

Of Humans and Rights

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Theme: [Crimes against Humanity](#), [History](#)

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U.S. newspapers sometimes print what they call the total death count from one or more of our wars, and all the dead who are listed are Americans. They aren't all the Americans. They don't include contractors or suicides or various other categories of dead Americans. They certainly don't include those who died for lack of basic needs while we dumped half of our public treasury into wars.

But they also don't include anyone from that 95% of humanity that's not from the United States. In our current wars, well over 95% of the dead, even in the short-term, are from the countries where the wars are fought. Some get labeled combatants and some civilians, but they're all left out of most body counts, and when they are counted they are counted low. Our government pretends not to count them at all, and only thanks to Wikileaks do we know otherwise, that the military has counted some of them.

This may be a step up from the Vietnam War, when the deaths of Vietnamese were officially celebrated. But it's not a step all the way to considering everyone human. The dead are still dead and unmourned. The official collection of ears in Vietnam has evolved into the unofficial collection of fingers in Afghanistan. This is not the progress we ultimately need.

Some humans seem to have no business existing, even before they die. Nearly five million Iraqis have been turned into refugees by our so-called liberation of their country. To acknowledge their existence doesn't fit our narrative. The global policeman doesn't chase people out of their homes or render whole pieces of the earth's surface uninhabitable. Are the women of Fallujah, told by doctors to stop having children because so many are born with horrible defects, human? Are they as human as the British royal couple or the U.S. president's family? Do we hear about them as much? Or at all?

I recently read the script of a play dramatizing the stories of some Iraqi refugees. By doing so, common understanding would hold that I went through a process of what's called humanizing people. Five million refugees is just a number. But the story of one of them who has had specific and somewhat familiar troubles, the loss of loved ones, the loss of self-respect, and a struggle to endure, a story full of detail including the person's name, appearance, voice, manners, and personality — well, that humanizing story makes that person and the four million nine hundred and ninety-nine thousand and nine hundred and ninety-nine others more than a number. They have all now been humanized. Or so it is commonly believed.

I don't deny that such humanization works. But I question whether we must necessarily be so incredibly obtuse that it is necessary. Do we really doubt that any human lacks a specific human story until we hear it? While we should want to know the details of others' lives, do

we have to know them before we can believe that those people are human and act accordingly? I'd like to propose a definition for human being that goes in the opposite direction: A human is anyone at all, but especially those you know the least about or know the most unpleasant things about. The person least like you is the most human, and you should work hardest to get that person human rights. After all, people you know well need not be described in such general terms as "she's a human being."

Our president recently began a war for the supposed benefit of the people of Libya, ceasing to arm and support Muammar Gaddafi and switching our government's support to his opponents. To gain Saudi Arabia's backing for this humanitarian war, our government told Saudi Arabia it had our blessing to move troops into Bahrain where they would attack civilians.

Were the Libyans more human than the Bahrainis?

What about the Libyans whom U.S. and NATO bombs are killing? Are they less human than other Libyans?

Are the Libyans on our side of the war the most human, except for the ones employing child soldiers, and the racist murderers, and the ones who fought against the United States in Iraq, and the ones we may poison with depleted uranium, but especially Khalifa Hiftar, the rebel leader who has spent the past 20 years living in Virginia near CIA headquarters with no visible means of support? And what about Libyans who try to come to Europe, or who die of thirst and starvation on a ship while a U.S. aircraft carrier leaves them to their fate? Are they the least human Libyans? Reuters printed this headline this week: "Libya may be using migrants as weapon against EU- UN."

Remember when the Pentagon viewed suicides at Guantanamo as acts of war? For Libyans and other Africans, just existing and being sent or sending oneself in the direction of Europe is an act of war. These humans are imagined into objects deployed like bullets from a gun. They disappear as human beings. And we learn nothing. If we'd known the Iraq War produced refugees, perhaps we'd have known the Libyan War would do the same. The UN Refugee Agency estimates 1,200 have died on boats fleeing the humanitarian war in Libya. Survivors say a U.S. aircraft carrier and other ships have left them to their fate.

Other humans are not erased, but rather demonized. Whole races and nations and religions of people are hated. While some back wars as humanitarian acts, others back the same wars as a way to kill evil beings. Before he dropped atomic bombs on Japan, before he became president or vice president, Harry Truman was a senator who stood up in the U.S. Senate and said that if the Germans were beating the Russians we should help the Russians, and if the Russians were beating the Germans we should help the Germans. That way, he said, more of the whole lot of them would die.

We think of the genocide committed by the Germans in their World War II camps as invented out of whole cloth. It actually built on the colonial and imperial policies and thoughts of Germany, Belgium, France, Spain, England, and the United States. Spanish murder and disease wiped out the inhabitants of the Canary Islands between 1478 and 1496, followed by the European elimination of humans from many parts of the Americas, the Pacific, and Asia. In 1829, all non-Europeans in Tasmania were concentrated in one area and hunted down. You know what the United States did to its native peoples. The term "concentration camp" had been invented by the Spanish in Cuba in 1896, used by

Americans, and used by the British in the Boer War. In 1904, the Germans used it as they wiped out the Herero people of Southwest Africa.

The Nazis killed several million civilians in camps and became the model for all things evil, but the war they started killed some 70 million people worldwide, each and every one of them a human being, and each a victim of the very worst thing we've ever created: war, and this war like every war the result of years and decades of predictably dangerous decisions.

The Nazis are our model for evil, but we put their top living officials on trial in courts of law and declared, however hypocritically, that we would expect to be treated identically if charged with the same crimes in the years to come. Germany just convicted another former Nazi this week. The Nazis were evil, but human. The people our propaganda now demonizes as this month's Adolf Hitler or next month's Adolf Hitler are depicted as sub-human. Prisoners are bound and hooded and treated as animals, communicating the inability to reason with them, softening us up to accept their torture.

If the Royal Family of Bahrain were demonized on our televisions for his nation's abuses of innocent people, a good many Americans would want to bomb Bahrain, despite the fact that most of the victims of our bombs would not be the demonized president. Of course, that scenario won't happen with Bahrain hosting a U.S. Naval fleet. But it happens all the time in nations that our nation's government wants to bomb, with bin Laden, Gadaffi, Hussein, Milosevic, Noriega, and many others.

We've been reduced to arguing that we should try alleged criminals in courts of law, rather than murdering them, for our own sake. We should do it to avoid lowering ourselves to what we understand as their level. We admit that they are subhuman monsters, but we prefer to give them trials because that is who we are. I don't think this is good enough. Nor do I think it takes full account of our own monstrous foreign policies. Every human is a human, even the cruel, sadistic, murderous ones. They have blood on their hands and legitimate grievances at the same time. They have caused widespread suffering, often with our government's support before it switched sides, and they have families and friends who love them at the same time. Simple-minded hatred impedes our understanding of the world and our ability to take actions that will make the world better. Rather than using crimes as excuses for wars or assassinations, we should consider adopting policies that make crime less likely and taking an approach to criminal punishment that looks at deterrence, prevention, restitution, and reconciliation, rather than immediate satisfaction of passions for vengeance regardless of the consequences.

Italy a couple of years back convicted a couple of dozen CIA agents in absentia of kidnapping a man in Italy to have him tortured in Egypt. They are all free and living in the United States. Terrorists convicted of attacks on Cuba live in Florida. Presidents Bush and Obama, who have overseen illegal wars abroad, are on the loose despite open confessions of crimes like assassination and torture. If an Italian or Cuban or Iraqi or Afghan or Pakistani death squad were to murder an American they considered a criminal, would Americans view that as law enforcement? Would our president declare that justice had been served?

We have one standard for five percent of humanity and a different one for the other 95 percent. And when we do consider the possible ramifications of having killed a likely mass murderer like bin Laden, we still fail to consider that what we did to him with bullets we do to others with missiles all the time. Our drone war in Pakistan has been denounced as illegal

by the U.N. investigator on extrajudicial killings. Five days after killing bin Laden with a gun, the United States tried to kill U.S. citizen Anwar al-Awlaki with a drone. Awlaki is an American, but a Muslim; he speaks English, but he lives abroad. So, is he a human? He has not been charged with a crime. Neither had the two people who were killed in the failed attempt to kill him. Two days before that strike, U.S. drones killed 15 people in Pakistan. The Human Rights Commission of Pakistan says that 957 civilians were killed by U.S. drones there in 2010.

Drone victims may not look like humans to the drone pilots sitting comfortably thousands of miles away in Nevada or Virginia. But we have soldiers at comfortable desk jobs dying of suicide. Suicide is the number one cause of death for U.S. military participants in our wars. It may be that while our policies don't recognize all humans as humans, those executing our policies do. It may be that our double standards aren't fooling even ourselves.

We've made one set of laws for our country and another for the rest of the world. We hear a lot in Washington about Israel's sovereign right to attack Iran if it sees fit, while the idea of an Iranian sovereign right to attack someone is treated with appropriate scorn. We've packed our prisons beyond what any other country has attempted, but our political criminal class has complete immunity, and the very first representative of the Wall Street gang that has recently stripped away so much of our nation's wealth, Raj Rajaratnam, was convicted this week and is appealing. A couple of weeks ago, I merely suggested to former Senator Alan Simpson that corporations and the wealthy pay their fair share of taxes, and he flew into a rage denouncing a mythical poor man who bought four houses with nothing down. Threatening those with power leads to demonizing those without. This, too, is a problem of who counts as humans. But I'm not sure it's fooling anybody.

Are future generations whose world we are damaging as human as we are? Does the rest of the natural world get as much consideration as the humans? While we laugh at nations like Ecuador giving rights to the environment, we give rights, human rights, free speech rights (including the right to bribe electoral candidates) to corporations. Corporations have no flesh or blood at all, and we treat them better than we treat a lot of human beings, and other living things.

We have to drop racism and resist demonization. A horrible crime by a person or a small group of persons tells us nothing about a race or a religion or a nationality. We have to actively oppose fear and the manipulation it allows. We have to speak up for Muslims, for immigrants, for whistleblowers, for activists, for death row prisoners, for gays and lesbians, and for every human being who is treated as something less. This means we have to speak up, as well, for criminals, for murderers, for those we believe guilty of the most horrible crimes. They must have the right to a fair trial. They must not be placed into the box of non-humans called "enemy combatants." Murdering murderers — not to mention using their crimes as an excuse for decades of war — generates more hatred and more violence. Exposing and documenting, and then punishing, the crimes of murderers generates understanding, credibility, and respect.

Once we decide it's OK to abuse foreigners we don't know, it's a short step to the lawless killing of Americans who live abroad like Anwar al-Awlaki. Once we decide it's OK to strip Americans abroad of any rights, it's a short step to the lawless imprisonment and torture of an American whistleblower at home like Bradley Manning.

We have to start stepping in the other direction. Bradley Manning should be freed and

honored. Anwar al-Awlaki should be given a fair trial if charged with a crime. And Dick Cheney should be given several fair trials as well.

Spanish prosecutor Baltasar Garzon is rightly honored for his efforts to enforce international laws. The internet is bringing the international pursuit of justice closer to us, and in fact humanizing humans at a pace our government can't keep up with. Our future comes out of a square in Cairo, not a drone command in Las Vegas. Today an international effort called the Stay Human Convoy leaves Tahrir Square to bring aid to the people of Gaza. Can we keep those people and ourselves part of the same humanity?

Eugene Debs showed his understanding of humanity when he said, "While there is a lower class I am in it; while there is a criminal element I am of it; while there is a soul in prison, I am not free."

From here on out, let's have no more celebrations of anyone's death, but on that glorious day on which our government does not kill a single human being anywhere on earth, not with guns or drones or electric chairs, then let us sing and dance in the streets.

WHAT GIVES YOU THE RIGHT?

We often think of rights in terms of negative freedoms. We demand the right not to be interfered with. We want to be left free to speak and to assemble, or free to choose what we can afford from among the merchandise that corporations offer up for sale, or even free to leave our guns where our kids can accidentally get at them.

There's actually a lot to be said for the freedom to be left alone. The right not to be locked up without a swift, fair, open trial by a jury of one's peers is a crucial foundation of a decent society. Losing it, as we are losing it, is extremely frightening.

Marcus Tullius Cicero lived in a time when imperialism threatened rights, but he had a very different idea of freedom. Freedom, he said, is participation in power.

Here we are exercising our freedom of speech, but are we participating in power? After eight years of bringing democracy to Iraq, Iraq has banned public protests. We still have the right to protest, as long as we're not too close to the people we're protesting. We've been left free to assemble here today, but are we free by Cicero's definition? Unlike every other wealthy nation on earth, we Americans are left blissfully free of national health coverage. We're free to get sick and die if we take a fancy to it, and nobody can stop us, damn it. But does that make us free by Cicero's standard, or is it — on the contrary — evidence of our lack of freedom?

What if freedom isn't something we're born with that might be taken away, but something we have to create together? If we conceive of free speech as a right to meaningful participation in power, then the freedom to talk at a festival without police interference and to post our talks on Youtube is important, but it's just not sufficient. The majority of the speech that reaches Americans' ears and eyes through a corporate media cartel that dominates television and other news ownership is representative of the voices of a very small minority, and is in fact contemptuous of majority opinion on most political issues.

A majority of Americans wants our wars ended, wants corporations stripped of the power to buy our elections, wants the rich taxed, wants estates and investments and excessive

profits taxed, wants war profiteering banned, wants Social Security and Medicare protected, wants major investment in green energy and education, wants the minimum wage raised, wants warrantless spying banned, wants voting rights restored to ex-felons, and indeed wants national health coverage for all. Tell me when you last encountered those majority views being represented as mainstream or even as respectable in a television or newspaper news report. These are views held despite, rather than because of, our communications system. And this means that most of the people holding these majority views falsely believe themselves to be in a minority. That's disempowering, not empowering, not free.

Meaningful free speech means the ability to communicate to others in significant numbers through a communications system where the popularity of an idea, rather than its acceptance by major multinational media corporations, dictates its prominence, and where a variety of views is encouraged rather than shut out. As important as the right to meaningful free speech is the right to meaningful free hearing. We're not dealing here with the right to vent or to stand on a stage and mouth off as I'm doing now. We're talking about the right to know what is happening in the world, what others are thinking, and — in particular — what our government is doing in our name. A right to government transparency is a necessary component of a right to free speech. So, when the ACLU defends the right of corporations to buy our elections, in the name of free speech, it is not actually defending free speech.

Our privatized military and privatized illegal spying apparatus, and all of our other privatized government services are terrific for channeling public dollars into election campaigns, but are terrible for transparency. And the current administration, just like the last one, is the most secretive we've yet seen. We have very little idea what our government does, and when a whistleblower passes some information about what our government does to Wikileaks, our televisions tell us to vehemently defend our right to be left in the dark. We may be free to shout or curse, we may have 35 choices of prepackaged breakfast cereal at the store, we may have 113 channels of shit on the TV to choose from, but if our military is in action in 75 countries and we can't even find out which ones, we're not free. If a commissioner of the Federal Communications Commission can push through a merger between NBC and Comcast and four months later be hired as a super-well-paid lobbyist for NBC-Comcast, she may be free but the rest of us are not.

What if we go out of our way to research everything we can on the internet, and we learn some good fraction of what our government does in our name with our money, then are we halfway free? I don't think so. Exercising power, otherwise known as freedom, through a representative government means being able to have a meaningful impact on that representation. And that means more than just communication. We don't have a right to vote. People are blocked from voting because they didn't jump through hoops to register and stay registered, or because of criminal records. We don't have a right to run for elected office. No one who lacks huge amounts of money or who is unwilling to take huge amounts of money from those who have it can meaningfully run for state-wide or national office in most states. When 400 Americans have over half the country's money, participation in power is extremely concentrated too.

No one operating outside of two very large and corrupt political parties can reasonably put their name on a ballot or participate in debates or communicate through major media outlets in most state and national elections. Electronic voting machines make it impossible to verify which candidates receive how many votes. Just ask former U.S. senator Max Cleland. If you can't run for office, and nobody you know can run for office, and your U.S.

representatives are supposedly going to represent 700,000 people, and none of the viable choices to represent you comes anywhere close to representing you, then you're not participating in power, no matter how much speech and knowledge you can pull together. You're not free.

And if, on top of those problems, your misrepresentatives in Washington have ceded the bulk of their power to a single individual, to whoever is president at the moment, it seems to me you're another degree removed from being free. Americans spend a lot of time cheering for and condemning politicians based on which political party they are a member of. And the two parties do disagree on cultural issues and on matters where their corporate funders have no interest or themselves disagree. But on many of the biggest questions there is beautiful bipartisan harmony, so harmonious in fact that we may not survive it. Republicans are not sure if Barack Obama was born in this country or if he might be a Muslim or a Communist or a space alien, but Republican Congressman Buck McKeon and Republican Senator John McCain are advancing legislation that would give President Obama the power to single-handedly and unconstitutionally launch just about any war and imprison just about any person. Building on the work of his 43 predecessors, President Obama has already claimed and used those powers. But legislating them won't help undo them.

The U.S. Constitution denied presidents the power to launch wars and placed that power in the Congress. In 1938 the Congress very nearly gave that power to the people, advancing an amendment that would have required a public referendum before a war could begin. Franklin Roosevelt stopped that effort. Congress hasn't declared a war since 1941, and its pretenses of being involved in such decisions have diminished over time. Obama carefully avoided any consultation of Congress before launching a war in Libya. Now McKeon and McCain want to legislate presidential war power for as long as the so-called war on terrorism lasts. In fact, they are also thereby handing presidents the power to determine how long it will last. And that of course makes it likely to last until our empire is finished.

And this is despite the war makers having just lost the scariest propaganda poster they had during the past decade. This should be the time for ending this endless war, not giving the power to enlarge it to a single person and whatever presidents follow him in that office.

I was in Afghanistan in April and spoke with a member of Parliament named Ramazan Bashardost. He described the same problems in his government that we have in ours: financial corruption, partisanship, a poor communications system, and power taken out of the legislature and concentrated in the hands of a single person. Afghans I spoke with longed for peace, but spoke first and foremost about participation. When we hear that our military may negotiate a sharing of power with the Taliban, our first thought may be that talking is better than bombing. And of course it is. But for at least some Afghans, the first thought is "Why are these new criminals negotiating with those old criminals? Where is OUR seat at the table? When do we get to participate in shaping our own future?"

This is what people want and need all over the world. They want it and need it on almost the same level on which they want and need peace and food and water. The Iraqi people have wanted us out of their country for several years now, not because they hate us or fail to appreciate our culture, and not because they expect paradise to quickly follow our departure, but because they want power over their own country.

And by the way, the bulk of the U.S. occupation has now been withdrawn from Iraq, so give yourself some credit if you pushed for that to happen. Our pressure was so great in 2006,

that the Republican leader of the Senate privately urged Bush to end that war, even while publicly talking it up.

But an occupation is not over until it's over, so get ready to raise some hell when the complete withdrawal deadline of this December 31st is violated.

Returning to the topic of rights: Self-determination is a fundamental right, and it requires peace, almost by definition. When we bomb countries in the name of women's rights, we violate the right of women, men, and children not to be bombed, the right to exist free of that threat and to pursue additional rights without interference. There are ways in which we can help others expand their rights, and types of help that tend to be appreciated and gratefully accepted. But war is usually not one of them. Expanding women's rights around the world is the key to halting the population explosion as well as being a moral imperative for its own sake. But the people of Egypt seem to have done more for women's rights with nonviolence in a couple of weeks than the United States and NATO have done with violence in Afghanistan for 10 years.

Which brings us back to the problem that our own limited rights do not permit us to control our own government. If we did control it, we could not only relate to the rest of the world in better ways, but we could expand our rights in many ways in which we have lost them, as well as in ways that some parts of the world have developed their rights beyond what we have ever known.

I was thinking recently about some of the rights that are now threatened in the United States, because I was comparing Daniel Ellsberg and Bradley Manning. Do you all know who Dan Ellsberg is? How about Bradley Manning? If anyone doesn't, Ellsberg leaked the Pentagon Papers documenting Vietnam War lies 40 years ago. Bradley Manning allegedly leaked evidence of war crimes in Iraq and around the world to Wikileaks. President Obama, who as a candidate said he would reward whistleblowers, instead put Manning into a solitary 6' by 12' cell where he was forced to sleep and stand at attention naked. Dan Ellsberg, in contrast, was left free on his own personal recognizance pending a civilian trial. We can't even be sure that Manning is facing a trial. He's been charged, but no trial date set. He has been held for almost a year. He was recently moved following intense protest to supposedly better conditions, but not freed or tried. President Nixon's gang tried to secretly murder Ellsberg; these were no angels. But they did not believe they could simply imprison and abuse him.

There were other differences as well. More Americans learned much more of the information that Ellsberg made public. We had a relatively good communications system back then. We had a Congress. We had relatively good courts, and courts outside the military were in play. If Manning is given a trial it will be a military trial conducted by subordinates of a commander in chief who has already declared Manning guilty. President Obama claims that Manning leaked information more highly classified than what Ellsberg leaked. The reverse is true. The information that Ellsberg leaked was more top secret than Manning's and known to a handful of people, whereas literally millions of personnel had access to what Manning allegedly leaked. That fact is perhaps most telling. Would millions of Americans have failed to do what Manning did had this happened 40 years ago? I suspect there would have been at least several Daniel Ellsbergs in that size crowd.

Our government prosecuted but failed to convict Ellsberg or the New York Times. Last week the New York Times' lawyer in the Pentagon Papers case published a letter in the Wall Street

Journal arguing against prosecuting Wikileaks' Julian Assange under the Espionage Act. He wrote:

“Under the First Amendment, WikiLeaks founder Julian Assange cannot be successfully prosecuted for a violation of the Espionage Act unless the publication of WikiLeaks constitutes a clear and present danger to the national security of the U.S. This would be impossible for the government to prove. No one in the government has pointed to any particular leak that Mr. Assange or the New York Times has published as even ‘damaging’ national security.”

Of course, laws mean what judges choose to say they mean, and nothing is so clear cut. But where would this leave Bradley Manning? Our nation now recognizes a category of person who has no right to be freed and no right to be tried. In fact, many Americans are terrified of these people. Moving Guantanamo's prisons from Cuba to Illinois would have done very little for human rights but would probably have caused some heart attacks in Illinois. Can you imagine if Osama bin Laden had been put on trial in the United States? How many terrified television viewers would have been rushed to the hospital? Would bin Laden have been permitted to air his grievances against U.S. foreign policy? Would U.S. failures to prevent the 9-11 attacks have been discussed? What about U.S. support for bin Laden in the 1980s? There was no way in the world that trial would be held, which is why we could be sure the Navy SEALs had been ordered to kill bin Laden even before that fact was reported. For similar reasons of manufactured fear, there is little chance that Manning will be released. He'd have to be put into a witness protection program if he were. So, if a case cannot be developed to prove his guilt, then what . . . ?

And just as we routinely kill people in Pakistan with missiles but pay attention to the killing of bin Laden with a gun, just as we grow outraged at abuses of foreign prisoners that were developed in U.S. prisons, so the treatment of Bradley Manning, the isolation, the lengthy pre-trial imprisonment, is not far removed from how numerous victims of our domestic justice system are treated all the time.

The one right most clearly guaranteed in the U.S. Constitution, prior to the Bill of Rights, is the right of habeas corpus, the right not to be kidnapped or detained or imprisoned without charge and trial. This right was won by nobles from a king of England 800 years ago. Last year a Robin Hood movie gave Robin Hood most of the credit, and I'm sure audiences cheered. But we're losing this right. In 2009, President Obama stood in front of the Constitution and the Magna Carta at the National Archives and declared he would, like President Bush, imprison people indefinitely without trial. In fact, Obama would make that abuse into formal and respectable law, or what passes for law these days. He did so with an executive order on March 7th of this year.

Our Bill of Rights, such as it is, is tattered and torn. We lack meaningful freedom of the press. Protesters are preemptively detained prior to big events, or herded into so-called free-speech zones. Never go into one of those, by the way. The whole world is our free speech zone. The right against warrantless searches and seizures has been done away with in practice and now in legislation too. The Fourth Amendment requires a warrant describing specifically what is to be searched, and requires that the warrant be based on probable cause. FISA (the Foreign Intelligence Surveillance Act) permits, and always permitted even before it was routinely violated and then amended, retroactive warrants based on the flimsiest of evidence.

Our Fifth through Seventh amendments give us the right to grand jury, due process, just compensation for property taken, protection against double jeopardy or self-incrimination, the right to a speedy and public trial by an impartial local jury, to be informed of the charges against you, to confront witnesses against you, to compel witnesses in your favor to appear, and to have the assistance of counsel. These rights are being eroded through the vindictive, retributive nature of our domestic justice system as well as through the fear mongering of never-ending war. If a president puts your name on a list of enemies, and Anwar al-Awlaki is not the only American on that list right now, then these rights vanish. Nine years ago, Assistant Attorney General Jay Bybee (now a federal judge for life) and Deputy Assistant Attorney General John Yoo (now a law professor and media pundit) wrote a pair of secret memos denying an American citizen named Jose Padilla these rights on the grounds that he was guilty of various offenses. But the memos themselves served as his trial as well as his sentence; Padilla had never been charged with the crimes, much less found guilty. The new Justice Department, at President Obama's direction, has worked very hard to protect Yoo, as well as Bush, Cheney, and the rest of that gang from suits like one that Padilla brought against Yoo, and from any criminal prosecution at home or abroad.

But we need look no further than the case of Troy Davis to see the same rights substantively missing in domestic cases unrelated to charges of terrorism. A justice system that cannot correct itself and that imposes no penalties on its officials when their abuses of justice are exposed can at best provide a formal pretense of due process. I'm glad to see that the people of Georgia are protesting the injustice done and threatened against Troy Davis.

Our Constitution didn't ban the death penalty, but it was written in the 18th century and we've barely tweaked it since. Most of the world has abolished the death penalty, including Canada, Mexico, all of Central America, half of South America, all of Europe, Australia, and much of Africa and Asia, as well as some of our states. The big users of the death penalty are the United States, China, and the nations we call the Middle East. The death penalty is, of course, an action that cannot be corrected.

Our due process rights must be restored to their intended state and then expanded to include protections unavailable in the eighteenth century, including the videotaping of all interrogations and confessions.

The very few ways in which we've expanded constitutional rights in additional amendments still need upkeep as well. We have the right against slavery except as punishment for crime, but we use prison labor, including to produce our weapons and including where the prisoners are not criminals but immigrants. We buy merchandise made by slave labor and in situations very close to slave labor in distant lands, some of them U.S. territories like the Marianas Islands. Farms in this country have held immigrant workers by force and compelled them to work with no compensation. Groups like the Coalition of Immokalee Workers in Florida I know have made great progress, but they've had to work for it. Slavery should of course be banned even as a punishment for crime, and that ban should be enforced. Racial profiling, as contained in these new immigration laws, should be banned as well.

There are other rights we need added to our Constitution.

We need an individual national right to vote, allowing the creation of national uniform standards for elections, and the right to directly elect the president, vice president, and all other elected officials, and to have one's vote publicly and locally counted in a manner that

can be repeated and verified if questioned (effectively requiring hand-counted paper ballots), and the right to paid time off work to vote on election day.

We need to strengthen or create some additional rights for those who find themselves within our criminal justice system, including the right to presumption of innocence until proven guilty of a crime, the right to be told the charges against you at the time of your arrest, the right not to be detained without being arrested and charged, the right to obtain and to use in court a videotape of any relevant interrogations or confessions, the right of the accused to be detained separately from those already convicted, the right of juveniles to be detained separately from adults, the right not to be imprisoned for inability to fulfill a contract, the right to a penal system aimed at reformation and social rehabilitation, and the right to compensation for false conviction and punishment.

We need, at long last, to place in our Constitution comprehensive equal rights for women, including the right to equal pay for equal work. We need comprehensive rights for all children, including the right to have their interests given primary consideration in public actions that concern them, and a ban on harmful child labor. We need a right to special care and assistance for mothers, fathers, and children, including paid maternal and family leave. We need these things much more than we need to hear anyone preaching about “family values”!

We should have a right to free education of equal high quality from preschool through college. We should have a right to decent, safe, sanitary and affordable housing. We should have a right to health care of equal high quality — a right that the state of Vermont may soon establish, if Washington, D.C., doesn’t prevent it. And then watch the other 49 states scramble to catch up.

We should have the right to form and join a labor union and the right to strike, the right to employment (not to be confused with antilabor laws that go by the misleading name “right to work”), and the right to a living wage. We should have the right to basic welfare, whether employed or not. And we should have a right to a certain level of equality.

Let me explain that last one.

Surveys have found Americans’ assessment of their level of happiness declining significantly. The United States contains 4.5 percent of the world’s population and spends 42 percent of the world’s health care expenses, and yet Americans are less healthy than the residents of nearly every other wealthy nation and a few poor ones as well. We spend more on criminal justice and have more crime. We’re richer and have more poverty. We sell the most weapons to other countries and maintain our own military so enormous that it could be cut by 85 percent and still be the world’s largest. We use far more than our share of fossil fuels. Among industrialized nations, the United States is at or near the worst ranking in employment, democracy, wellbeing, food security, life expectancy, education, and percentage of the population in prison, but right at the top in military spending whether measured per capita or as a percentage of GDP or in absolute terms. When Dr. Martin Luther King Jr. said that a nation that continues year after year to spend more money on the military than on programs of social uplift is approaching spiritual death he wasn’t warning us. He was warning our parents and grandparents. We’re the dead.

But somehow we’re still kicking. And there’s one statistic that may help explain these other ones. The United States is also at the top of wealthy nations in terms of wealth and income

disparity. You know, up through the Korean War, we raised taxes on the wealthy and corporations to pay for wars, and then reduced those taxes for peace time. Wars are what taxes were invented for in the first place. But during the so-called global war on terror, we've slashed taxes on the wealthy and corporations, and they're still at it up in Washington, with great bipartisan cooperation. We've created an aristocracy, we've forced people to envision their futures as more bleak rather than more prosperous. Developed societies with the healthiest and longest living people, extensive research shows, are not those with the highest average wealth, but those with the greatest equality of wealth. That's not us.

There are many ways to fix this, but one proposal I like is the maximum wage. Just set the maximum wage at 10 or 20 times the minimum wage. Tax income progressively up to 100% for income above the maximum wage. The maximum wage could be increased, but only by increasing the minimum wage.

The United States could be very creative in developing new rights, but it doesn't need to be. We are currently hold-outs on international treaties agreed to by most of the rest of the world, treaties which if ratified and upheld could expand our rights and integrate us into a world community in which we respect the rights of others.

The International Covenant on Economic, Social and Cultural Rights went into effect in 1976 and has been ratified by 159 nations but not the United States. U.S. ratification of the International Covenant on Civil and Political Rights included major exceptions and qualifications that rendered it toothless, and the United States has not ratified two additional protocols. The United States is the only wealthy nation that has not ratified the Convention on the Elimination of All Forms of Discrimination against Women or the Convention on the Rights of Persons with Disabilities. The United States and Somalia are the only two nations that have not ratified the Convention on the Rights of the Child. And so forth.

That we are holding out as a rogue state on numerous treaties does not mean we are violating them all or that every other nation is actually complying with them. But it means we insist on the right to violate such standards if we choose. We refuse to join the other 95% of humanity on equal terms. Adopting that radically different attitude and position will be key to enriching our own rights and to establishing them as human rights rather than American rights. If we can do that, we will be inclined as well to respect the rights of non-American humans. We will be obliged not only to try to help others, but more importantly and more urgently to do no harm, to cease approaching the world through the force of war and economic exploitation. We would not just cease supporting U.S.-friendly brutal dictators when they stopped being U.S. friendly or when their people threw them out of power. We would back democracy in substance as well as in rhetoric. We would view the Arab Spring not as a threat to Pax Americana but as a welcome expansion of human rights.

Tunisia and Egypt are where we in this country should be looking for inspiration, just as nonviolent organizers there have looked to the U.S. civil rights movement.

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