
Letter from the Editors

The *HRB* GOES TO PRESS AMIDST CONTROVERSY IN WASHINGTON, D.C. OVER WHETHER PRESIDENT BARACK OBAMA SHOULD PROSECUTE HIGH-RANKING OFFICIALS OF former U.S. President George W. Bush's administration who authorized harsh interrogation techniques that amounted to torture. Days after Obama released previously-classified memoranda implicating the officials, the President left open the possibility that these individuals would be prosecuted only to recant later in the week, saying that the decision to prosecute would lie with Attorney General Eric Holder "within the parameters of various laws." In the criminal justice system of the United States, the Attorney General, and prosecutors more generally, have discretion to prosecute those individuals and those crimes they believe are of greatest priority to society. But the ultimate decision rests with the President. As head of the Department of Justice and a member of the President's cabinet, Attorney General Holder serves at the President's pleasure and is ultimately answerable to him.

If the Administration is going to live up to its campaign slogan, "Change We can Believe In," then it is incumbent upon the White House to prosecute those who broke the law during the prior Administration, however politically inexpedient it may be. Arguments that torture was justified because we were in a moment of national emergency or because it may have led to intelligence that prevented another terrorist attack are not viable. It is within times of national emergency that we should cling closest to the values enshrined in our Constitution and ensure that the rule of law prevails. Moreover, it is a proven fact that interrogation techniques respecting human dignity and the rule of law are more effective than torture.

The primary focus of the current issue of the *HRB* is to highlight areas of U.S. policy that have an impact on human rights abroad and domestically. We publish two pieces by human rights defenders abroad, brought to us thanks to a collaboration with The Carter Center's Human Rights Defenders Initiative (<http://www.cartercenter.org>). Dr. Sima Samar, president of the Afghan Independent Human Rights Commission, urges the Obama Administration that a "development surge" must accompany a surge in the number of U.S. troops on the ground while Hassan Shire Sheikh and Laetitia Bader of the East and Horn of Africa Human Rights Defenders Network urge bilateral donor agencies to consider a country's human rights record before renewing foreign aid packages. In the second part of a two-part series, Stephanie Brewer of the Miguel Agustín Pro Juárez Human Rights Center in Mexico City unmasks the Mérida Initiative, a several million dollar aid package which the U.S. Congress approved for Mexico to support the country's counter-narcotics operations. The Mérida Initiative fails to hold military forces accountable for human rights violations.

From U.S. policies that have an impact on human rights abroad, we move to articles that highlight the impact of U.S. policies on human rights at home. Jonathan Tracy of the National Institute of Military Justice provides compelling arguments for why the Obama Administration must try suspected terrorists in nothing less than a regularly constituted tribunal with the full panoply of procedural due process rights, while Ajmel Quereshi of the American Civil Liberties Union of Maryland offers the Administration recommendations on changing immigration policies which over the years have provided less and less rights to those facing deportation and those held in immigration detention facilities.

Finally, the issue ends with two timely pieces. Avril McDonald, professor at the University of Groningen in The Netherlands discusses the implications of the conflict in Gaza in International Humanitarian Law (IHL), highlighting the importance of enforcing IHL in order to protect the human rights of civilians caught in armed conflict. *HRB* staff writer Jan Kratochvíl urges nations to adopt the new Optional Protocol to the International Covenant on Economic Social and Cultural Rights in

his piece "Realizing a Promise: A Case for Ratification of the Optional Protocol to the Covenant on Economic, Social and Cultural Rights."

As our tenure as Co-Editors-in-Chief has come to an end, we welcome next year's Co-Editors-in-Chief, Megan Chapman and Sara Waldron. Moreover, we would like to thank Hadar Harris and the staff at the Center for Human Rights and Humanitarian Law for their utmost commitment to the *HRB* and WCL Dean Claudio Grossman for his continued support. We are also grateful to Katherine Cleary and the staff at WCL's War Crimes Research Office for submitting status updates of the International Criminal tribunals, and for Professor Stephen Vladeck for his expertise in matters of International Humanitarian Law. Finally we would like to thank our staff for their commitment and passion to the publication and human rights in general. *HRB*

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