

A Litany of Abuse, A Legacy of Shame

Canada's values and beliefs are just as vulnerable as they proved to be in the nation to the south

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By Erna Paris

Since the tragedy of the Twin Towers, George W. Bush has broken, or self-servingly rewritten, more laws than any other American president. He has appropriated exceptional powers for himself and claimed the authority to ignore or alter long-established rules to suit his purposes. With the complicity of U.S. lawmakers, he recast the meaning of the Geneva Conventions in order to deny legal protections to captured prisoners.

For years he has held hundreds of men in detention camps around the world, the vast majority without charges. He has flouted the norms of due process by creating military commissions that eschew basic standards. Torture—a moral taboo since the time of the Spanish Inquisition and illegal since the United Nations Convention Against Torture came into force in June 1987—became policy under Mr. Bush's watch, although information so gleaned is inherently unreliable. So did the extraordinary rendition of terrorist suspects to countries that practice torture in their domestic prisons become policy. When Congress finally woke up in 2006 and prevented the military from carrying out cruel, inhumane and degrading acts, the president turned to the intelligence agencies. Playing mouse to Mr. Bush's cat, the lawmakers extended the prohibition against torture to the CIA. But Mr. Bush did not give up. At this writing he is expected to veto the new law.¹

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Mr. Bush has catapulted what we once quaintly called civilization into a new dark age. However, as the electoral primaries continue to confirm, ordinary Americans are in a hurry to turn the page, if possible.

Historically, they have looked with pride upon their country's 20th-century contributions to human rights, global justice, and the rule of international law. According to the quasi-religious mythology that informs American national identity, the United States was founded as a "City on a hill" to beam the light of reason and justice around the world. How this President managed to dismiss or reshape long-standing law in one of the world's proudest democracies is a subject that will occupy scholars for years to come. Certainly, the "fear factor" was real enough after September 11, 2001, but so was the instrumentalization of fear—a time-honoured tradition in troubled times, as students of modern history will know. Almost overnight, shock severed supposedly unalterable commitments to democratic values and individual rights.

But what about elsewhere? Was there slippage in other countries, too, after it became evident that the world's most powerful democracy was prepared to disdain established laws?

Think about Canada and our oft-stated values: respect for cultural diversity, multilateralism, human rights, the protection of civilians during conflict, the rule of international law. These form the basis of our national identity in the same way as "The City on a hill" informs American civic

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¹ Pres. Bush vetoed this law on Saturday, March 8. – Eds.

patriotism. But our values and beliefs are just as vulnerable as they proved to be in the nation to the south.

More than a decade ago I wrote a book, *The End of Days*, about the way seemingly rooted components of national identity may be transformed before a population entirely understands what has happened. The subject of that work was medieval Spain. And the question I asked myself was about process. How did it happen that the most open, tolerant and religiously diverse country in Europe had evolved, over time, into the most ideologically narrow community on the continent? We live in a vastly different era, but the exploration of the way entrenched cultural values may

become eroded is as interesting today as it was 500 years ago—when you realize the gap in perception that existed in Spain between the reality of shifting laws and diminished state-sponsored protections, and the general understanding that such changes had occurred.

We're changing too. There's been a notable spillover from George W. Bush's "War on Terror" to law and practice in Canada.

First came the cautionary tale of the Canadian engineer Maher Afar, who was sent to Syria by the Americans and tortured with the complicity of Canadian officials. The chilling words that made our collusion in his deportation possible were uttered by RCMP officer Mike Cabana in testimony before the Arar Commission: "the caveats are down," he said. In other words, the normal protections are no longer relevant. In its urgency to demonstrate loyalty to the United States, Canada allowed the war on terror to subvert our domestic law.

Next, the news agencies Canadian Press and Associated Press reported in February 2006 that CIA planes had refueled in Canada 74 times since September of 2001. But when Alex Neve, secretary-general of Amnesty International Canada, wrote to ask for precise information, he was stonewalled. All the same, Neve's letter created nervousness. As a report from Canada Border Services Agency (obtained under Access to Information) indicated: Because they knew that complicity in the secret transportation of detainees to a third country was illegal under Canadian and

international law, senior intelligence officials from six federal agencies met to discuss what to say to the media.

There is also the notorious case of Omar Khadr, who was a child of 15 at the time of his alleged offense. Mr. Khadr has been held at Guantanamo for five years and now faces trial before a kangaroo military commission. Unlike other countries with nationals in Guantanamo, Stephen Harper's government has refused to demand that this Canadian citizen receive a fair trial, badly damaging our international reputation. The government's murky stance on the transfer of detainees in Afghanistan continues. And we should be equally disturbed by the present commission of inquiry involving three other Canadians, Muayyed Nureddin, Ahmad Abou El Maati, and Abdullah Almalki, who appear also to have been tortured in Syria and Egypt, based on information supplied by Canadian officials. Remarkably, a government lawyer argued last January that even if Ottawa did facilitate the men's arrests, the UN Convention Against Torture only obliges the government not to commit torture on Canadian soil. This is patently false: signatories to the Convention, including Canada, are prohibited from transporting any individual to a country that practices torture.

There is, here, an even bigger issue at play, for when a lawyer representing the Canadian federal government can make such a claim, it is a sign that we are on a dangerously slippery slope.

Slippage of this sort also happened in Europe after 9/11. Romania and Poland, among others, agreed to operate secret CIA prisons and many states allowed refuelling of American planes en route to prisons and torture centres. But the European Union investigated, demanded answers from the U.S. State Department, and warned its members that any countries that continued the practice would lose their EU voting rights. The illegalities stopped.

It is probably true that democracies with strong institutions can repair such breaches, if there is a will to do so, and there are indications that the United States will eventually take the road of recovery. Canada also recovered, in part, by running a commission that exonerated and apologized to Maher Arar. However, seen as a whole, our post-9/11 record looks increasingly poor.

Like the Spaniards of yore, will our country have changed inexorably before we notice that the values we claim to cherish no longer match reality? ♦

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