planning to overhaul the systems put in place since 9/11 that have an impact on civil society groups. Recent events may suggest that we can expect little movement in this direction in the near future.

Of concern is the decision by the Supreme Court on 21 June 2010 in the case of Holder versus Humanitarian Law Project to uphold the material support provision of the Patriot Act. This provision applies not only to the provision of currency, financial services, or lodging to terrorist organisations but also to training, expert advice, or assistance. Two US citizens and six domestic organisations (the plaintiffs) have challenged this provision to terrorist groups on the basis of the First and Fifth Amendments. The Supreme Court's ruling means effectively that any lawyers providing legal counselling to suspect terrorist groups are guilty of assisting terrorism. So, if a peace-building group

provides training in non-violent conflict resolution based on international law to groups designated as terrorists, then it becomes legally party to promoting terrorism. Additionally, if an NGO provides training in political advocacy to equip an organisation to advance its cause without violence, then the fact that the participants are associated with a designated terrorist organisation renders the NGO and its trainers complicit in promoting terrorism. Human rights lawyers and NGOs such as the Charity and Security Network have vigorously challenged the ruling of Chief Justice Roberts of the US Supreme Court. Public support has been such that the Charity and Security Network has experienced a sudden surge in membership.

This ruling is yet another intrusion on the activities of civil society actors based in the USA. In her speech in Krakow, Poland on 3 July 2010, Secretary of State Hillary Clinton devoted her talk to the importance of civil society in advancing democracy. She took this opportunity to announce a new fund to support the work of 'embattled NGOs'. Whilst the US on the one hand promotes democracy and civil society as an essential part of its foreign policy, on the home front the last decade has proven to be a period of embattlement, particularly for Muslim charities and non-profits working in conflict areas. Abandoning the language of the war on terror was a step in the right direction. However much remains to be done to unravel the legislation, practices, policies, and structures introduced since 9/11 that inhibit rather than facilitate civil society's role in promoting democracy and peace.

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