

**Submission to:  
International Commission of Jurists ICJ : Eminent Jurists' Panel on  
Terrorism, Counter-terrorism and Human Rights.**

**Hearings Toronto. April 24<sup>th</sup> 2007**

**Title of Submission:**

**Beyond Law and Justice:  
Counter-terrorism and the War on Terror: A Disastrous  
Political Concept.**

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## **Dieter Misgeld. Biographical Statement.**

Born 1938, Grew up in Germany (FRG).

studied there (Philosophy, Humanities, Social Science)

Professor emeritus. University of Toronto (Ontario Institute for Studies in Education)

Has worked in Chile, with group “Derechos Humanos y Educacion”, as associate of “Programa Interdisciplinario de Investigaciones en Educacion “ (Independent Research Institute), participating in discussions, from 1989 to 1994, regarding transition to democracy and human rights situation. Also worked with groups of theoreticians, activists, political groups en Chile. Continued this work on regular bases in Mexico, till recently.

Board member and volunteer coordinator for several years. Canadian Centre for Victims of Torture.

Regular teaching in field of Human Rights theory, education, international politics, during final years.

Publications also in Spanish.

Coordinator: National Project in Defense of Public Education. 2001 – 2003 (Canadian Association of University Teachers, Ontario Institute for Studies in Education of The University of Toronto, Canadian Teachers' Federation, CUPE, other Unions) Board Member Science for Peace. Till 2006.

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**2.1) Anti-terrorism. Effects on the Community**

One of the paradoxes of Canada is that it appears to fall into the trap of reaction, just as the U.S. is digging itself out from under being ruled by “an amazingly greedy and cynical oligarchy, with no interest whatever in either the rights of the citizens or the welfare of the poor” (Thus the outstanding liberal American philosopher Richard Rorty in: *The Nation*. October 21, 2002. “Fighting Terrorism With Democracy”).

This is a very dangerous situation to which I would like to direct the attention of this august Commission of Eminent International Jurists.

The situation is dangerous for Canadian citizens, but even more for permanent residents and those seeking the status of permanent residents, such as refugees, and, of course, those attracted to Canada by offers of employment without being given proper documents. Canada is not a country of great international importance. It is important to recognize this. And already since the end of the cold war, but especially after 9/11 it has quickly squandered its resources of international, i. e. worldwide credibility, by timidly and hypocritically reacting to pressure from the U.S., Great Britain and others. Now we appear to fall into line as loyal members of the “Anglo-sphere” (Naomi Klein), a neo-colonial form of striving for global hegemony based in an overall neo-liberal philosophy which might have been designed by the editorial staff of the *Economist* (British weekly), if we had not stumbled into it so willingly.

I am beginning with a polemical opening in order to draw attention to the political context of deliberation about law and human rights, as well as the consequences of the aggressive anti terrorism laws and measures, the effects of which we have experienced and which this commission is critically examining.

The political context is all important, because anti -terrorist measures supposedly needed in a “global war”, the war on terror, really are designed in order to keep the population of the better off countries in something like a state of subdued war-readiness, to make them feel insecure, unsafe, so that they will all the more readily accept forms of a security state (national or transnational) ,a collective psychology of fear and desire for almost absolute security (of all kinds), and become willing to accept being “protected”. The post-Nietzschean German writer Ernst Juenger called this situation the state of “total mobilization” in the late 1920's, already projecting this state unto the world as a kind of collective state of mind having planetary reach.

It ought not to be forgotten: this was the time, after the formation of the Soviet Union, when the term “terrorism” came to be applied, almost exclusively, to radical, often armed, opponents of capitalist or imperial liberal or parliamentary democracies and/or republics. The Nazis, after all, called the resistance fighters of the Warsaw Ghetto “terrorists”.

“Terrorism or the supposed “war” against it, became the focus of efforts to subvert the possibility of justified revolutionary change by developing counterrevolutionary measures. This happened in Kenya, in the brutal suppression of “Mau-Mau” resistance, in South Africa, in the terror campaign against the ANC, in Central America, most horribly in the war on the indigenous population in Guatemala. These campaigns very often have produced fascist forms of social organization, of so called “homeland-defense”, thus in Nazi Germany, Chile, Argentina), relying on racially and

ethnocentrically grounded projects of social integration, and, of course, on what we now call counter-insurgency.

The “War against Terror”, I submit, is no more than the extension of this scheme to the new level of international politics (via NATO, The UN, the Free Trade Agreements of the Americas, etc) and to the multi ethnic/”multicultural”, (nevertheless still racially biased post colonial, or neo colonial states dominating international organizations during the last couple of decades (U.S., U.K, now also EU.) Canada belongs here as well, of course, as a country with a history of dependence and allegiance, first to the U.K, then to the United States.

These comments are to serve as a preamble, as setting the stage for a much more specific discussion making reference to experiences made in Canada and in response to a series of important questions.

This stage-setting is important, so that we do not lose sight of the need for support of juridical criticism by political awareness and wherever possible, by political mobilization.

Before continuing with my argument, however, I will present myself and the relations, communications and groups with whom I have worked on the subject of critiques of “anti -terrorism” and whose activism, alertness, suffering and compassion have given me access to this deeply disturbing phenomenon. They are not responsible for the exact words written here, I wish to acknowledge the contribution, which they have made to this project.

I am preparing this submission first and foremost as a member of the Amparo Torres support committee and as her spouse.

Amparo is from Colombia. She arrived in Canada in 1996 as a UN convention refugee, and with a strong recommendation from Amnesty International. She had been given permanent resident status on arrival, on the basis of a history of severe persecution in Colombia, due to her membership in a left Political Party and her leadership role in the labor movement. One of her sisters has been disappeared.

Her party, the Union Patriótica, has been systematically destroyed, a case which is before the Inter-American Court for Human Rights.

Amparo has not been in Colombia since 1992. In Canada, she has recently been accused of being a member of FARC, the Revolutionary Armed Forces of Colombia, an armed insurgency, which has existed for more than 40 years.

A family member is a military leader in the insurgency. FARC has been included in the list of terrorist organizations in 2002 or 2003. Raoul Boulakia, Amparo's Lawyer, will have made a submission regarding her case and its implications. Or he will speak about it during the hearing on 24th April.

I have known Amparo since 1999 and never, in all the years I have known her, have I come across anything, utterance or action, which indicated that she was a member of FARC or wanted to be a member of FARC.

Her politics were rooted in her radical unionist and labor advocacy, as well as in her membership, since her early twenties, in the Communist Party of Colombia, in the UP, and her affinity to the feminist movement.

I understand that she has lost many friends due to the terrible internal conflict, which has existed in Colombia for decades. The threat, the possibility of death, and/or disappearance, of family, friends, herself, were always present. One of her sisters has been disappeared.

It appears that our request for citizenship for her and my corresponding inquiries provoked the Canadian government into action, the action of wanting to declare her inadmissible to Canada.

The Canadian Security and Intelligence Service approached her case in its usual manner, copying the methods of harassment, which anyone can learn from the relevant Hollywood movies about gangland activity.

Thus friends are approached, as well as an employer, political associates and others. She is labeled dangerous; a sensationalist article about her is placed into the most aggressively conservative paper in the country.

There is talk of a FARC sleeper-cell.

All this flies in the face of what we know about her, as friends, partners, political associates, such as in the Bolivarian Circle “Manuelita Saenz”. Amparo was very supportive of the peace process which was taking place in Colombia during the years 1999 to February 2002.

This was a process permitting FARC representatives to travel internationally, for FARC to have international representation and to organize public hearings. These involved representatives of governments from various countries who participated in the peace dialogues as “Friends of Peace”, including Canada. These representatives thus could examine FARC's public policy proposals.

I myself heard the Canadian ambassador to Colombia state, on December 2<sup>nd</sup> 2001, that Canada supported the peace process. This statement was made in a forum in the National University in Bogotá, in which he (Radnizki? now with CIDA, as far as I know) and I participated, as well as Colombian speakers. Four months later the peace process was broken off and FARC was forced back into the jungle and subversive military activity.

A year later it became labeled a terrorist organization in Canada.

Amparo certainly did not hide her sympathy for many of the policies presented by FARC in public hearings. This was not an exceptional position to take among Colombians with left wing convictions, although it was relatively rare in Canada.

However, she always operated and argued publicly and never concealed her views that FARC (and the guerrilla movement generally in Colombia) were an important part of its history. This strikes no one as strange who knows the history of the Latin-American Left since the Cuban revolution in 1958. She also always made clear, as did many others such as myself, and members of our Bolivarian Circle, that in Colombia, just as much as in many other countries, there was a greater problem than the armed insurgency.

Para militarism, supported by the army, and often maintained by it, and encouraged by sections of the government, was rampant and led to constant massacres, one of the highest levels of internal refugee displacements in the world, to fear and terror in large areas of the country side, and to the restructuring of Colombian society and state, now dominated by (to use a recent phrase) a para-political narco-structure, also supported by the US financed Plan Colombia ,as well as subsequent plans, and by counterinsurgency activities also sustained by the US. It has entailed the highest level of assassination of labour union activists and labour union members in the world.

In short, the positions which we have taken regarding the importance of social transformation in Latin America have very little to do with Canada. We hardly ever touched upon Canadian issues in our discussions.

There was no threat to Canadian democracy: on the contrary, there was recognition on our part of the importance and utility of Canadian organizations with a long history of involvement in Canadian democratic politics, such as the Canadian Autoworkers Union (CAW), the Inter-Church Committee for Human Rights in Latin America (now transformed into Kairos), the Communist Party of Canada. We also had contact with Amnesty International.

Amparo Torres and I were members of the Colombia Working Group for a while which had been organized by a representative of the CAW concerned about the extraordinarily high number of labor union activists murdered in Colombia, largely by paramilitary assassins frequently connected to or in contact with the army.

We also participated in a network of local and other Latin American organizations, reaching from those of Chilean exiles, to Colombian, Salvadorian and Uruguayan ones. We participate in solidarity work regarding the Bolivarian process in Venezuela, in a Coalition formed by Canadians.

One could mention a range of other activities, such as our recent participation in some of the activities and actions of “No one is Illegal” Toronto, Solidarite Sans Frontiers – Montreal, the Campaign against Secret Trials (TASC).

All this is to say, that all our activities have been public, always aiming at involvement of all those who wanted to be involved, without resorting to any form of threat or manipulation. We have sustained them, even as the accusation of “terrorism” was hanging suspended above us. We refuse to let ourselves be intimidated and encourage others as well to escape intimidation.

Given the highly public nature of our activities, the question then is where CSIS, Canada Border Services Agency, possibly other Government Agencies, get their peculiar information, where the talk of sleeper cells etc comes from, if it is anything other than a convenient phrase, giving CSIS the means to spread poorly researched information. Why are they not interested in looking for better research, and analysis?

In this context, the following attracted my attention. Margaret Bloodworth, national security adviser to the Prime Minister, told the Senate committee on national security and defense, that CSIS “has no spies collecting information on other countries but instead relies heavily on other countries to supply information”. ( Toronto Star. March 27.2007.p.A10. ). We may surmise then, that putting pressure on vulnerable persons, refugees and others, living in Canada, and coming from countries of interest, such as Colombia, may appear convenient to the agency, just as much as receiving information and using it unquestioningly, as the information, for example, coming from Colombian intelligence (DAS), an agency with a highly problematic record of relations with paramilitary groups and in other ways.

One wonders as well, then, why CSIS likes to use “information” coming from agencies known to be more than biased, such as Jane's Intelligence Review, or the Mackenzie Institute (see references in the articles by Sherene S. Razack, cited further on)

Nevertheless, and in the face of all this, we regard intimidation, or the systematic and planned generation of fear and timidity, as a very grave threat to democracy and regard our unwillingness to yield to threat as a major contribution to democracy and an ethos of civic courage without which it will wither and decline.

It is this danger, which I now want to focus on:

Anti -terrorist laws, the campaign against identified groups in Canada (see project Thread and the critiques of it)), and the pressure and harassment by CSIS, as well as the Security Certificate based detentions, have generated and aroused fear, and insecurity in our groups. They provoke a tendency to withdraw, to operate less publicly, to associate less with one another and, in some cases, to distance oneself from a person marked as “possibly a terrorist” such as Amparo Torres.

This happens, even with and among people, who cognitively, i.e. intellectually, and on the basis of their political history, will dismiss the “war on terror” campaign and “anti terrorist” laws and processes as politically inspired and manipulated. Fear, as we know, is not rational, and unless strong counter-measures are taken by those affected by fear, they will succumb to intimidation, thus diminishing their capacity to fight for their rights and even more so, to fight for the rights of others.

But without such a will to defend one's rights, democracy becomes a mere shell, appearance only.

We have reason to believe that agencies such as CSIS thrive the more widespread this unwillingness is to defend one's rights.

We are not ethically, racially or religiously identified groups, thus not susceptible or easily the object of racial profiling, also because we are used to working in interracial contexts, an attitude quite common among people from Colombia, Central America, and Venezuela.

But, to use one example, as a political group linked with the Latin American Left, for example, the Bolivarian Circle “Manuelita Saenz” is stigmatized/perceived as deviant, a reminder perhaps of the times of the cold war.

And we do, indeed, have a relatively positive attitude toward “communist” Cuba, all things considered, i.e. in the context of Latin America.

What I want to stress, however, is that after 9/11 fear did enter the community, and thus the response by several persons, even of an entire and similar group in one case, was to want to distance themselves from those said to be suspected of terrorism.

In short, all the concepts of political analysis and political activism which people had formed in their countries of origin, such as Salvador, Argentina, or Chile, and Uruguay, and which they had formed either in situations of vicious internal conflicts or in confronting repressive military dictatorships, were cast aside or had become dysfunctional, when Canada, as a country in which they had found refuge, began to label other refugees as terrorists or affiliated with banned organizations.

Isolation, fear of political involvement and retreat from commitments to the public defense of just causes are known consequences of totalitarian regimes, from Nazi Germany and the Soviet Union under Stalinist regimes, to the South African terrorist Apartheid state and the military dictatorships of the Southern cone countries in Latin America.

It surprises me and continues to surprise me that the Canadian media and its governments continue to proclaim Canada as a model democracy when large minority populations in the country (such as the Muslim or South Asian ones), begin to display behaviors reminiscent of intimidated populations ruled by the antidemocratic regimes mentioned.

It surprises me that self-criticism is weak, even among learned people, such that the much lauded trait of civility, usually attributed to the Canadian majority population deriving its origins from the British Isles, is not perceived to be sustained by an undercurrent of docility. This lack of will to resist, to recognize the difficulties of saying “No” (Th. W. Adorno, German philosopher of the Frankfurt School) in order to overcome them, once most probably originated in the loyalty to the British empire and in its opposition to American vigilante revolutionism. Now it probably is nourished, among most of the population, by a naively practiced sense of commonality of destiny with the U.S., the efforts of organizations such as the Council of Canadians notwithstanding.

And then, of course, elite projects such as the “Prosperity and Security” schemes of continental integration are created in order to foster and cement this sense of shared destiny, practices, attitudes, institutions, and values.

One has to dearly understand what this means: These projects can only thrive on the background of exclusions (religious/ethnic/racial).

Someone like myself who has studied third world development literature and projects applied to Latin America and coming from agencies in the North such USAID, will know that these constructions of a shared North American future always privilege the protestant-capitalist-individualist” North. They already stop short of integrating the communal -communitarian “Catholic”/indigenous South (such as Mexico, which has been forced into a relation of dependency only in order to be abused).

Sherene Razack, in an excellent study (“Your Client has a Profile”. Race and National Security in Canada. A working paper. Court Challenges Programs of Canada. 2006 or 2007. see also: Sherene H. Razack: “Your Client Has a Profile:” Race and National Security After 9/11. Studies in Law, Politics, and Society, Volume 40,3-40.2007.) has shown, how this mentality provides the constructs and profiles, which enter into passing judgment on Muslims, turning them into “terrorists” or “terrorist suspects”.

Thus the central issue in Canada is not so much the collapse of an existing structure of civility, or of the defense of civil or “constitutional” (Charter) rights.

Rather it is the need to construct this structure, which has never fully existed, because of Canada's imperial dependencies.

And the growing awareness of the costs, the dangers posed by the growth of a national security state nurtured by so called “anti -terrorist” measures and laws may just be the impulse required in order to propel us into a state of much greater awareness, and to look for ways, in all of the Americas, toward leaving behind the legacies of empire.

For without this step, there will be no peace on this continent, North and South, and no formation of a consciousness adequate to the history of the Americas, without which a further reaching global awareness and solidarity will not happen either.

It is important to recognize that Canadian multiculturalism, i. e. the existence side by side of many ethnic/linguistic communities, has a disadvantage when effective citizens' responses to intimidation produced by supposed “anti -terrorist “measures are at issue: communities of one kind or history will not easily reach out to another community; to give a concrete example: “white left liberals” like myself tend to assume that a conspiracy of very radical Sikhs was involved in the bombing of the Air India flight in the 1980's, and thus perhaps be reluctant to look into the background of this terrible event, and conveniently forget that under Indira Ghandi's rule the Indian government had become extremely repressive -a factor not to be discounted in this context. But many people from the Indian sub-continent will know about this and certainly people in the Sikh community. This is not to excuse this terrible criminal action. It is just to say, that my perception, like that of many other Canadians, is locally grounded. It developed in a situation in which awareness of the circumstances in India is lacking.

But we may very well feel, as white “liberals” (to use U.S. language) that Muslims have been the target of racial profiling (in the widest sense) in post 9/11 times and with reason we find it even more objectionable when a Marxist campesino-based insurgency in Latin America becomes the target of anti terrorist campaigns. In other words: we find it easier to be empathetic in these latter cases.

To give another example: Communication and shared objections to anti -terrorist methods of intimidation are fairly easily established between harassed and molested Filipinos and Latin Americans. But it is much harder to move from these to Islamic groups and populations, especially when there also exist misgivings about e.g. the Iranian religious regime, misgivings supported by many educated members of the local Iranian community whom I happen to know reasonably well. The same applies to Tamils and tragically leaves defenseless the most vulnerable group of all: Palestinians, Palestinians who appear to be systematically targeted for deportations.

This situation invites “divide and rule” tactics to be used and it would not surprise me if CSIS strategists would be quite aware of this possibility.

**I therefore believe that it is worth the effort to look into the effect, the “war on terror” campaign has had on the diverse ethnic/religions/racial communities in large Canadian cities.**

Here one should always remember, that Canada lacks an integrating ideology, quite differently from the U.S. I do not want to argue that it should have one. But as long as it does not, **only a civic patriotism** concentrating on the charter of rights would be the adequate response.

So far, however, measures are lacking which give economic support to the claiming of rights. Therefore a full defense of Charter rights in the face of the threats to civic culture, generated by post 9/11 arbitrariness and the police – state mentalities which it has spawned, has not been possible.

In the case of Canada, I believe, international pressure is important for these reasons: This pressure will help us accept, propagandistic claims of the past and present notwithstanding, that simply being inhabited by a diverse population does not amount to having a vibrant civic culture capable of setting limits to government secrecy, to the power of diverse police and intelligence forces, and to cooperation with forces from abroad which never make their appearance in the light of day (such as the multiple connections between Canadian and US uniformed and intelligence agencies, be they the military , the FBI, or the CIA.)

Indeed, Canadian society is a multiply fragmented and divided society, not just in terms of multiculturalism, or French and English Canada, Quebec autonomy and Federal integration, but also in terms of multiple levels of government poorly integrated one with the other, and a duplication and multiplication of police services, as well as laws and administrative rules which give enormous, mostly hidden power to government, way beyond what is normal in a West European nation-state of recent decades prior to the creation of the full fledged European Union , for example.

Canada is not the Scandinavia or Sweden of the Americas. It would be more correct to say that it is that and Russia, with features of both side by side.

## **2.2) Proscribed Organizations: Lists of “Terrorist” Organizations as an Obstacle to a Politics of Peace (Making and Keeping)**

So far, I have attended to consequences of labeling people as “terrorists” or suspected terrorists” or “supporters of terrorist organizations”, consequences as they arise primarily within Canada, and between Canadians.

I realize that what I have described is occurring in several other countries and very frequently in a much more extreme and devastating form.

I now want to turn to effects in other countries, countries linked with Canada through migration or countries where Canada in the past has contributed to seeking solutions to internal conflicts. Then Canada was still committed to peace making or peace -keeping in the context of the United Nations system.

This is a most important point. I believe it has been withheld from the Canadian public that a major shift in foreign policy has taken place: We no longer are involved in efforts to make peace, we have become a war-making country and have lost the ability or even the will to appear to be different from our neighbor to the South, something which once was, perhaps still is very important to many people in Canada.

Thus another support for a distinctive kind of Canadian society, a socio -historical project different from that of the U.S, has been weakened.

“Anti terrorist” laws and administrative rules, but especially lists of ”terrorist” organizations, prevent us from initiating and participating in peace negotiations in a manner acceptable to parties embroiled in conflicts with features of civil war. It becomes almost impossible to engage with non-state actors. We are forced to take the side of governments, even if these governments are known to act in problematic ways. A case in point is the U.S.A.: No protest against Guantanamo, centre of cruel and unusual punishment in the U.S., has been launched by the Canadian government or parliament, just to mention one example. Protests here have been considerably weaker than e.g. in Europe. We thus contribute to the deterioration of political morality in our own country as well, given our proximity to the US.

The Convention against Torture has not been upheld by Canada, and violated by its own policy of detention of so-called 'terrorist suspects'.

As a consequence, torture, malicious persecution, possibly arbitrary arrest, detention and deportation have become acceptable and/or are practiced as never before, at least not since the end of the second world war.

The list of proscribed organizations puts communities under pressure which already have to deal with a great deal of suffering, given the situation of family members in the countries of origin (Sri Lanka, Philippines, at times also Colombia)

I once raised the issue of the list of terrorist organizations and what implications it might have for peace processes abroad. I did so in the presence of a relatively high ranking officer of the RCMP in charge of community liaison.

When I criticized the recent inclusion of LTTE, the Tamil Tigers, in the list of proscribed organizations, he replied that he thought this decision was based on activities of extortion and blackmail taking place in the local Tamil community.

If this is true, a momentous error has occurred. Local activities already prohibited by the criminal code now become linked with the politics of a conflict taking place in Sri Lanka, and not in order to protect possibly threatened and pressured Tamil-Canadian citizens, but in order to maintain a schema of aggressive global politics, the so called 'war on terror', which can only drive the community into an even more defensive posture -not a trifle, given the size of the community .It also makes the community even more insecure, given that prospects of peace in Sri Lanka become even more remote, hopes for the security of family and friends, and of others there, even more fragile.

Thus the Canadian government puts itself in a position where it cannot act effectively and humanely on behalf of its own citizens. Many people in these kinds of communities believe that this is exactly what it intends and suspect racism. Are they so far off the mark?

I, together with many other people, and especially members of the groups whom I have consulted, are of the opinion that the “global war on terror” or “war on global terror” has very little to do with real dangers, at least not dangers so great that they warrant the extreme measures which have been introduced and deployed.

Rather, it is a scheme or method, which has a political purpose.

I will abstain from the geopolitical analysis needed in order to show why the construction of this scheme was needed for the “new world-order” to be imposed, and in order to bring the uncertainties and multiplicities of divergent developments under control which became noticeable after the end of the cold war.

Suffice it to say that the “war on terror” or “global terror” in particular, which certainly was provoked by 9/11 (the devastating attack on the twin towers) could not have been sustained had there been a careful examination of how civilian populations, groups and individuals, were going to be affected it.

The well being of the majority of people was not the primary issue, nor the multiple securities which they require (including e. g. food securities etc), nor the sense of justice and entitlement to basic rights without which societies deteriorate into strongly managed and policed entities, with little room for dissent and critical communication -whether they are called democracies or not.

The “war on terror” scheme also does not reduce fear, because it does not help achieve peace.

A former Canadian “military intelligence expert” (thus Haroon Siddiqui, Toronto Star, April 8.07 – A16-) put it like this: 'stop living in fear and relying on military adventures.....Don't support excessive force to crush local dissent' (as has happened in several places).

But this is what we have experienced after 9/11: a politics and media politics of fear-mongering calling for the use of excessive force, instead of using one's intelligence, common human sensitivity, intelligence, and foresight. We have witnessed an escalation of the talk of security, and have defined it militarily, or by looking for means to apply maximum force, including that of extreme and one-sided moral reprobation.

Thus the working Group on Strategic Alliances of the Continental Meeting of Indigenous Peoples and Nationalities in Bolivia in Oct 2006 charges that 'we are living in times of militarization and criminalization of social movements...Submitted to a new rationale of the so-called democratic or neo-fascist security projects' (ALAI Latin America in Movement. <http://alainet.org/active/16536&lang=en.4/10/07>).

Groups are called terror groups, even if they are primarily political groups or political groups also including armed organizations. They only may not be states. Thus Hamas, Hezbollah, The LTTE, The Filipino New Peoples' Army, the Revolutionary Armed Forces of Colombia, the Frente Zapatista in Chiapas, Mexico, others, get to be described as terrorist. Beyond this, even certain states/governments are identified as 'terrorist', such as the Islamic Republic of Iran.

The countries, which are not so identified, are-not surprisingly- the U.S. and Great Britain, despite the fact that they have engaged in an enormously costly illegal war in Iraq, i.e. e. costly mostly to the people of Iraq.

This is just one example of how the once familiar theme of **state terrorism** is being avoided, avoided even more so with reference to countries where governments use intentionally designed methods of terror and intimidation with reference to internal conflicts, or where there exist insurgencies. Colombia, Sri Lanka, the Philippines come to mind, but also Russia, Israel, Pakistan, Thailand, Burma, Somalia, all countries in which the vocabulary of terrorism and the war on terror has been systematically used to launch assaults on internal and other opponents and to attack civilian populations which may be hospitable to them.

In this context, the most destructive instrument has been the so-called list of "terrorist" or proscribed/banned organizations.

The Canadian list, made recently complete with the addition of the LTTE (Sri Lanka), appears to correspond directly to the U.S. list.

In one case, that of the LTTE, a Canadian document underlying the activities of CSIS, refers to the LTTE as an organization engaged in fighting the government of Sri Lanka.

This in itself appears to be a reason for referring to it as "terrorist".

But it is clear that there are political judgments involved.

For the French or Polish Resistance during the Second World War, for example, or even the 1944 German Resistance to Hitler (all of them armed or ready to use arms), all of them resisted the government of the day, which did indeed also refer to them as "terrorists".

They nevertheless are honored and respected to this day, and rightly so. Yet the government of the day, that of Nazi Germany, is universally despised and clearly understood to be a regime of terror.

I am not claiming that LTTE should in any way be perceived as equal to the resistance movements of World War II. I am just attempting to show that the label "terrorist" primarily has a political meaning and is used for political purposes.

Thus it is important to examine the effect of lists of terrorist organizations, and to ask what a) is it their overt purpose, b) their 'latent function'?"

a) Overt purpose: The purpose is to protect a population, e. g. Canada's or that of allied countries, e. g. the US. the U.K, Mexico (?), from harm.

Thus one can understand why a close watch should be held over presumable, likely or actual members of Al Qaeda. For Al Qaeda has struck once.

By "watch" I mean what many have suggested: good policing, or intelligence practiced on the level of intelligent policing, such as carried out in the investigation of major crimes or of crime syndicates. Political intelligence services appear to not know how to function in this manner, at least in Canada.

But does it, should it mean treating insurgencies as quasi-criminal organizations?

As much has been said by many about the need for vigilance to which I have just alluded, I now turn to the issue of the 'latent function' of lists of proscribed organizations.

b) Rather, I begin with the consequences of the existence of these lists and progress from there to a question about their 'hidden' or 'latent' function given that the professed overt purpose, to minimize harm to potentially affected populations, is not achieved.

1) Consequence: I have already described it above: If an armed insurgent movement, LTTE or FARC (in Colombia) is labeled terrorist, it becomes very difficult, to remain attentive to the terror actions organized or at least encouraged by governments (situated faraway from Canada)

The U.N. High Commission in Colombia e.g. has at times attempted to give the even-handed accounts required. But it rarely succeeds. Governments are in a much better position than insurgencies, to influence or modify a report.

A report will be circulated to a government for comment, but not to an insurgency when it is proscribed as terrorist.

In general, access to communication, to media, to other governments, makes it much easier for governments, with a vested interest in doing so, to present themselves as correct, and to hide their terror actions from view.

They also possess additional means for imposing their views. Counterinsurgency, mercenary enterprises are an ever-growing part of regular military establishments and humanity has never seen as much paramilitary activity as we do in our day.

Nor have we ever seen before the transformation of war and counterinsurgency into an enormous growth industry, a process that threatens to transform large sections of the state apparatus, especially in the US (but with spillover effects into Canada) into Mafia-like structures of shared and deeply camouflaged interest, sometimes involving the intelligence services as well.

2) Generally, the willingness of governments to resort to force, and to use excessive force, becomes less visible, is perceived as less problematic, under conditions of the "war on terror". Not only is there a decline in democratic vigilance; but the very fact of governments, often in conjunction with other actors, shaping the society with reference to massive force, e. g. by storing and manufacturing an incessant stream of weapons of planetary mass destruction, is relegated to the margins of societal awareness and citizens' action. **Yet this is where the real arsenal of terror lies.**

It becomes difficult to consider alternatives to the existing structure of society. Challenges to the distortions built into global regimes and the achieved distribution of power are debilitated.

3) Insurgencies may not be taken seriously and their basic complaints will not be addressed. If the insurgency, let us say Hezbollah or LTTE, were to be destroyed, the underlying grievances would remain and look for another, probably a similar or more drastic way, to achieve recognition.

4) Peace negotiations: as has been pointed out repeatedly, with reference to situations in the Philippines (see *Laws, Labels and Liberation. The Case of Professor Jose Maria Sison. Conference Proceedings. May 28 to 30. Universite du Quebec a Montreal*, and communication with May Farrales, Executive Director of Philippine Women Centre of British Columbia) to Colombia, and Sri Lanka: bans undermine the possibility of peace negotiations in the case of the three countries mentioned. The negotiations, which had been initiated, were interrupted or stopped. War, conflict, the damage to the civilian population continued. Supposed sympathizers in countries far away, such as Canada, become subjected to surveillance and/or procedures such as the use of security certificates, possibly deportation.

Countries such as Canada which once were facilitators of a negotiated peace and which had raised the matter of human rights violations with governments, such Canada with Sri Lanka (-see S. Nadarajah and I. Sriskandarajah. "Liberation Struggle or Terrorism? The politics of naming the LTTE. *Third World Quarterly*, Vol.26.No. 1.pp87-100. p.91, 2005), and also with Colombia, desist from doing so and fall back on one sided blaming.

5) International cooperation: In above mentioned article reference is made to the Tamil LTTE's interest in studying Quebec as a member in the Canadian federation. Yet under the conditions of 'anti

terrorist” legislation and the existence of lists, LTTE officials seeking to study it cannot visit (page 98. as above) Canada or Quebec.

This is just one example of the disruption of communication and contact, which can only encourage extreme defensiveness.

6) Insurgencies such as the ones mentioned feel all the more threatened, the more isolation is applied to them, the more their captured members are treated as a type of “homo sacer” (Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*. Stanford. Ca. Stanford University Press.1998), as people outside the law who may be subjected to the most tortuous forms of punishment. They may then just decide that “fighting to the death” is all that is left to them; also a reason perhaps for the existence of suicide bombers.

7) Most of all, governments feel encouraged to go to extremes of repression. Here I could give numerous examples from Colombia.

There the Uribe Government employs an army (1 million or more) of paid informers.

It engages in the most duplicitous form of negotiation while intensifying the internal war, tolerating continuing paramilitary massacres and the forced removal of people from their lands, thus creating the second highest level of internal displacement in the world, tolerating the constant assassination of labor leaders, etc, and attacking human rights organizations for being fronts for terrorists, even forcing the removal of U.N. officials.

All this being said, one may want to raise the question:

Why use an instrument as blunt, destructive and one sided as lists of “terrorist” organizations?

In whose interest is it to create such an instrument?

And whatever happened to the interest in world peace, which the U.N.O. supposedly was created to defend?

Who indeed are the enemies of peace and where can they be found?

And what can be done to tame them and to once again make peace a priority?

This is the question I want to leave you with, having implicitly answered the question regarding the “latent function” of anti terrorist laws and list of proscribed organizations:

Their latent, their hidden purpose is the pursuit of political ends. The aim is to freeze the world, global politics, in its present state, with the interests of some states and hegemonic realms being given primacy over matters of justice and the well being of all.

Thinking through these matters brings us back to where we were when the great social conflicts erupted in the early 20<sup>th</sup> century.

The conflicts are still there, only in new forms and with additional problems thrown in: They cry out for just and global solutions in a process of deliberation from which no one should be excluded.

### **2.3) A Brief Comment on Colombia and the Revolutionary Armed Forces of Colombia: Example of a Consequential Error.**

Guerilla forces have existed in Colombia for a long time. The Revolutionary Army Forces of Colombia are the largest armed insurrection among them. Their origins can be found in the armed campesino uprisings, which happened after the assassination, in 1948, of Jorge Eliecer Gaitan, Presidential candidate of the Liberal party.

The Conservative government of the time responded to these uprisings with massive and violent repression, and thus began the civil war and constant internal armed conflict in Colombia. Especially the civilian population with sympathies for the Liberal party suffered murderous assaults by the army and other state security forces.

In 1953 a military dictatorship was established which only lasted for three years. It came to power promising peace and amnesty for all members of the guerrillas handing over their arms. But their leaders, who did so, were killed.

After the military dictatorship the elites of both the Liberal and Conservative parties made a power sharing agreement (called Pacto Frente Nacional) with the support of Franco's Falangist regime in Spain. It entailed the exclusion of all other social and political movements and sectors from the political life for the subsequent twenty years.

Since then the political institutionality of Colombian society has been weakened by a well founded distrust, due to the continuing violence after the imposition of the Frente Nacional. This is why in 1964 small groups of Liberal and Communist guerrillas were united, in order to resist the violence practiced by the governments and state. This is the origin of Farc. Its central demand was the redistribution of lands and agrarian reform.

Thus for more than five decades, practically every Colombian government has come to power on the foundation of a promise of peace. But these peace proposals were then transformed into plans for war. This way of proceeding has been quite typical of the ruling elites to this day. It has been a major obstacle to a political solution for the conflict in Colombia.

The insurgency continued to make proposals for reforms in several peace processes with the governments. One of the most important among these has been the agreement of 1985 which led to a truce and the formation of a political party, the Union Patriótica, by means of which the guerrilla and other social actors of Colombian society would be allowed to participate in national politics under the principles of the constitution. But within a few years there occurred a massive wave of assassinations of members of Union Patriótica, the guerrilla regarded the accords as destroyed and returned to the mountains, while the new party continued its fight, even at an incredibly high cost, amounting to thousands of its members assassinated, many others driven into exile, the loss even of members of congress and of a presidential candidate. There is a juridical intervention before the Inter-American Court of Human Rights, accusing Colombia of political genocide.

Since then the growth of Para-militarism supported by profits from drug trafficking, has worsened the situation. It has led to horrible crimes against the civilian population, frequently aided and abetted by the army and the security forces of the state.

It therefore is apparent that no matter what FARC is today, and what its present politics may be, FARC has its roots in a history, in which the Colombian state and leading sectors of Colombian society have been prominent participants, frequently contributing more than anyone else to excessive violence, misery and the social and political marginalization of large sections of the Colombian population.

**This history is the real context of what happens today and one wonders, what listing some actors as “terrorist” and selectively persecuting especially one of them (FARC), will achieve;** the government, the army and leading groups are, after all, chiefly responsible for the terrible situation.

The last peace negotiations between FARC and the Colombian government, (1999-2002) had received much national and international attention. They once again inspired hope. FARC was allowed to establish offices for its international commission in various countries; its representatives traveled abroad and public hearings took place in Colombia. The U.N. were involved.

But Plan Colombia, financed especially by the US, and then the use made of the attack on NYC of 9/11, led to the abandonment of this last effort of making peace.

The present Colombian government is increasingly mired in scandals and clearly perceived, at least in Colombia and by influential human rights organizations, as having strong links with Paramilitarism.

It appears to have no interest in peace or in solving the internal conflict other than by military means. Thus the guerrilla has no option other than to continue to remain armed and mobilized for confrontation. Were it to do otherwise, it is likely to face mass assassination, the procedure applied to those labeled “terrorists” since the existence of the Nazi state.

Surveying the historical materials and recent data of the Colombian conflict, one can only conclude that nothing could have been more damaging than to escalate the already high level of distrust to its present state. But this is exactly what was done, unfortunately with massive direct support by the United States government, already having a disturbing history of intervention in internal Colombian affairs. The “International Community” as well, i.e. e the majority of governments in the “West”, have also tolerated this sad and destructive state of affairs, while constantly talking of the defense of human rights. It will take a great effort, and strong pressure from the “international community”, i.e. e. a change of heart among many governments, for this situation to be overcome. It may indeed include and require a reversal in the policies applied to Latin America by Western powers.

#### **2.4.) Peace and Reconciliation in the Americas: A Brief Perspective for Canadian Foreign Policy.**

I believe that the situation in the Americas which now is characterized, in the South (including the Caribbean), by widespread misery in several countries, the desperate search for livelihood, often by getting involved in the trade of illicit drugs, mass-migration, and social tensions, will not improve, unless there is a massive and profound reversal of policy. The countries whose policies have to change, most of all, are the USA and Canada, in the Americas.

The change will have to be in the direction of real partnership, and include countries such as Cuba and Venezuela. In North America, one may no longer count on the corruptibility or inclination to be persuaded on the part of the upper middle and upper classes in a country such as Mexico.

The Free Trade Regimes or the Plan for the FTAA have to be put aside or to tally modified, so that there is room for real and reciprocal partnership which will improve the lives of the majority of people also in the South

A country such as Cuba with its remarkable expertise in health, education, environmental experimentation and other areas needs to be consulted.

The OAS has to be completely restructured and become fully independent from supervision by Washington. Its head-office has to be moved out of the U.S. It has to adopt a charter, strongly worded, which endorses social and economic rights as equal to civil and political rights.

An apology has to be issued to the indigenous peoples of all countries of the Americas. Their rights have to be reconstituted, and compensation has to be given.

The same holds for people of African descent.

It is sad, depressing even, how Canada after joining the OAS has not once taken strong action in favour of rectifying even one of the most terrible situations occurring in the Americas: It has not played a major role in halting the genocide en Guatemala, it contributes to the continuation of the disastrous situation in Haiti.

It participates in the economic, environmentally insensitive exploitation of countries in the South of the Americas, such as in mining – not prohibiting abusive relationships to indigenous and campesino populations.

In all of this, Canada appears to follow the lead of the USA., not once protesting or rebelling against the path marked out by agencies of the US federal government.

But it also is through its close relationship to the US that it is deeply involved in the situation of the Americas, witness its participation in the TLC/NAFTA, which makes us co-responsible for the misery in Mexico.

As long as we do not develop policy alternatives to those of the US in the region, and more in line with the entire range of internationally recognized human rights, we will be an accomplice to the relation of exploitation, power and control (through e. g. US Southern Command) which the U.S. has maintained or tried to maintain since the declaration of the Monroe Doctrine.

Counter-terrorism and the war on drugs (so called) are the means for maintaining this hegemonic relationship. Countries, which support it, such as Canada, really have no credibility as a force for peace and human well-being, also for people beyond the Americas.

Only a course of greater independence will help here.

But first one has to puncture the cocoon of the “War on Terror” which has been extended into this hemisphere, all of the Americas, as well; even when there was no compelling reason whatsoever for applying it to the Americas.

Toronto, April 15, 2007