

## Human Rights Issues - 2002

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With truth, justice and peace shall you judge in your gates.  
(Zechariah, 8:16)

### Issues

1. Current anti-terrorism legislation, policies and strategies of the United States infringe on constitutionally guaranteed civil rights and liberties.
2. Human rights violations are evident in slavery and forced labor occurring on all continents and in genocide and crimes against humanity of warring countries.
3. Jurisdiction of the International Criminal Court , once in session, will be universal, but the United States has not ratified the treaty and thus cannot participate in deliberations regarding its development.

### Background

Over half a century ago, the National Federation of Temple Sisterhoods, now Women of Reform Judaism, sounded the clarion call for human rights. A 1948 resolution states, "human rights and fundamental freedoms are basic to the maintenance of peace... and vigilance is necessary to secure these rights both within the nation and in international society."

#### 1) United States Security Efforts Raise Civil Liberties Concerns

The reaction to the tragic terrorist attacks of September 11, 2001 on the World Trade Center and the Pentagon have brought civil liberties issues to the forefront of attention in the United States. While coping with sorrow and horror in the aftermath of the attacks, government efforts have addressed the urgent need to prevent future terrorism and protect American security. It is, however, of grave concern that this effort includes provisions that could seriously erode our constitutionally mandated rights and liberties.

In late October 2001, the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot)" Act was signed into law. This law raised concerns on the part of civil libertarians in three areas: surveillance, immigration, and criminal justice. A few examples are described below. Law enforcement officials no longer are required to have probable cause to commence and continue surveillance in criminal and immigration investigations of citizens and non-citizens. This weakens the protections provided by the Bill of Rights, in the Fourth and Sixth amendments to the United States Constitution. The act reduces the once active judicial oversight of wiretapping and roving wiretaps that cover all telephones used by an individual, as well as Internet surveillance. It also expands governmental power to conduct secret searches, in which law enforcement officials can enter and search an individual's home without a warrant and use the information in legal proceedings without first informing the individual targeted.

Among the provisions covering immigrants, the law permits the Attorney General to detain non-citizens under the vague standard of "reasonable grounds to believe" that the individuals may threaten national security. Such detainees can be held for seven days, by which time they must be charged with an immigration violation or crime or be released. If, however, they are charged with a minor crime or immigration violation, they could be held indefinitely.

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The law defines a "terrorist organization" very broadly and could include any group that has participated in any violent action even minimally connected to criticism of government policies; the American Civil Liberties Union suggests that such designations could include Greenpeace or People For the Ethical Treatment of Animals. Contributions or dues payments by non-citizens to organizations designated as terrorist could be deportable offenses, even if they were made many years before the organization participated in violent activity. Grand jury deliberations assess whether there is sufficient evidence in cases to permit criminal charges. In order to protect the innocent, criminal law requires grand jury secrecy. One of the provisions of the anti-terrorism law in the area of criminal justice that gives civil libertarians pause allows prosecutors to share grand jury information with other law enforcement, military, and intelligence personnel. Allowing prosecutors to share grand jury investigations could result in defaming innocent people.

Since the passage of the USA Patriot Act, the administration has taken several troubling actions, including an order issued by the attorney general that allows Department of Justice officials to eavesdrop, without a court order or a finding of probable cause, on discussions between lawyers and their clients who are in federal custody. In addition, the president recently issued an executive order that, as written, would permit special military tribunals to try non-citizens charged with terrorism. Such military tribunals would not afford the due process protections available in the criminal justice system: the right to a trial by jury, to an attorney chosen by the defendant and to confront the evidence. Following an outcry of concern about the use of special military tribunals, the administration has assured the public that procedures addressing the due process concerns would be implemented, but their exact nature has not yet been made clear. Jon Shattuck, former Assistant Secretary of State for Democracy, Human Rights and Labor from 1993 to 1998, suggests in a New York Times op-ed piece (Dec. 25, 2001) that "secret military tribunals will not improve our safety. They will make us less secure by giving other countries the excuse to haul Americans before similar tribunals and by making it less likely that terrorists captured abroad will be extradited for trial in the United States.

## 2) Warfare and Slavery Worldwide

Hidden slavery exists worldwide, on every continent. Children and adults are lured or trapped into slavery for prostitution, domestic servitude, sweat shops, manufacturing, mining, and agricultural labor. Slave raids often are part of the strategy of civil wars. For example, news reports have described the catastrophic civil war-related repression and slave raids in the Sudan. Civil war broke out in 1983 in response to the government's attempt to impose Islamic Law on Christian and traditional African villages in the south and in the Nuba Mountains. Since 1989, the brutality of repression has been intensified with the cutting off of food supplies, a campaign of ethnic cleansing, and slave raids.

The Sudan Peace Act, currently in the United States Congress, is intended to facilitate famine relief efforts and a comprehensive solution to the war in Sudan. It calls for economic sanctions, bans investment by United States corporations and citizens, and condemns violations of human rights on all sides of the conflict. Since October 2000, it is illegal for United States citizens to participate in trafficking in people. The Global March Against Child Labor, of which Women of Reform Judaism is a coalition partner, is calling on the UN to create an emergency task force to stop child slavery and trafficking in people.

## 3) The International Criminal Court (ICC)

Given the horrors of terrorism and brutal civil war in many parts of the world, it is even more essential for the United States to work through international channels to prevent the human rights abuses seen in terrorism and genocide. Such efforts, proponents suggest, would be facilitated by ratification by the United States of human rights treaties like the Convention on the Elimination of All Forms of Discrimination Against Women (which

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Women of Reform Judaism has urged for many years) and institutions to protect human rights, such as the International Criminal Court.

In 1998 the Rome Diplomatic Conference proposed to establish a permanent court, the International Criminal Court, designed to take legal action against warmongers and mass murderers, to implement credible and impartial judicial processes, and to demonstrate that the rule of law is the best protection for peace. There is a growing international effort to create a system of justice that can establish accountability for gross violations of human rights. The challenge is how to lay a proper legal foundation for a process that will make such violations less common in this century than in the past. The Rome Statute is a major advancement in the international rule of law. For the first time, a permanent, internationally constituted court will investigate and try individuals accused of genocide, war crimes, and crimes against humanity that would otherwise escape prosecution.

In the years before the Rome Statute, the United States participated vigorously in its painstaking drafting sessions. During the Rome Diplomatic Conference, the United States delegation was responsible for many of its most critical aspects. The United States, nevertheless, was one of seven nations to vote against the final text. Many in the United States government who oppose the ICC do so out of concern for the risks involved in exposing United States nationals to international jurisdiction to be tried for acts committed in furtherance of United States foreign policy. The United States has sought language within the Rome Statute that would exclude members of the United States military and other government agencies from the jurisdiction of the ICC. The majority of nations participating in negotiations have thus far rejected these attempts. The ICC has a series of safeguards to provide protection against motivated prosecution.

President Clinton signed the Rome Statute with announced misgivings at the 11th hour, which put the United States officially in support of the new tribunal, although he ruled out submitting it to the Senate for ratification until continuing United States concerns are addressed. Signing the treaty creates a moral obligation, but only with ratification by a legislative body does a treaty become national law. The United States needs to engage in the International Court process to clarify its concerns. Americans officials should help shape the culture of justice that is emerging, and of which the permanent International Criminal Court is a crucial part. Its jurisdiction will be universal, once in session (probably 2002), whether or not the United States is party to the treaty. The United States has historically stood against the crimes being considered for inclusion within the jurisdiction of the Court. That history makes it imperative for the United States to take its place in the shaping and development of this important global institution.

Canada was an early and continually active proponent of the ICC.

- 1) In accordance with the many previous Women of Reform Judaism human rights and civil liberties resolutions, and while understanding the need to prevent future terrorism and protect American security, the Executive Committee urges United States sisterhoods to:
- Establish study groups to examine the nation's anti-terrorism legislation and monitor the anti-terrorism orders issued by the Administration within the context of the Bill of Rights.
  - Hold a program to inform the sisterhood of your findings.
  - Urge your congregation's rabbi to give a sermon or program on the issues.
  - Work with like-minded local civil liberties coalitions to inform your senators and representatives regarding your concerns about infringements on civil liberties. Urge them to develop a plan to provide oversight for the country's anti-terrorism efforts and amend the USA Patriot Act to sunset the provisions most harmful to civil liberties.

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2) The Executive Committee of Women of Reform Judaism urges United States sisterhoods and affiliates worldwide to:

- Develop programs to inform sisterhood and congregation members about slavery and trafficking in people in the world today;
- Work with community coalitions to call for the end of slavery and trafficking in people;
- Call for intensive diplomatic effort to stop genocidal acts and human rights abuses wherever they occur; and
- Support legislation to increase humanitarian aid to the people of the Sudan and seek an end to violence against the people of Southern Sudan and the Nuba Mountains.

3) The Executive Committee of Women of Reform Judaism urges United States sisterhoods to:

- Study and become informed about the permanent International Criminal Court as an instrument of law and protection of the human rights of all humanity; and
- Call upon United States officials to participate in international deliberations on the development of the Court.

Women of Reform Judaism encourages its Canadian sisterhoods to applaud Canadian efforts to achieve worldwide ratification of the ICC.

While the details of this resolution are largely addressed to the United States sisterhoods, it is hoped that affiliates from other countries will adapt it in ways that make the material applicable to them and their government.