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William F. Schulz

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WILLIAM F. SCHULZ

*Tainted Legacy: 9/11 and
the Ruin of Human Rights*

I once read somewhere that the three most popular topics for books in the United States were sex, dogs, and Abraham Lincoln. Ever since, I have wanted to write a book about the sex lives of Abraham Lincoln's dogs. But because the information on that topic is relatively scarce, I have settled for writing books about human rights. The latest is entitled *Tainted Legacy: 9/11 and the Ruin of Human Rights*. What I am trying to do in this book is to help us find the right balance between our right to security and our right to liberty.

When I was a sophomore in high school, I became acquainted with a religious movement that called itself Moral Rearmament. I didn't know a lot about the organization. I didn't know, for example, that its founder, Frank Buchman, had notoriously said in a 1936 interview, "I thank heaven for a man like Adolf Hitler, who built a front line of defense against the anti-Christ of Communism." I only knew that here was a group of people who seemed to share a strong commitment to a clear set of values. Moral Rearmament preached absolute moral standards. An adherent was to practice the four virtues and to practice them uncompromisingly: absolute honesty, absolute purity, absolute unselfishness, and absolute love. For a

William F. Schulz is the Executive Director of Amnesty International USA. This talk, delivered at Sacred Heart University on February 15, 2006, was sponsored by the John F. Welch College of Business and the Hersher Institute for Applied Ethics at Sacred Heart University.

fourteen-year-old whose great hero, John F. Kennedy, had been killed the year before, and who was struggling with emerging issues of identity and sexuality, ethics and religion, this formula seemed eminently sensible. I would become a practitioner of Moral Rearmament. And for a few weeks I did.

For those few weeks, I tried never to lie to my parents or teachers. I tried to vanquish every impure thought from my head. I tried to be generous to a fault. And I tried to adopt an attitude of beatific love toward all of God's creatures. But gradually it began to dawn on me that two or more of these absolute principles might occasionally be in conflict with one another. Absolute honesty, in particular, seemed perpetually at odds with the other virtues. A much-beloved elderly relative of mine was notorious for her bad breath. When she was plagued by this condition and wanted me to give her a kiss, ought I do the loving and unselfish thing and simply pucker up and forget it? Or should I do the honest thing and tell her to get her teeth fixed or at least indulge in a swash of Listerine?

Those impure thoughts were a problem too. How honest was it of me to think that I could ever banish them entirely? But if I took the path of absolute honesty and just accepted them as a natural part of my adolescent condition, I would be condemned to violate the injunction against lustfulness. Pretty soon the appeal of Moral Rearmament began to fade. I persuaded myself that its ideas, noble as they might be, were philosophically bankrupt and I would need to abandon them for the sake of intellectual consistency.

At a relatively early age, therefore, I learned the hard truth that a set of injunctions, all of which are to be enforced in equal measure, are bound to get in each other's way. If all ten of the Ten Commandments are to be practiced at all times and with equal fervor, for example, what am I to do if my father or mother commands me to kill or to steal? How may I pay them the honor one commandment requires of me if I disobey their instructions to break another?

This insight about the limits of absolutes is an important one for human rights because the Universal Declaration of Human

Rights (UDHR), the premier articulation of the fundamental rights that any human being may claim, contains more than forty of them. What happens when one of those forty comes in conflict with another? Article 3 of the Universal Declaration provides that “every one has the right to . . . security of person.” Being safe from terrorism is not just a nice idea; it is our *right* as human beings, every bit as important a right as any other. Indeed, some might well argue it is our most important right since, if we are dead, we can hardly claim any of the others.

The U.S. government has contended that in some cases the release at a public trial of sensitive intelligence information about terrorism might jeopardize the public’s safety. If the government’s claims are true, how do we reconcile the “security right” of Article 3 with the “liberty right” of Article 10 that insists that those charged with crimes must receive a “public hearing?”

Fortunately the Universal Declaration provides us some guidance in deciding priorities among competing rights. Article 29 declares that rights may be limited to secure “public order and the general welfare in a democratic society,” to protect us against, say, terrorism. This is the international equivalent of Justice Arthur Goldberg’s famous remark that, for all its guarantees of freedom, “The U.S. Constitution is not a suicide pact.”

The critical question then becomes “How many limitations are necessary?” If we accept the U.S. government’s position, the answer to the question is “Many.” If we accept the opinion of many human rights analysts, the answer is “Few.” But the government has not stopped to consider the full implications of the compromise of human rights, not least for the success of the war on terror. And the human rights community has not provided an adequate strategy for fighting terrorism while still maintaining optimal respect for human rights.

A few days after September 11, 2001, the FBI arrested a man named Cheik Melainine Ould Belai, the twenty-year-old son of a Mauritanian diplomat. Ould Belai’s English was limited and the officials provided no translator, and so for more than a month he

was shuttled between detention centers from Kentucky to Louisiana, often without access to a lawyer or his family. Then, forty days after he was apprehended, oud Belai was released. He had never been told why he had been detained but within a short time he was deported. Before he left, however, oud Belai had one last thing to say: "I used to like the United States," he observed, "Now I don't understand it. I was going to learn English but now I don't want to ever speak it again." Cheik Melainine oud Belai is typical of the 1,200 foreign nationals, virtually all of them Muslim, who were taken into custody in the weeks following 9/11 and the thousands of others who have been interrogated and detained since then. The question we must ask ourselves is this: "Are we safer for having mistreated thousands of Muslim residents or is alienating people who had previously looked upon the U.S. with admiration and respect, who had wanted to emulate our traditions and learn the English language, a sure-fire way to make the world more dangerous?"

When I was growing up in Pittsburgh in the early 1960s, I was afraid of just two things. I was afraid of nuclear war and I was afraid of Tony Santaguido.

I was afraid of nuclear war because my parents had assured me that, should war come, Pittsburgh's steel mills would be among the first targets the Russians bombed. When I learned in school, however, that if I were simply to "duck and cover" under my wooden desk, I would be safe from radiation, I immediately relegated nuclear war to a much less prominent place in my litany of worries.

But that left Tony Santaguido, the neighborhood bully. One time Tony caught me with a left hook to the jaw that persuaded me on the spot to go into the ministry.

The most obvious way to have dealt with Tony, I suppose, would have been to have bloodied his nose right back and, if I had been one to do my fighting with anything other than words, I probably would have taken that approach. But I was not confident of my skills as a pugilist and I knew that Tony had a large family. I

suspected that if I did by some miracle manage to prevail, his brothers or cousins would have sought me out to exact their revenge and I would have been living in a world of perpetual fear that might have made the alternative of nuclear war seem welcome.

So I settled on a different tack. I made sure in the first place to surround myself with as large a group of my friends as possible whenever I scented that Tony might be on the prowl and I decided to try to strike up an acquaintance with one or two of Tony's own gang who weren't as ill-disposed toward me as he was. I wanted them to prevail upon him to leave me alone.

After a time and somewhat to my surprise, these dual tactics began to work. Tony still glared at me when we crossed paths but, as long as I had allies with me, he left me alone. And once or twice when I did encounter him by myself, it was obvious that his fury against me had ebbed. I never knew what exactly had changed the dynamics within Tony's gang but I figure now that it had something to do with Casey Stengel's famous observation that "the secret of a great manager is to keep the two guys who hate your guts away from the three guys who are undecided."

I also figure that this little parable has a thing or two to teach us about fighting terrorism. On the face of it, the best course would have been for me to have beaten Tony senseless. Sometimes you just have to stand up to bullies. But, as Talleyrand observed, you can do anything with a bayonet except sit on it, and, if we had taken the martial course and stopped there, not bothering to nurture our own alliance with one another or find ways to reach out to the more persuadable segments of Tony's retinue, the three guys who were undecided, we might well have been in for a long, nasty battle with either a resurgent Tony or his proxies.

The United States government has gotten the bayonet work down mighty well in the war on terror: witness our swift military victory in Iraq. But it keeps trying to sit on the tip: witness our utterly inept handling of the war's aftermath. The war on terror will ultimately not be won on the battlefield; it will be won by encouraging allies around the world to stand with us in the struggle

and by encouraging moderates in the Muslim and Arab communities around the world to reject the terrorist ethic.

Contrary to ill-informed right-wing opinion in the United States, the vast majority of Muslims did not applaud when the planes hit their targets on 9/11. But the vast majority of Muslims *are* keenly acquainted with poverty and corruption. One in five Arabs lives on less than two dollars a day. Arab unemployment averages around 60% for young males under the age of twenty-five. Moreover, responsibility for the lack of Arab development lies squarely at the feet of Arab governments. It is the absence of democracy, lack of good governance, denial of human rights, and low status of women (with its attendant waste of human resources) that account for the backwardness of these societies. Arab countries score abysmally low on Transparency International's Corruption Perception Index. As Prince Bindar, the Saudi Ambassador to the United States put it dismissively, "If you tell me that building this whole country . . . we misused or got corrupted with fifty billion, I'll tell you, 'Yes . . . So what? We did not invent corruption.' "

Unemployment, economic stagnation, and widespread looting of the public treasury would be difficult enough for Muslim populations to bear even if they had access to mechanisms through which to regularly replace regimes or voice dissent. But of the fifty-seven member states of the Organization of the Islamic Conference, only Bangladesh and Turkey have managed to sustain democracy over an extended period of time. Absent nonviolent, democratic ways through which people can express frustration, where do they turn to seek political change? It is hardly surprising that they sometimes look with sympathy upon political and religious extremists who offer that most rare of commodities—an alternative vision. That that vision is one which denies those of other faiths their fundamental humanity, their very right to live, makes it insidious indeed but no less appealing to the desperate.

And what is the best way to counter that appeal, to persuade "the three guys who are undecided" about extremism, those millions and millions of Muslims who on September 10 were not inherently

hostile to the United States, who may even have admired our universities and envied our political freedom: what is the best way to persuade them to reject the terrorist option? Surely it is to display eminent respect for the Islamic heritage and traditions and to be a model of respect for human rights ourselves.

But what the United States has done—not in its rhetoric, which has generally been respectful of Islam—but far more unfortunately in its actions has been the exact opposite. It is not just that we have incarcerated over 600 Muslims at Guantanamo Bay and held them in incommunicado detention, denying them *habeas corpus* rights and access to the courts. It is not just that the U.S. government tried to deny two Muslim U.S. citizens, Yaser Hamdi and Jose Padilla, the most fundamental rights in the U.S. lexicon of jurisprudential rights, the right to know what you are charged with when you are arrested and the right to an attorney who can help you confront the evidence against you. It is not just that we have used Predator missiles to carry out extrajudicial executions of five Muslims driving down a road in Yemen. It is not just that U.S. authorities have tortured hundreds of Muslim detainees at Guantanamo Bay and Bagram Air Force Base in Afghanistan and Abu Ghraib prison in Iraq and no doubt at the many of the secret detention centers we maintain around the world. It is not just that we have rendered God knows how many Muslim prisoners to other countries known to use torture in interrogation, thus effectively causing these people to literally disappear off the face of the earth, their whereabouts unknown to their families, the Red Cross, the United Nations, or anyone else other than the U.S. and their captors. It is not just all this, bad as it has been, that has made it more and more difficult for moderate Muslims and those who were undecided about us to believe that the war on terror is a war in defense of freedom and the rule of law and not, as bin Laden says, a war against Islam.

It is also *how* we have prosecuted that war. It is also the desecration of Korans. It is the intentional violation of Islamic strictures against males having contact with women that has been

played out so dramatically in reports of interrogation techniques, such as the woman guard at Guantanamo who pretended to smear her menstrual blood on a detainee. It is the sexual humiliation of Muslims at Abu Ghraib, itself a devastating insult to the Islamic faith. It is the fact that when foreign students from twenty foreign countries were required to register with the U.S. government two years ago, all but one of those countries (North Korea) was Muslim. It is the targeting of respectable Muslim communities and leaders here in the United States, as evidenced by the revelation about radiation testing or the singling out of Brandon Mayfield, the Portland, Oregon, lawyer wrongfully accused by the FBI of being associated with the Madrid bombing, who just happened to have converted to Islam.

And it is also the company we keep. For every time we cozy up to the Saudi royal family, concerned as we are for the flow of oil, we alienate those moderate Muslims who know that many Saudi leaders are corrupt and that in Saudi Arabia any Muslim who objects to the form of extreme Islam known as Wahhabis that prevails in the kingdom may be condemned as an “infidel” and “blasphemer” and sentenced to death. Every time we allow the Chinese to get away with persecuting Muslim Uighurs in the western part of the country and to use the excuse that they are simply fighting “terrorists,” even though the vast majority of Uighurs do not use violence, every time we fail to call our Chinese economic ally to account for its persecution of Muslims in the name of pursuing the “war on terror,” we turn the hair white of even our most ardent Muslim supporters.

And by engaging in such religious intolerance and allowing others to do so without our objection, we hand fodder to our adversaries. We play right into bin Laden’s hands, for we appear to confirm his claim that we follow the rules only when it is convenient, that we care for nobody but ourselves, and that we are in fact not out to build a world where those of every faith are honored but a world in which only America and its allies hold the purse-strings and the power.

Terrorism is the antithesis of respect for human rights. To stop terrorism, it may be necessary to adjust some of our understanding about rights, at least for a time. We may need, for example, to reconcile ourselves to national identification cards or more cameras in the shopping malls just as we have to closer inspections at the airports. Human rights advocates have an obligation to work *with* government, not just always criticize it, to find the right balance between security and liberty.

But at the same time government needs to recognize that the protection of fundamental human rights—the right to due process; the right not to be tortured; the rights to food and housing—are pathways to a safer world, a key element in the struggle to defeat terrorism. You don't stop terrorism by sitting on your bayonet; you stop it by using that bayonet wisely, fairly, and sparingly. That is a lesson the United States seems not yet to have learned.

Uncle Shumi escaped the Nazis but just barely and, when he visited his hometown with a relative after the war, a group of Gentile children taunted him: "The dead Jews have come back," they shouted. But Shumi just stood his ground: stood his ground and returned to the village regularly, reaching out to the children and telling them stories. Eventually the whole village looked forward to his visits and, when he died, the six children who had taunted him said the Jewish prayer for the dead, said Kaddish, at his grave.

Human rights emerge out of the common misery of humankind and give voice to the simplest needs of the human spirit. They teach that bodies all perish but that evil does too. They help us to recognize evil and combat it but to be temperate in triumph. "Conduct your triumph," said Lao Tzu, "as a funeral." If human rights have anything to teach us about combating terrorism it is this: that we should guard well that which we cherish but remember that a generous heart is what makes what we cherish worth guarding in the first place.

What the world most admires about the United States is not our military might or our economic power. It is the vision this

society seeks to embody of a country that respects immigrants, protects minorities, and guarantees due process to even the most heinous ones among us. Betray that and we betray what makes America strong. Betray that and no one will say Kaddish at our graves. They will dance upon them. Well, I think America is better than that and I *know* that our future and our safety depend upon our remembering it.