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JOAN B. KROC INSTITUTE FOR PEACE & JUSTICE
Joan B. Kroc School of Peace Studies
University of San Diego
San Diego, California

Kenneth Roth
The Dynamics of Human Rights
and the Environment

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The mission of the Joan B. Kroc Institute for Peace & Justice (IPJ) is to foster peace, cultivate justice and create a safer world. Through education, research and peacemaking activities, the IPJ offers programs that advance scholarship and practice in conflict resolution and human rights. The Joan B. Kroc Institute for Peace & Justice, a unit of the University of San Diego's Joan B. Kroc School of Peace Studies, draws on Catholic social teaching that sees peace as inseparable from justice and acts to prevent and resolve conflicts that threaten local, national and international peace. The IPJ was established in 2000 through a generous gift from the late Joan B. Kroc to the University of San Diego to create an institute for the study and practice of peace and justice. Programming began in early 2001 and the building was dedicated in Dec. 2001 with a conference, “Peacemaking with Justice: Policy for the 21st Century.”

The Joan B. Kroc Institute for Peace & Justice strives, in Joan B. Kroc’s words, to “not only talk about peace, but to make peace.” The IPJ offers its services to parties in conflict to provide mediation and facilitation, assessments, training and consultations. It advances peace with justice through work with members of civil society in zones of conflict and has a focus on mainstreaming women in peace processes.

The Women PeaceMakers Program brings into residence at the IPJ women who have been actively engaged in peacemaking in conflict areas around the world to document their stories, share experiences with others working in peacemaking and allow time for reflection on their work.

WorldLink, a year-round educational program for high school students from San Diego and Baja California, connects youth to global affairs.

Country programs, such as the Nepal Project, offer wide-ranging conflict assessments, mediation and conflict resolution training workshops.

Community outreach includes speakers, films, art and opportunities for discussion between community members, academics and practitioners on issues of peace and social justice, as well as dialogue with national and international leaders in government, nongovernmental organizations and the military.

In addition to the Joan B. Kroc Institute for Peace & Justice, the Joan B. Kroc School of Peace Studies includes the Trans-Border Institute, which promotes border-related scholarship and an active role for the university in the cross-border community, and a master’s program in Peace and Justice Studies to train future leaders in the field.
JOAN B. KROC DISTINGUISHED LECTURE SERIES

Endowed in 2003 by a generous gift to the Joan B. Kroc Institute for Peace & Justice from the late Joan Kroc, philanthropist and international peace proponent, the Joan B. Kroc Distinguished Lecture Series is a forum for high-level national and international leaders and policymakers to share their knowledge and perspectives on issues related to peace and justice. The goal of the series is to deepen understanding of how to prevent and resolve conflict and promote peace with justice.

The Distinguished Lecture Series offers the community at large an opportunity to engage with leaders who are working to forge new dialogues with parties in conflict and who seek to answer the question of how to create an enduring peace for tomorrow. The series, which is held at the Joan B. Kroc Institute for Peace & Justice at the University of San Diego’s Joan B. Kroc School of Peace Studies, examines new developments in the search for effective tools to prevent and resolve conflict while protecting human rights and ensuring social justice.
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BIOGRAPHY OF KENNETH ROTH

Kenneth Roth is the executive director of Human Rights Watch, a post he has held since 1993. Human Rights Watch investigates, reports on and seeks to curb human rights abuses in some 70 countries. From 1987 to 1993, Roth served as deputy director of the organization. Previously, he was a federal prosecutor for the U.S. Attorney’s Office for the Southern District of New York and the Iran-Contra investigation in Washington. He also worked in private practice as a litigator.

Roth has conducted human rights investigations around the globe, devoting special attention to issues of justice and accountability for gross abuses of human rights, standards governing military conduct in time of war, the human rights policies of the United States and the United Nations and the human rights responsibilities of multinational businesses. He has written more than 80 articles and chapters on a range of human rights topics in such publications as the New York Times, Washington Post, Foreign Affairs, International Herald Tribune and the New York Review of Books. He also regularly appears in the major media and speaks to audiences around the world.

A graduate of Yale Law School and Brown University, Roth was drawn to the human rights cause in part by his father’s experience fleeing Nazi Germany in 1938. He began working on human rights after the declaration of martial law in Poland in 1981, and soon also became deeply engaged in fighting military repression in Haiti. In his 13 years as executive director of Human Rights Watch, the organization has quadrupled in size while greatly expanding its geographic reach, and added special programs devoted to refugees, children’s rights, international justice, AIDS, gay and lesbian rights, human rights emergencies, terrorism and counterterrorism and the human rights responsibilities of multinational corporations.
INTERVIEW WITH KENNETH ROTH

The following is an edited transcript of an interview with Kenneth Roth, conducted by Mark Woods on Sept. 20, 2007.1

MW: Can you tell me a little about your background, how you got involved in Human Rights Watch?

KR: Well, I’m a lawyer by training. I was at Yale for law school and was interested in doing human rights work. At the time, Jimmy Carter was the president and he had introduced human rights as an element of U.S. foreign policy for the first time. I signed up for the one human rights course that Yale offered each year, and to my chagrin, it was cancelled each year, so I graduated with no human rights training whatsoever. But I was interested in human rights in part because of the Carter policy, but also very much because of the experience of my father, who grew up in Nazi Germany and fled in July 1938. So, I, as a kid, grew up listening to Hitler stories. In fact, my father would tell us stories about his childhood in Germany as he was giving me and my brothers haircuts, as a way of kind of calming us down. At first they were all just funny boyhood stories having nothing to do with Hitler, but about my grandfather’s butcher shop and the escapades of the horse that they used to deliver meat. But as we grew older, the stories became more serious. My father would talk about the terror of living under Hitler.

I remember vividly one story where my grandfather, who had served in the German army during the First World War, had saved his rifle, which I guess a lot of the soldiers did at the time. The Nazis issued a decree at one point saying that everybody had to turn in their guns. My grandfather was terrified that if he kept the gun, he could be arrested and sent off to a concentration camp, but if he turned in the gun, he could be arrested as well; he was damned if he did and damned if he didn’t. Every Sunday he would take my father and my uncle out to a park nearby, and the boys would skip stones into a lake. One Sunday, my grandfather disassembled his rifle, put the pieces into his jacket pockets, and went to the lake and started skipping stones with his boys, but occasionally skipping a rifle piece into the lake as well. Gradually, bit by bit, he tossed away the entire rifle.

Stories like that stuck with me and highlighted the evil that government could do if it was left unchecked. People have responded to the Holocaust in different ways. Some feel that you have to be tougher than the next guy, and that view leads to a certain militarism. And, obviously, there is a role for a military response to somebody like Hitler; I believe that humanitarian intervention is sometimes necessary. But it’s also important to respond to the Holocaust by reaffirming the values and norms that, if fully embraced by the people and governments of the world, will make it much more difficult for governments to get away with mass atrocities the way Hitler did. That, for me, is a real imperative that drove me to do human rights work.

MW: You mentioned humanitarian intervention. Do you mean armed intervention?

KR: Yes, in the proper circumstances – if it’s the last feasible option to stop ongoing or imminent mass murder. But there’s much work to be done before we get to that extreme situation. I personally have devoted my life to building a moral universe in which those kinds of atrocities are more difficult. They’ll never be impossible, but we all hear about how the Germans just countenanced a lot of the atrocities against the Jews or against others who were seen to be sub-human in some way. I do believe that the general public has the capacity to inhibit governments, that even dictatorships are at some level responsive to public pressure and public consent, and so if you can build a stronger public morality that will not countenance certain human rights abuses, you make tomorrow’s Holocaust less likely.

So, coming back to your original question: It’s always hard to explain exactly how anyone moves in a certain direction in his life, but for me it was in large part an intimate awareness, through my father’s experience, of what governments could do of an evil nature. Plus, I was somewhat a child of the ‘60s (even though I was

1 Mark Woods is an associate professor of philosophy at the University of San Diego (USD). He teaches classes on environmental justice in the master’s program of Peace and Justice Studies.
only a child then) and felt a need personally to do something with my life that was meaningful. For me, human rights work was the obvious thing for me.

If I had been 10 years older, I might have gotten involved in civil rights work in the United States. But by the time I was graduating from law school, because of Jimmy Carter’s work, human rights were the new frontier. I was interested in international work, so human rights became where I wanted to devote my time. I should say that when I graduated from law school, there were no jobs in human rights. Human Rights Watch at that time had two employees. Amnesty International was a tiny organization in London. So, I didn’t start off working in human rights, I started off working as a lawyer. I assumed that the best I could do was some human rights work on the side as a volunteer, which is what I did for almost seven years – volunteering principally after martial law in Poland, but also doing some work in Haiti. Then, I received a phone call one day from Human Rights Watch. It had grown to the enormous size of 20 employees and needed a deputy director – would I be interested? I jumped at the opportunity.

Interestingly, given that I’m sitting here at USD, it was at a moment when I was actually looking at teaching jobs and had interviewed a number of places, including USD. Because of that phone call, my life took a different direction. But it was, in a sense, calculated luck. I was working in the field as a volunteer, so it was not crazy that I was called, but I was nonetheless certainly lucky to have been called. I’ve now been at Human Rights Watch for 20 years. We’ve gone from 20 employees to 260, and are now working regularly in some 80 countries around the world. I feel incredibly fortunate to have a job that I believe in, that is challenging and that allows me to make a big difference.

MW: Could you say a little bit more about what Human Rights Watch does? There are some misconceptions about Human Rights Watch; there tend to be negative things said about it, by everyone from conservative U.S. politicians to totalitarian governments. Some people accuse Human Rights Watch of being in collusion with the U.S. government – I think another misconception. If you could just say a little more about Human Rights Watch and what you do, and how you’re different from other groups, including Amnesty International.

KR: Well, those are a lot of questions. Maybe the best way to understand Human Rights Watch is to understand our methodology. Many people, when they think about protecting rights, think about going to court. If the government violates the rights of a typical American, they’ll hire a lawyer and sue the bastard. But the places where Human Rights Watch tends to work don’t have functioning legal systems; there is no real option of going to court. And so, we have developed a methodology that targets the political branches of government, rather than the judicial branch – after all, it’s not just judges who vow to uphold rights, it’s the entire government. So, even though a dictator may have silenced the judges through violence or intimidation, the dictator himself or the politicians around him are capable of being pressured. The human rights movement has developed a methodology that can generate that pressure.

In most cases, Human Rights Watch generates pressure through a three-step process. Step one is to investigate the basic human rights conditions in the country in question, and we do that through our team of researchers who make up the bulk of our staff. They either live in the country or travel back and forth regularly. Their job is to put together, as objectively and accurately as they can, a picture of the human rights conditions in that country. They do that by speaking with the victims, the eyewitnesses, the government – anyone with first-hand information. And they try to get information from all sides. They then write up their findings in the form of a report. That’s stage one, the investigative process.

Stage two: We expose this information to the public through the press. And that process is inherently shameful for the person responsible, because in today’s world, nobody wants to be known as a human rights violator. Even Saddam Hussein tried to cover up his atrocities. By shining a spotlight on a government’s abuses, we are able to de-legitimize that government, to make it
face a difficult choice between maintaining its reputation and continuing its abuses. It can’t do both.

The third thing we do, in addition to this shaming process, is to approach powerful governments to get them to use their influence to convince the target government to respect human rights. We have offices in key capitals around the world: Washington, Brussels, London, Berlin, Paris, Johannesburg, Tokyo. Whoever has influence, we try to approach that government and say, “Would you use your clout on behalf of human rights with respect to this target government?”

That clout can come in different forms: It can mean conditioning the next military aid package on an end to torture; it can mean not selling arms to a government until it stops imprisoning dissidents; or it can simply mean refusing to meet at a senior level with a government, denying the abusive president the opportunity and prestige of rubbing shoulders with major global leaders, until the leader changes his tune. These are the primary ways that we generate pressure to defend human rights.

In extreme cases, we go one step further – to one of the war crimes tribunals. Human Rights Watch has played a central role in establishing these tribunals and now works closely with them, both in providing evidence and expert testimony to them and in providing political backing for such things as the arrest of suspects. Today, there is a real prospect that, if you commit genocide or war crimes or crimes against humanity, you will face your day in court, whether it’s the International Criminal Court or one of the country-specific tribunals. And as I mentioned, in the case of ongoing or imminent mass murder, we will go so far as to advocate military intervention, ideally in the form of a consensual deployment of peacekeepers, but if necessary, as a case of non-consensual humanitarian intervention.

That is the general methodology of Human Rights Watch. We are a completely independent organization, independent in particular of any government. We refuse, as a matter of principle, to take any money from any government, because we’re in the business of criticizing governments. We can’t afford to face the situation of having to say, “Oh, we can’t issue that report because we might lose our next governmental grant.” Also, in any conflict situation, we are neutral as a matter of principle between the two warring sides. That means we always endeavor to report on the abuses of both sides. Our only partisanship is on behalf of civilians and other victims of abuse, by insisting that the warring parties uphold therequirements of the Geneva Conventions and other elements of what’s known as international humanitarian law, with the aim of sparing civilians as much as possible the hazards of war.

As for how Human Rights Watch fits in with other global NGOs [nongovernmental organizations]: Human Rights Watch and Amnesty International are the two global human rights organizations. You would probably find each of us in most situations of repression, most situations of abusive war. The difference is that Amnesty International is a mass membership organization. They see the main way they get things done as mobilizing their membership to write letters, to demonstrate, to protest. That in turn determines the nature of their research, which tends to be geared more toward cases and other issues that their mass membership can easily understand.

Human Rights Watch – which was born after Amnesty, which is only about one-fifth the size in budgetary terms – doesn’t really have the funds at this stage to mobilize a mass membership, which is a hugely expensive proposition. We focus instead on addressing the most influential press and the most influential governments. Our reports are really written for top journalists at major papers or for senior officials in the State Department or a foreign ministry. Our reports tend to look more at patterns than Amnesty’s; they may be a bit more analytic, because they are written for a different audience. The result of the different focus of Amnesty and Human Rights Watch is a strong one-two punch. It can be a very powerful combination.

Now, I should stress that Human Rights Watch doesn’t operate only at a global level; we also work very closely with local NGOs. Today, in almost
every country, there are local human rights activists, local human rights groups, who monitor and fight for rights. These are groups that sometimes are quite embattled, sometimes operating in very dangerous circumstances. Human Rights Watch works with them in a variety of ways. On the one hand, we try to protect them and create political space for them to function. On the other hand, we work with them as partners in everything from strategizing on what issues to take on, to finding the witnesses who can provide testimony about abuses, to figuring out what global advocacy makes the most sense. In almost every place we work there are such NGOs. Only in the most closed, repressive societies — like, say, North Korea — is it impossible for these local groups to operate. But otherwise they are absolutely essential partners to everything that Human Rights Watch does.

MW: This is jumping ahead a little bit to the environment: Do you target any other entities beyond governments? In today’s globalized world, when one looks at issues of environmental degradation, multinational corporations may be involved. What about institutions such as the WTO [World Trade Organization], the IMF [International Monetary Fund] or the World Bank? Do you deal with any religious institutions? Basically, my question is, do you target any non-state actors?

KR: We do target non-state actors. I already mentioned that in a war context we will address rebel groups. There we use international humanitarian law, which speaks not only to governments but also to organized armed forces.

We also have a whole program at Human Rights Watch devoted to business and human rights. There’s been a very interesting evolution over the years in how the business community responds to human rights issues. Ten years or so ago, when I would approach corporate leaders and say that I’m worried about human rights in country X where they were operating, they would look at me and say, “Well, that’s for you guys at a human rights group to deal with, not us. We’re here to make a profit for our shareholders.” And never the twain shall meet. Today, you rarely find a corporate leader of any sophistication who makes that kind of argument, because corporations have learned through bitter experience that there is enormous cost to ignoring human rights in their operations or those of their suppliers: they risk their brand name, their corporate prestige; they risk alienating their consumers, their investors, their employees, their prospective employees. For many reasons, companies want people feeling good about them. And people don’t feel good about companies that are complicit in serious abuse.

So, we don’t ask companies to stay out of countries for the most part; instead, we look at how they function in the country: Are they operating in a way that avoids human rights abuse in their own operations and in the operations of their suppliers? Are they allowing people to organize and engage in collective bargaining if they want a union? Do they prohibit discrimination on the grounds of gender or race or ethnicity or other invidious distinctions? Do they respect freedom of expression in the workplace? Do they use child labor or forced labor? Do they call in abusive police forces to deal with their employees? These are basic things, but it’s amazing how many companies don’t pay attention to them.

In certain situations, particularly in the extraction industries where the production of oil or other natural resources is such a major source of revenue for governments beyond ordinary taxes, we’ve also insisted that companies are transparent in their payment to governments. One thing we’ve found is that if governments are able to hide their revenue stream, they’re much more likely to spend money on frivolous things or place it in their Swiss bank account or their latest villa, or simply bolster the army with it, rather than serving the basic needs of their people. And so, part of our corporate work is devoted to enhancing the transparency of those kinds of revenue streams, so that a people of a country can have more say about how government revenue is spent and thus, presumably, have that revenue more effectively serve the people rather than just the leaders.

MW: As part of the shaming process with multinational corporations, would Human Rights Watch ever participate in or support a boycott against a particular country, or would that be something that affects your neutrality?
KR: We have not tended to get into boycotts of whole countries, because, frankly, we’re not against investment in or trade with people or countries. Our focus is the way that trade happens, the conditions of that manufacturing or trade. The closest we’ve come to a complete boycott was Burma, where forced labor there was so pervasive that it was difficult to invest there at all without becoming complicit in it. There are times when, say, with the oil industry in Sudan – the revenue from which the Sudanese government was using to commit massive ethnic cleansing and murder in Darfur – we were pushing oil companies to divest from their operations in Sudan. But we don’t generally say don’t go into a country at all, but instead to go into a country the right way.

And you asked about international financial institutions?

MW: Yes, and also religious institutions.

KR: We’ve done quite a bit of work with the World Bank, where there also has been an interesting evolution, beginning under James Wolfensohn. If you look at the World Bank charter, it says, and I’m paraphrasing here, that the Bank is to become involved in only economic issues, not political issues. So, the traditional answer of the World Bank when we would approach it about using its influence on behalf of human rights was to say, “No, no, no. That’s political. We can’t do that.” That began to change under Wolfensohn. And what he and many of his allies within the Bank recognized is that even if your narrow focus is only economic development, human rights matter.

First of all, having a vigorous civil society with a free press and competing political parties is one way to prevent corruption in government. Similarly, having the freedom for people to speak out about their needs is one way of ensuring that national development priorities in fact reflect national development needs. So, at these very basic levels – the importance of civil society, of a free press, of the rule of law governing government officials – the Bank was led to introduce the concept of good governance and also of participation in the devising of development strategies. Those are basically human rights concepts, although they’re not using human rights language. We’re not wedded to the language; we’re happy to have the concepts used.

This was an area that even Paul Wolfowitz endorsed. He tended to be politically fixated on corruption – but selectively, looking more at U.S. adversaries than U.S. allies, and I’m afraid he set the effort back some, because it all began to be looked at as just an extension of the Bush administration’s policies. It’s too early to say where the Bank is now, but I don’t think it’ll go back to the dark old days. I do think that pretty ingrained in the Bank now is the understanding that human rights are of direct relevance to economic development, and if you’re going to be doing smart development, you’ve got to make sure that certain essential freedoms and rights are respected.

Now, in terms of religion, Human Rights Watch does not come out of any particular religious tradition. We uphold the right to freedom of religion, meaning the right to select one’s religion, to convert, to proselytize, to choose to be atheist or non-religious. All of those are rights that we uphold in a fairly straightforward manner. Where things sometimes become more complicated is when we encounter a government that restricts rights in the name of religion. You often find this done around, say, the rights of women, where women’s freedom will be constrained or there will be discrimination built into the law on ostensibly religious grounds. In many countries, women cannot inherit equally with men, they don’t have the same rights to divorce or to custody of their children in the case of divorce, or to own property or to travel. Some ground these restrictions in religion, some in culture, but they are often grounded just in convenience. We oppose these kinds of restrictions even if imposed in the name of religion.

Similarly, we are opposed to the Vatican’s stand on reproductive freedom because we believe that this is a basic right of women, that it is inappropriate to restrict what in fact are many women’s rights – from the right to health to the right to life to the right not to be discriminated against – which are all bound up in the basic right to determine when a woman has children. And so, that has been an
area where we have disagreed with the Vatican. Frankly, we’ve also disagreed with
the Vatican on condom policy, particularly because it’s an increasingly callous
policy in a world where we know that condoms are one of the best ways to stop
the spread of HIV and AIDS. Given that we know that by suppressing the use
of condoms one is essentially condemning people to die from AIDS, it’s very
difficult to justify continued opposition to the use of condoms.

So, these are various areas where Human Rights Watch does find itself at
loggerheads with the Catholic Church, although I should stress that there have
been many situations where we’ve worked very closely with courageous priests,
nuns and Catholic lay people from around the world. I think about the Jesuit
priests in El Salvador whose lives were taken in the midst of the war there in
the 1980s; or Tutela Legal, the Salvadoran Catholic legal group that we work
with very closely; or Vicaria de la Solidaridad in Chile – again, a Catholic
Church operation that was really one of the sole points of freedom under the
Pinochet dictatorship. I could go on and on describing situations where the
Church has been a crucial ally. But sometimes we are in more of an adversarial
relationship.

MW: Human Rights Watch started originally committed more to civil rights
and evolved to encompass cultural, economic, social rights and now, tonight,
you’re going to speak about environmental rights. Could you say something
about the evolution or the progression of this?

KR: Sure. Many people ask, what is the philosophical origin of human rights?
I’m uncomfortable resting the legitimacy of our work on any particular
philosophic theory because it’s so easy to differ when it comes to philosophy.
Instead I tend to ground our legitimacy in positive law, the fact that there are
treaties that governments have ratified that are seen or accepted as legitimate
restraints on governmental conduct. All we do is hold governments to the
law that they’ve subscribed to. It’s much simpler that way. It may be less
philosophically sophisticated, but it has a certain political pragmatism to it.
But once you accept the importance of positive law, it’s harder to pick and
choose among the rights enshrined in that law. One is compelled to address not
only civil and political rights but also economic, social and cultural rights.

That is, if you look at international human rights law, in some respects it
resembles the U.S. constitution. You find many of the same civil and political
rights, like the freedom of expression, free association, due process, the right
not to be subjected to cruel and unusual punishment. These are all U.S.
corporal rights that have rough parallels in international human rights
law. But international human rights law, as alluded to in your question, doesn’t
stop there. There is, on the one hand, the International Covenant on Civil and
Political Rights, and on the other hand – with equal status, adopted at the same
time – the International Covenant on Economic, Social and Cultural Rights. I
have always felt that Human Rights Watch has to uphold both. As I said, we
can’t pick and choose.

That said, there are certain practical limits derived from the methodology that
Human Rights Watch pursues, and that’s the methodology that I described
earlier. If we pursue essentially a shaming methodology, shaming works in only
certain circumstances, in situations where you have relative clarity about the
violation, the violator and the remedy. Only then can you shame somebody,
because you can say, “You are responsible for this abuse, and this is what you
should be doing to stop it” – the remedy. That kind of clarity is relatively
easy in the civil and political rights realm. It tends to be a bit messier in the
economic and social rights realm, because if you have, say, poverty in a country,
who’s responsible for that? Is it the corrupt local dictator? Is it the stingy West?
Is it the international financial institutions and their conditionality? When you
have that kind of divided responsibility, it’s difficult to shame.

Human Rights Watch, in our work on economic and social rights, has tended
to focus on areas where there is relative clarity about violation, violator and
remedy. We find that that arises most frequently in situations where we can
say the government in question is not conscientiously living up to its duty –
here I’ll use the language from the treaty – to progressively realize the right
in question on the basis of available resources. That’s the legal requirement. It’s not that today you immediately produce medical care for everybody, but rather that you are working toward that goal conscientiously on the basis of the funds and resources that are available to you. That, in turn, suggests a series of cases in which Human Rights Watch can productively operate in the economic and social rights realm, because if we can show that a government is not conscientiously pursuing these responsibilities, we can shame it.

When does that happen? Well, it tends to happen when the government is either overtly discriminating against a category of people – benefiting their friends but not the opposition whether defined in terms of religion or ethnic group or what have you – or it happens when the government is acting in a way that you might call arbitrary: when it’s being corrupt, when it’s pursuing some venal interest rather than the broader public interest. So, we have tried to highlight cases of that sort where our shaming methodology will work in pushing the government toward greater economic and social rights – where the shaming cannot easily be deflected and rendered ineffective.

Let me give you an example. We recently did an investigation and report in Nigeria. The most populous country in Africa, Nigeria is also potentially one of the wealthiest because it has enormous oil resources. But obviously there’s still tremendous poverty in Nigeria. The money’s not getting to the people. So, we’ve tried to figure out why that is. The system they have in Nigeria is a federal one, with much of the oil revenue passed to the states which, in turn, are responsible for providing healthcare, education and other basic social services. What we found was that an enormous portion of this revenue was being squandered at the state level. Huge sums of money were just going up into somebody’s Swiss bank account; meanwhile, education was abysmal, healthcare was awful. This was a perfect example where we could shame a government, because here it wasn’t a question of not having enough money around. It wasn’t a matter of saying, what are we going to do today, build a hospital or build a school? Rather, it is an example of a government that is not conscientiously applying its available resources to meet the basic economic and social rights of its people.

Those are the sorts of situations where Human Rights Watch can play an important role in the economic and social rights realm. We’ve been looking for a variety of cases like that where the methodology that we initially did develop in the civil and political rights realm still has power and the ability to move governments in the economic and social rights realm.

With environmental rights, there are different ways of conceiving them. On the one hand, there are allusions to it in various declarations and the like. On the other hand, environmental rights can be seen as a subset of economic and social rights. The right to life or the right to health, the right to food – all are closely tied up with the need for a clean environment. If you have a toxic waste site next door, if you have a factory that’s emitting pollutants left and right, this is not a great way to promote the health of your population, it’s not a way to provide them with the clean water that they need. So, I see attention to the environment as being a natural corollary to a number of existing economic and social rights duties that already exist for governments. In addition, the best way to defend these economic and social rights is by empowering the people who have the most at stake – for example, the neighbors of the toxic waste site. They must have the right to speak out, to organize together, to direct the press to their problem, to engage in the range of activities that are at the essence of civil and political rights.

One open question is, does it make sense to speak about a right to a clean environment separate from these component rights? It may, but I think it’s important to understand that just as with economic and social rights, there are different ways of using that right. You can use it as a kind of rallying cry, as a way of mobilizing people; you can almost think of it like a banner at the head of a demonstration. If it helps to talk about rights, fine. People think of rights as trump cards. In fact it’s often not that simple, because they still have to operate in a political process, but it may help advance your side by speaking of your interests as rights. So, if that’s useful, fine. Talking about rights can make it easier to convince a government to enact your interests into legislation, or a court to uphold them through its judicial decisions. There, again, you have a way of turning this rhetoric into reality.

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2 The report on Nigeria’s Rivers State is explained in more detail in the lecture.
Once more, Human Rights Watch’s take in all of this is through our shaming methodology. There are ways when we are able to show an inconsistency between governments’ professions of a willingness to uphold these rights and their lesser conduct. That’s the way we find the rights easiest to enforce. But we’re just one institution. We do our part, but that’s not meant to preclude other methods of recognizing and enforcing these rights.

MW: This sounds much like the evolution of the environmental justice movement in the United States that originally came out of the labor movement, the civil rights movement, some struggles of American Indians and the like, and then broadened to include these same kinds of issues through an environmental lens.

When we look at the issue of environmental human rights, there are a number of nation-states that have something alluding to the environment in their constitution, and there are also international conventions, like the Kyoto Protocols, the Montreal Protocol. Does Human Rights Watch see itself working at both levels: the nation-state level and the international government level?

KR: We have not been involved in the Kyoto process because our methodology has nothing to contribute. To shame the United States for not having joined Kyoto doesn’t require any on-the-ground research; anybody can do that. We have very little value added, so since we’re a large organization but also tiny and thinly stretched compared to the magnitude of the problems before us, we don’t waste our time in areas where we don’t have value to add. If there are others who can do the job well – and there clearly is a very strong environmental movement – we let them do it. We’re not needed. We try to focus our attention on areas where we have something special to add, and that usually involves the ability to do a serious investigation on-site and then shine a spotlight to advance respect for whatever the right in question is.

Now, particularly in the context of global warming, where we’re much more cognizant of the fact that environmental problems on the other side of the world can affect us, I do think that the global perspective that Human Rights Watch is able to bring is an important contribution in and of itself. You can say at a certain level that this interconnectedness already existed because pollution was already a global problem. But global warming seems to have brought this to the fore in a much more acute fashion – that carbon emissions, wherever they occur, are still going to have the same consequence.

In that sense I see a greater need for people, even if their principle concern is just the environment, to pay attention to human rights questions because environmental problems tend to flourish in situations of repression, they tend to flourish when people are not capable of pushing back, when they aren’t able to speak out and organize around the problems of their local community. And given that the contributors to climate change are truly global, we need a global remedy, and one element of that is obviously international agreements of the Kyoto sort. But another part is emboldening a local defense of the environment throughout the world, and that means, as I said, protecting basic civil rights to give people the ability to speak out and organize against local environmental problems that in fact, we now understand, have global consequences.

MW: It’s always fascinating to me that something like global climate change is framed as an environmental problem when it affects so many other levels beyond just the environment. Human Rights Watch works with other NGOs on a variety of issues; do you see Human Rights Watch working with any specific environmental NGOs in the context of environmental human rights?

KR: Over the years we’ve worked with environmental groups mostly who have been persecuted or who have been concerned about persecution. I’m going to mention tonight the first case we became involved in which really highlighted the intersection between human rights and the environment. That was the case of Ken Saro-Wiwa, a Nigerian activist, an Ogoni, fighting against the degradation of his environment in the Niger River Delta caused by the oil
industry. It became a focus of global attention because the Nigerian military government imprisoned and ultimately executed him. It highlighted I think to everybody – human rights groups and environmental groups – the importance of respecting the basic rights that frontline environmental activists needed to conduct their work. So, from that beginning we did start linking up with environmental groups. Again, we link up in areas where we have value added. So, it’s not as if we’re at the next negotiating table for Kyoto II, but we will defend the rights of others, the environmentalists, to do so. And that, in and of itself, is often a full-time job.

MW: What can militaries do in the context of protecting human rights? Some people are now pushing for the notion of an armed humanitarian intervention for environmental reasons, to protect people against environmental degradation. Have you ever thought about that?

KR: Human Rights Watch is unusual among human rights groups in that we do sometimes advocate armed humanitarian intervention. We’ve done it in very selected cases, for example, in the case of the Rwandan genocide, in the case of the Bosnian genocide, early on in the case of the slaughter and mass starvation in Somalia. We even did it in Iraq just after the Gulf War in 1991, because Saddam was cracking down on the Kurds, having just committed genocide against them in 1988, and we were worried that he would start killing them again in large numbers. So, there have been times when we’ve recognized that military force is the last effective option to prevent mass slaughter, and in those circumstances we have been willing to call for military action.

But we are still very conservative in how often we do that because even if you dress it up with a fancy name, “humanitarian intervention,” military action is about killing people. While I’m not a pacifist – I recognize that sometimes military force is needed (this is going back to our earlier conversation about the Nazis), sometimes the only thing you can do is to fight – I don’t think it’s possible to justify killing people, which is what war is about, short of saving many more people from being killed. As a result, Human Rights Watch has not advocated military intervention simply to relieve repression. Repression can be awful, but if you’re not facing mass murder, it’s hard to justify killing people.

For example, even though George Bush tried to justify the 2003 Iraq War as humanitarian intervention, Human Rights Watch said no, it wasn’t. Awful as Saddam was, and even recognizing that you probably could have justified humanitarian intervention in 1988 to stop the Anfal genocide or 1991 to stop the suppression of the uprisings after the Gulf War, come 2003, there was not mass murder of that sort, nor was such mass murder even on the horizon. And as I said, I don’t think you can justify killing people simply to stop repression. At least that’s not something that we would advocate.

So, coming back to your question, I would not advocate military intervention to deal with environmental degradation. Even recognizing that over the long term there’s some link between the degradation and the loss of life through the effects of climate change, that connection is too tenuous to justify killing people today.

MW: The United States’ position as a world leader for human rights arguably has slipped considerably since George Bush became president. What do you think the longer-term prognosis is for the United States’ position as a leader in human rights, post-Bush administration?

KR: Before directly answering your question, let me just reaffirm the premise of it, which is that U.S. credibility has been shot by the Bush administration. There still are places in the world where the U.S. has credibility on human rights issues, say in Darfur because the U.S. is not committing ethnic cleansing, or in a place like Colombia, where the U.S. is providing so much military aid that they simply have to listen to Washington. But in much of the world, the U.S. government cannot go in and protest torture or “disappearances” or arbitrary detention without trial, because that’s what the Bush administration does.

I had a disturbing experience with Egypt recently. I first encountered the Egyptian prime minister at a time when Egypt had just been the subject of a car bombing in the Sinai and was rounding up suspects and torturing them. I
complained to the prime minister, and he said, “Well, what do you want? That’s what the Bush administration does.” That was a cheap, facile answer, but it was nonetheless effective in deflecting pressure, certainly from the United States. I then met with the U.S. ambassador to Egypt and asked him, “Are you able to protest against Egypt’s use of torture or its detention of thousands of Islamists without trial?” Somewhat sheepishly he had to admit that he could not, that as a representative of the U.S. government, he didn’t have that credibility.

That’s an enormous problem for the human rights cause. First, the United States is not the worst violator of human rights in the world, but it is certainly the most influential. When an ordinary government violates human rights, you have a violation, but the right, the norm, remains firm. But when the United States, the world’s most powerful nation, violates human rights, it tends to degrade the norm. Other governments feel that they, too, can get away with violating that right.

Second, much as the U.S. government has been an inconsistent supporter of human rights, much as it’s been hypocritical over the years, it still has been an effective voice a lot of the time. And to lose a voice of that significance and that potential clout is a real loss. We are turning to other governments as best we can – the European Union, some of its key members like Germany, France or the U.K., certain regional powers like South Africa or India or Brazil – but none of these has, either individually or collectively (in the somewhat haphazard way they’ve been trying to do this collectively), the influence of the United States. And so, to lose the United States as a promoter of human rights is a real loss for the human rights cause.

Now, is that a permanent loss? No, I don’t think so. I think that the right next president, from either party, could begin to redeem America’s reputation. But what it will take is a very explicit repudiation of the Bush administration’s excesses. It will mean saying absolutely no to not only torture, but also cruel, inhuman or degrading treatment; it will mean ending the practice of “disappearing” people into secret CIA detention facilities; it will mean an end to these radical theories that people could be locked up until the end of the war against terrorism as an “enemy combatant.” These are all obvious human rights abuses. The rest of the world sees it that way, and until those are not only ended, but also formally repudiated – and in the extreme cases, people held accountable – I don’t see the U.S. reputation being readily redeemed. But I’m hopeful that at least some of the candidates seem to have it in them to do the right thing should they become president.
WELCOME BY WILLIAM HEADLEY
DEAN, JOAN B. KROC SCHOOL OF PEACE STUDIES
AT THE UNIVERSITY OF SAN DIEGO

My name is William Headley and I am the dean of the new Joan B. Kroc School of Peace Studies. I’m delighted to join you this evening for the first Joan B. Kroc Distinguished Lecture Series event of this academic year, 2007 to 2008.

First of all, I want to welcome in a special way our provost, Julie Sullivan. I’d like also to turn to the Institute for Peace & Justice’s Women PeaceMakers from Cameroon, Indonesia, Palestine, South Ossetia, and peace writers who’ve come from all over the United States to work with them as they prepare to tell their story. Also tonight, the sixth cohort of the master’s program in peace and justice studies, including students from such places as Kenya, Nepal, Micronesia, Latvia, Sierra Leone, South Africa and the United States, is here. One of my goals as a dean is that these different programs talk and meet each other. One of the wonderful things I’ve heard about this semester is that the students are studying some of the same areas as the women are coming from, so when they get together there can be a kind of mingling and mutual understanding. The third unit of our school is the Trans-Border Institute, and we acknowledge them also.

And now, I’d like to turn the microphone over to introduce our speaker for the evening. I’m glad to welcome her back, Joyce Neu. As I render the podium to her, I also want to acknowledge Dee Aker, who stepped into the very big shoes of carrying on the program while Joyce was gone. But Joyce is back, and we welcome you.
INTRODUCTION BY JOYCE NEU
EXECUTIVE DIRECTOR,
JOAN B. KROC INSTITUTE FOR PEACE & JUSTICE

Good evening, everyone. It’s great to be back, and it’s really wonderful to be back with a new school getting launched, with exciting new programs happening and with a wonderful person to lead them, Dean Bill Headley. We’re all delighted to welcome him to his first Joan B. Kroc Distinguished Lecture Series, and to welcome you as the new year starts. Hopefully we have a lot of students in the audience. Thank you for coming.

I also want to add my thanks to Dee Aker who became the interim director in my absence over the last 10 months while I had the luxury of working on some research on the intersection between peace and justice at the U.S. Institute of Peace in Washington, D.C. Dee is well known for juggling many things. Unlike professional jugglers, who occasionally let something drop, I’ve never seen Dee let anything drop, and she sure didn’t with the institute. So, I express my warmest thanks and admiration to my friend and colleague, Dee Aker.

I think it’s very fitting with a new School of Peace Studies being launched at this university which prides itself on values, ethics and social justice, that we launch it with a champion of human rights, Kenneth Roth, the executive director of Human Rights Watch, the largest U.S.-based human rights organization.

Kenneth Roth is going to be speaking tonight on human rights and the environment. This is a theme that will permeate many of the activities of the institute over the coming academic year, looking as we are at climate change and as this is a focus of the United Nations this year. This is a topic that is of great concern to many. We have a graduate course on environmental justice in the master’s program; I’m sure we have other courses in the university that relate to this topic. And we are delighted that he’s going to be speaking on this. He has a long history in human rights, but the connection with the environment is newer.

Human Rights Watch began its work in 1978, and now under Kenneth Roth’s leadership since 1993, it has grown to have a staff of around 260 people in many different locations. They conduct fact-finding investigations into human rights violations around the world. Aldous Huxley once said, “Facts do not cease to exist because they’re ignored.” The mission of Human Rights Watch is to publish these facts and bring them into the light of day to shame governments and other human rights violators into changing their policies and practices. Human Rights Watch seeks to surface facts that are buried by perpetrators of torture, extrajudicial killings, human trafficking and environmental destruction.
This often means speaking out against abuses here at home. Ken Roth has written articles for journals and reviews, including on sensitive topics here at home, including issues of torture in Guantanamo Bay, which some in the administration would prefer we not talk about.

I met Ken Roth a number of years ago, in Sept. 1994 to be exact, at The Carter Center at a meeting of U.S.-based human rights directors. This occurred just after former President Carter had returned from a mission to Haiti with Gen. Colin Powell and Sen. Sam Nunn. Their mission was to help avoid an invasion of Haiti. The democratically elected president had been overthrown by a military dictator, Raul Cedras, and the U.S. was planning to invade. Carter, Nunn and Powell went down to try to avoid this invasion by negotiating a deal with Cedras. The deal that they negotiated basically gave immunity to Cedras and allowed him to leave and go away quietly, even though he was responsible for the murder of thousands of people.

Shortly after Carter returned to Atlanta, there was a meeting of human rights directors – of which Ken Roth was a prominent member – and I remember sitting in that room when President Carter walked into, little did he know, one of the most contentious sessions I have ever seen. The human rights directors lambasted him, saying, “How can you call yourself a champion of human rights when you do anything for peace but there’s no justice?”

This ability to speak truth to power is something that we all want to have, but not many of us are brave enough to have. In my nine years at The Carter Center, that was one out of maybe two or three occasions that I ever saw people actually try to hold President Carter’s feet to the fire. And again, Ken Roth was prime among those. And so, it is with great pleasure that I welcome him to this stage this evening to speak on the dynamics of human rights and the environment.
Thank you, Joyce. I remember that meeting well. I should say though that President Carter for me was a hero. He was part of why I’m doing what I do today. When I was in law school he was president, and he had introduced this radical idea that U.S. foreign policy should not just be about advancing national interests, it should also be about defending human rights. That, frankly, is partly what inspired me not to go and do whatever else I might have done, but to go into human rights. So, I may have been lambasting him, but it was with great admiration.

It’s a pleasure for me to be here, and I have a confession to make at the outset. I mentioned this to a number of the students earlier today: This is not my first trip to USD. I was here once, 20 years ago. I was applying for a job. I, at the time, was a prosecutor finishing up my four years and was thinking about being a law professor. I had gone initially to what they call the “meat market” in Chicago, where you have a different interview every 20 minutes with a different law school and you try to remember which law school is where. USD invited me to come here and give a speech, a presentation, the whole megillah. It was a lovely place, but a couple of days later I got a call from Human Rights Watch: Would I like a job? And so our paths diverged. I went the Human Rights Watch route and I never made it to USD until now.

But it’s lovely to be back. I have to say I’m especially thrilled to be able to be speaking at a lecture sponsored by Joan Kroc, because I have been a tremendous admirer of Joan Kroc even though I never met the woman. But I have spoken at the [Joan B.] Kroc Institute [for International Peace Studies] at Notre Dame; I have followed her commitment to global education and social justice. I think the fact that she bolstered National Public Radio, one of our national treasures, is to her enormous credit. There are very few women like her who have the breadth of vision and the commitment and generosity that she did. So, I feel very honored.

Now, as Joyce mentioned, although the focus of this talk this evening is the intersection between the environment and human rights, I am not here as an expert on the environment – I will confess that right up front. I do know a little bit about human rights. As I thought about this lecture, I realized that I run into environmental issues all the time. If you look at our Web site, there’s no big headline, “Environment.” Nonetheless, we at Human Rights Watch frequently encounter environmental issues. And I thought I could draw from our experience to talk a little bit about ways in which the human rights movement and the environmental movement have much in common as partners, as people who share similar goals and as people who should be working together more than, frankly, we are.

Before I do that, let me just explain for a moment what Human Rights Watch is and how we operate, because I think it will help you understand my point of view a bit better. Joyce alluded to how we work. Human Rights Watch has what we call researchers, basically investigators, in about 80 countries around the world. Essentially every place where there is an awful dictator or an abusive war, we’re there. Our job is to put as much pressure as we can on the governments in question to respect human rights, which we do in a pretty straightforward way. It’s not rocket science; it’s difficult in practice, but the theory is pretty simple. We investigate by speaking to the victims and the eyewitnesses and putting
together as complete a picture as we can of governmental misconduct, which we then publish in the form of a report. And we put this report on our Web site – which is available for the public, www.hrw.org – and we send it to the press. The idea is to expose these atrocities to the world, because nobody these days wants their human rights crimes exposed. It’s their dirty laundry. It’s like being called a child abuser – nobody wants that. And so, that shaming process can be very powerful. It can discourage governments from committing abuses because they know that their reputation and their legitimacy are at stake.

In addition, we have advocates in key capitals around the world, in many of the most powerful countries. We go to their governments and say, “Use your influence to help us. When you’re meeting with Dictator So-and-So, tell him he’s not going to get his next arms shipment until he stops torturing people. Or tell him that that next cache of military aid is not going to be coming until he lets the following dissidents out of jail. Or say that you’re not going to arrange a high-profile presidential summit with this thug until he starts behaving.” These kinds of pressures can make a huge difference.

Now, what does this have to do with the environment? I first realized the connection between human rights and the environment 13 years ago – it was 1994. I don’t know how many of you remember the name Ken Saro-Wiwa. He was a Nigerian environmental activist. He was an Ogoni – his ethnic group – in the Niger River Delta in an area called Ogoniland. He was the head of an organization, MOSOP: the Movement for the Survival of the Ogoni People.

Ken Saro-Wiwa and his organization were concerned with the environmental degradation caused by the oil industry in the Niger River Delta – by Shell in particular. They found that not only were there oil spills that were contaminating the water, there were flares where the excess gas was being burned off, heating up the environment and polluting the air. They were trying to insist that Shell on the one hand and the Nigerian government on the other, as the overseer of Shell, stop this despoiling of their environment: ruining their fishing grounds, ruining the villages where they live.

This, unfortunately for Saro-Wiwa, was at the time Nigeria was run by a dictator named Sani Abacha, who was as awful as they come. Abacha arranged to arrest – on trumped up charges – Ken Saro-Wiwa and eight of his colleagues in MOSOP, sentenced them to death, and after a six-month wait, hung them all. It was an utter outrage. This woke the world up.

“... if you’re going to have a clean environment, you have to have the political space for people to be able to protest ...”

There were a number of lessons that we learned from this. First was that if you’re going to have a clean environment, you have to have the political space for people to be able to protest, for the people who are most affected by the environmental hazards to be able to speak out, organize against them and try to change that behavior. That’s what Ken Saro-Wiwa was doing, and that’s what he was killed for.

Second, this was in many ways the birth of the movement for corporate social responsibility, because at that stage Shell was basically saying, “Well, what do you want us to do? This is an environmental problem. Don’t bother us. We’re just here to make money for our shareholders.” And that was the typical line back then. I remember talking to business leaders at the time and saying, “Could you help us stop this labor rights abuse?” or, “Could you help us with this police abuse?” And they would say, “That’s your business, that’s not our business. We’re here just to make money.”

Shell’s reputation was deeply tarnished at the time. It was also right about the same time as the Brent Spar episode in the North Sea. That kind of one-two punch actually transformed Shell from being the symbol of retrograde corporate conduct to being an extremely responsible corporate citizen. And they ended up taking the lead in the corporate social responsibility movement
and were an object study for how corporations, for their own good, have to be attentive to human rights and environmental issues; that if they don't, they risk their reputation, which in turn loses them customers, investors, employees, you name it; that you cannot run an effective business if you are indifferent to these reputational risks that are involved in environmental or human rights abuse.

We also learned that civil society of the sort that Ken Saro-Wiwa represents is like the canary in the mineshaft: If you don't deal with problems as they arise early on, as local people affected by these problems speak out against them, things are going to go from bad to worse. It's odd to think back to the Ken Saro-Wiwa days as being almost the halcyon days for the Niger River Delta. But awful as it sounds for this group to be rounded up and executed, today the Niger River Delta is basically at war, with gangs roaming and kidnapping people, fighting back and forth for just their little snatch of the oil revenue. A lot of them are just tapping into the oil fields. The environment is a complete disaster. And it shows that repression is not the answer; repression often just makes things worse.

Let me give you a few other examples from my work in this field. One company that I can't say was reformed through the process, but that we dealt with before anybody had any idea, is Enron. I still remember when we put out a report, we were terrified of a libel suit; everybody thought that this was a wonderful company and that we had no right to say anything bad about it. Little did we know. At the time, Enron was in the process of building a power plant in India called the Dabhol power plant. This was an enormous environmental concern because it was seen as diverting scarce water in that region; the locals were worried about a variety of environmental damage. It also, frankly, was an awful deal economically. There clearly was some bribery involved, and so India was going to be charged much more for electricity than they could get any place by selling it. It was just a rotten, rotten deal — except for Enron, which was going to profit handsomely.

So, naturally, this combination of an environmental disaster and an economic disaster sparked protests. And what did Enron do? Well, it called in the local police thugs to take care of the protests, and they started beating the environmentalists. That's what brought Human Rights Watch in. We interviewed people, recorded their plight and put together a big report outlining the environmental damage, the economic debacle and the repression. The report got massive press because Enron was a high-flying company and was perceived as never doing anything wrong. But it showed that, again, there is this connection between repression and damage to the environment. At that stage, Enron, unlike Shell, didn't start behaving responsibly; they just responded with a massive PR [public relations] effort. We fought it out with them in the press, but they never reformed. Maybe if they had reformed we wouldn't think of Enron the way we do today. But that's history.

… in China you have the problem of essentially unaccountable local government officials who are utterly indifferent to the environment.”
A more contemporary example: China. If you think around the world today, China may well represent the greatest environmental hazard that we face. It's not only that it has a billion plus people – so even a small environmental problem multiplied by a billion adds up very quickly to something substantial – but also in China you have the problem of essentially unaccountable local government officials who are utterly indifferent to the environment. They have found that the best way to get rich quick is to let whatever business wants to come in. They basically hand out land for free, stealing it from peasants; they are indifferent to environmental regulations – whatever it takes to make a quick buck.

“We are fighting to defend the activists who are trying to defend the earth.”

These corrupt, abusive local officials have sparked enormous protests across China. I don't think people are necessarily really aware of the extent of it, but by the Chinese government's own count a couple of years ago, when they were still publishing these figures, they said there were 70,000 incidents of public unrest in the course of one year. And these protests are largely about the environment. Some are protests against land being arbitrarily seized, they're protests against extortion and other forms of corruption, but a lot are simply people not wanting their streams and rivers polluted, not wanting to have to live next to a smokestack, not wanting to have to live on top of a toxic waste site. And nobody in the government cares, or what I should say, nobody cares at the local level.

In Beijing, at the leadership level, they know they've got a big problem. But because China is anything but a democracy, interestingly, it is difficult for the senior leadership to really control things, because the same dynamic that promotes corruption and abuse at the local level, also promotes corruption and abuse at the middle level and on up. So, even if you have a senior leader who is well-intentioned and wants to rein in these lower level officials, by the time the order works its way down the chain of command, there's no order left to speak of.

Now, we have been trying to encourage the Chinese government to take a different approach. We've been saying that there's a solution to this problem. You can't do it all through a command structure. But if you let the people who are most affected by an environmental problem address that problem, they'll take care of it themselves. Let people speak out on environmental problems. Let them organize protests against those problems. Let them bring the abusers to court and ask them to justify themselves before a judge, who actually is empowered to apply the rule of law to the government – a novel idea in China.

The Chinese government seems to have thought about this approach for a while and seen that it all makes a lot of sense, but it worried that if you start letting people organize, they may start organizing not just about their corrupt village chief, but about Beijing – and before you know it, there will be another Tiananmen Square democracy movement. So, they said, in essence, no, thank you. They started arresting the lawyers and arresting the environmental activists, and shutting down the press that was too outspoken about these issues. That's where we are today. We find ourselves fighting for human rights, which in this case is fighting for a clean environment. We are fighting to defend the activists who are trying to defend the earth.

“What all this demonstrates to me is that a good barometer of environmental degradation is the scope of repression.”

What all this demonstrates to me is that a good barometer of environmental degradation is the scope of repression. I suspect if you do a map of the world, and on one hand do an overlay of repression, and then you do an overlay of environmental problems, you will find an enormous overlap, because the best defense of the environment is permitting the people who are most affected by environmental problems to speak out and address those problems. The role of a human rights organization like Human Rights Watch is not necessarily to go out and defend the earth in that immediate sense, but
our job is to defend the political space to allow environmental activists to operate within. And in that sense there’s an enormous compatibility between the two movements.

And what’s more, we’ve been talking in a sense about local problems: the Niger River Delta, India, China. But today when the paramount environmental problem affecting us is global warming – climate change – these local problems are no longer just local. If you have a factory that is emitting carbon beyond what it should, if you have local government that is ignoring the need to rein in global warming, then even if it’s happening in some place far away, it affects all of us. The solution to this global problem does have to start locally, but it requires all of us to ensure that the rights to defend our environment exist not only here in San Diego, but elsewhere in the world, because otherwise it’s going to come back and hurt us here. It really, in a sense, forces a global awareness and a global solution upon us which is very much rights-dependent.

Now, why do governments permit so much environmental damage? You’d think that even a relatively unenlightened government would recognize that our days are numbered if we don’t start addressing these problems. Part of the reason they don’t is the China reason: The solutions are sometimes too politically risky, because obviously the last thing any dictator wants is a vigorous civil society and a free press and a range of political parties seeking power. But another part of the problem is, frankly, that damaging the environment can be lucrative in the short term if you’re in the right place at the right time. And this is something that Human Rights Watch encounters all the time – human rights abuse can be economically or politically profitable. Our job, through the forms of pressure I described, is to change the incentive structure, to increase the cost of abuse, to force a rethinking of the cost-benefit calculus. So, not only are we defending civil society and those activists who are trying to protect the environment, but also we have begun to attack the reasons why governments find it convenient to allow the environment to be despoiled, to increase the price of environmental abuse.

Let me give you an example. We’ve talked about Nigeria, and today there is a formula in place in Nigeria where the federal government takes in all this massive oil revenue – it should be a rich country – and distributes it to the various states in Nigeria. And those states in turn are supposed to be responsible for providing various social services, like education and healthcare. If you travel around Nigeria, it doesn’t take long to figure out that this system isn’t working, that there’s enormous poverty, that the basic social services you would expect from the government are not being provided.

So, Human Rights Watch thought, well, let’s look at why that is. Let’s see if we can improve things. And so we conducted a study in Rivers State, the largest state of the Niger River Delta, and we asked, what’s happening to the money? In this case, Rivers State gets $1.3 billion a year from the federal government. That’s not pocket change. That’s more than the GDP [gross domestic product] of most West African governments, and this is just a little state. Of that money, 2.4 percent – a tiny, tiny, tiny part – goes to rebuilding the crumbling schools. Thirty percent goes to salaries and offices – things that are more important for government officials than for their constituents.

But the real money, we found, goes to a handful of people at the top. Just to give you a sense: We found that the state governor himself, one person, had a travel budget of $65,000 a day. You can imagine the plane he travels in. Plus, he had a budgetary allocation for grants, contributions and donations of an extra $92,000 a day. His Swiss bank account must be well-padded. There also were 100 protocol officers on staff whose function was utterly unclear, but whose salaries were more than the entire health sector in Rivers State.

So, this money is on the one hand being squandered – it is not serving the Nigerian people in the least – but it is also providing a huge incentive for the government to cling to power and to repress anybody who might challenge them, including those pesky environmental activists who are complaining about the Niger River Delta where this wealth is being generated. In this sense, corruption and the repression it fosters and thrives in create those conditions in which environmental degradation flourishes.
I’ll give you another example of where we did something similar. Angola, another potentially rich African country, refused to publish its budget, because if you publish your budget, people will start asking questions: What do you mean my school got all this money? I don’t see anything. What about those funds supposedly going to my hospital? Better just not to publish these figures in the first place. So, Human Rights Watch got the budget leaked to us and we published it. What we found was that in the course of five years, from 1997 to 2002, $4.2 billion disappeared – just gone. That, to put it in perspective, is the amount of money that the Angolan state spent on all forms of social services in those five years. So, basically healthcare, education, roads, electricity, clean water, everything, could have been doubled but for this corruption.

And the effect of this corruption is a disaster for the environment. It provides an incentive to these government officials to keep the flow of oil going regardless of the cost. It makes them utterly unresponsive to their people because they don’t need people to pay taxes – they just take the oil wealth. We all hate taxes, but if you think about it, when you pay taxes you expect something from your government. If you don’t pay taxes, you have less standing to demand things from your government. So, these governments would just as soon take the oil wealth and run with it, and people can keep their taxes. It obviously creates a tremendous incentive to cling to power through repression or other means, and thus, it provides an incentive to repress civil society and make it impossible for people to examine not only their corruption, but also things like environmental degradation.

These problems arise not just for the oil industry, but in many situations where governments are exploiting natural resources. So, for example, if you look at the logging industry, you get massive deforestation in much of Southeast Asia; we’ve encountered it in Kalimantan in Indonesia, in Cambodia, in Burma. But, again, the government doesn’t care about the environment because the illegal logging industry is just too lucrative.

We see something similar happening today where palm oil has become the new bio-fuel. There are areas of Colombia where the paramilitaries, these murderous thugs who have killed thousands upon thousands of people, are suddenly taking land – just walking in and saying, “This used to be your land, right?” – to build palm plantations because of this lucrative new industry, and again, destroying in this case a rural environment in the process. But whenever the elite can live off the land, they don’t need to live off the people, and therefore they don’t need to be responsive to popular needs, including the need for a clean environment. So, these are various ways in which respect for human rights is connected to respect for the environment, where violation of human rights is directly related to violation of the environment.

Now, let me talk about a few other situations that often come up in these discussions about the connection between human rights and the environment. One is Darfur. Some people say Darfur is the first war induced by climate change. There’s an element of truth in that, although I don’t want to overstate it. The element of truth is that there has been a process of desertification in the sub-Saharan region, and this is undoubtedly connected to global warming. This gradual creeping of the desert south has increased competition for land.
In the case of Darfur, you have, on the one hand, the largely Arab tribes that tend to be nomadic with their herds of animals crossing this land, and, on the other hand, the largely African tribes who are mostly agriculturalists trying to farm this land. There was always a certain tension between these two groups of people, but they had worked things out. But as the land shrinks, the tensions grow. So, in that sense, climate change did in some ways lie behind a sense on the part of the African tribes that they were being neglected by the government in Khartoum, which they felt was siding with the Arab nomads. The African tribes got together and created an insurgency, and they announced their insurgency in Feb. 2003 by attacking the military airbase in El Fasher, North Darfur, and destroying the handful of military planes that were there.

The Sudanese government decided to fight this insurgency the way it had fought the insurgency in southern Sudan for the prior 21 years, and that's the classic drain-the-sea-to-kill-the-fish approach, meaning they assumed that an insurgency would not be able to survive without support of ordinary civilians from their ethnic groups. They thought they'd just get rid of the civilians, and that's what they did. They basically would go into a village – the military operating with the so-called janjaweed (basically armed thugs on horseback and camelback) – and kill enough people so that everybody else fled, and then they'd burn down the village. They would do this over and over and over again, and rape a few women in the process if they could. And gradually you have 2.4 million people who are living in refugee camps in Darfur. You have 4 million people who are utterly dependent on international assistance because they can't dare go home for fear of getting killed.

Now, while this conflict was related to climate change, the reason I said I don't want to overstate it is that it wasn't Mother Nature that decided to start slaughtering people. It was Omar al-Bashir, the Sudanese leader. It's important that we not forget that. The solution to Darfur will have environmental dimensions: We have to figure out how to make it possible for these people to coexist. But we shouldn't forget that the leadership in Khartoum is a bunch of war criminals, and the solution to that part of the problem is to prosecute them because they are responsible for mass atrocities. We also need to deploy a U.N. peacekeeping force to protect the people of Darfur, which they're in desperate need of. These are two areas where Human Rights Watch has been devoting a lot of attention. We've actually helped to get a couple of people indicted by the International Criminal Court. The U.N. Security Council has now promised to deploy 20,000 peacekeepers beginning next month. So, I'm guardedly optimistic that we're on our way. But this is an enormous problem that has clearly been exacerbated by environmental problems.

I think Darfur illustrates another connection between human rights and the environment, and that is, one way for us to understand the consequences of environmental degradation is in terms of rights: that it's not simply rights as part of the solution, but rights as part of the description of the problem. In the case of Darfur, the rights at stake are enormous: the right to life, the right to continue to live in your village without having the government burn it down. But there are other rights at stake as well. Here in the United States, we tend to think of rights as constitutional rights, civil rights – things having to do with our freedoms to speak out, organize, not be arrested, not be killed. But there is another body of rights in international human rights law known as economic, social and cultural rights, and those are very important as well: the right to health, the right to a job, the right to food and housing – the right to the basic necessities of life.

One way to understand damage to the environment is in terms of the consequences to economic, social and cultural rights. And so, you can think about it in terms of diminishing the arable land, which has consequences for the right to food, or diminishing water resources, which makes it harder to find clean water. You can think about the flooding that is a consequence of global warming, and what that has done to major urban areas. You can think about the forced migration that increasingly is a product of people not being able to support themselves and their traditional ways on their land; the vulnerability they feel when suddenly their livelihood is changed by these shifts in the environment.
“... the poorest people are the ones who are most victimized. The environment and its problems seem always to discriminate against the most vulnerable.”

The thing that you can’t help but notice as you start looking at these problems around the world is how often the poorest people are the ones who are most victimized. The environment and its problems seem always to discriminate against the most vulnerable. That’s part of why the concept of environmental justice is so important, because this comes up in so many different ways. It’s never a coincidence that the toxic waste site is located next to the poor neighborhood. It happens over and over and over again because the poor neighborhood is not terribly powerful politically, and so the people there don’t have the capacity to protest. But the poor neighborhood is also the most vulnerable to the kind of changes that we’re describing, and so if there’s a lack of clean water, they’re the first ones to feel it. If the economy is being hurt by the environment, they’re the first ones to feel that. All of this shows that it’s important, when you look at the environment and the problems that we’re facing today, to use human rights as an analytic tool, as a way of helping us better understand what the very human consequences are of environmental damage.

What I’ve tried to do with all this tonight is to talk about the compatibility between the fight for human rights and the fight for a clean environment. But I would be remiss if I ended without addressing what I think inevitably would otherwise come up in questions, and that is, is there a right to a clean environment? Does it make sense to talk about that, pure and simple? And the answer, I have to say, is yes and no.

Let me explain myself. I don’t know how many of you have seen the film “The Eleventh Hour,” the Leonardo DiCaprio film. One of the people in the film is talking about how even the land has rights. I’m used to people having rights, but does it make sense for the land to have rights? I’m not sure. Let’s dissect that a bit.

There are a number of treaties and declarations and instruments at the international level that do speak, in one way or another, in terms of a right to a clean environment. The document that I work most closely with in that regard is something that is known as the International Covenant on Economic, Social and Cultural Rights, which talks about the right to environmental and industrial hygiene, which is 1966-ese, or language, for a right to a clean environment. The rights outlined in this treaty are not rights that are supposed to be produced tomorrow; rather, they are rights that impose a specific duty on governments, and the duty is — and this is legalese, forgive me — to progressively realize these rights on the basis of available resources. That’s the language. But even though that’s a little mushy, it’s meaningful. In plain English what it means is that you’ve got to be conscientious about these things. You can’t squander the money the way Nigeria does. You can’t discriminate against people the way so many governments do. So, this concept of a right to a clean environment I think does have some usefulness in different ways. Let me outline those ways.

First of all, and this is maybe the most obvious, it can be a useful rallying cry. I don’t want to diminish the importance of that because most of us are used to thinking of rights as a sort of trump card. If you say, “I have an interest in a clean environment,” that gets you so far. But if you say you have a “right” to a clean environment, it suggests that you can assert that right over other interests. And so, protestors and demonstrators like to talk in rights terms because it tends to elevate their cause. If that’s politically useful, by all means, do it.

On a more practical level, rights become meaningful if they are enacted into law, and one useful thing to push for is legislation to create rights. If you’ve got a law saying you have a right to a clean environment, then you’ve got something you can point to. You can go to court and force somebody to respect it.
There is some movement in this direction, incrementally. The most interesting these days is in Europe. There is something known as the European Court for Human Rights, which—amazingly I think to Americans—is the supreme rights court of Europe. The role that our Supreme Court plays in upholding our constitutional rights is the role that the European Court for Human Rights plays in Europe, above all the national courts. We may be amazed as Americans to think that each government is willing to have this international body defend and define its people’s rights, but that’s what the Europeans have chosen to do, and it works quite well.

The European Court has addressed the right to a clean environment. It has not gotten quite so far as to embrace it entirely, but it has, for example, insisted that hazardous industries have a duty not to interfere with the right of people to their home, to their family and to the enjoyment of their property. It has said that states have a duty to protect, through regulation, against environmental hazard and to assess the impact on the environment of various development projects. But it hasn’t yet articulated explicitly a right to a clean environment per se, standing alone.

South Africa maybe has come a bit closer. Many of you may know that after apartheid, South Africa got together and adopted a constitution that is probably the most progressive constitution in the world, in a variety of ways. In terms of the environment, it talks about the right to environmental protection. It says that there’s a right to an environment that is not detrimental to health or well-being. It also talks about a right of access to clean water. So, you can see that this goes quite far; you don’t find anything like that in our constitution. So one useful thing to do is to push in the South African direction, to push for legislation or constitutions that begin to embody environmental rights.

The way that Human Rights Watch gets involved in all of this involves a third way that I think rights language is useful, and that is through our methodology of shaming, the methodology I outlined at the beginning. Our shaming in this area works best when we can show that a government is not progressively realizing environmentally related rights on the basis of available resources, that it is not conscientiously trying to protect people’s right to health or food or clean water or these various elements of a right to a clean environment. And if we show that governments are indifferent, are corrupt, are discriminatory, are arbitrary, we can shine our shaming spotlight on them and embarrass them and push them to stop—the same way we would try to get them to stop torture or political imprisonment or the more usual kind of rights violations that we address.

This is a useful thing to do in defending the right to health, because what is the right to health if you’re breathing in pollutants every day? I think it’s useful to do in terms of the right to food and clean water, because these are obviously dependent on the ability to have an environment that can supply these things. It’s useful to do in terms of environmental justice, pointing out that it is discriminatory to put the toxic waste site in the poor neighborhood time and time again.
It’s useful to do even with respect to things like privatization. You get many countries that are privatizing their water supply, and the private company comes in and says, “We can do this more profitably if we just cut out that poor neighborhood.” And so, we can insist that governments, if they’re going to privatize, if they feel that’s a better way to provide water or electricity or whatever, they do so with regulations that require the private utility to serve the entire community — that it not cherry-pick by serving only the wealthy. These are all areas where a rights approach and our shaming methodology can help to advance respect for the environment.

Now, these are all in a sense conceptual contributions, maybe political contributions, to the fight for a clean environment. I don’t want to pretend though that simply reading the rights in various treaties or statutes or constitutions is going to provide the answer to all the difficult questions that we face, because probably the greatest challenge to a clean environment are those who quite legitimately say, “Well, wait a minute, the environment’s one thing, but we’re poor. We want jobs. We want to develop our economy. I need to drive my car to get to work. I need that factory down the road to have a job. So, yes, nice and good to worry about the environment, but I’ve got a family to feed, and that’s got to come first.”

Those kinds of claims, which we’ve all heard, are quite real. I don’t pretend that anything I’ve said tonight gives the answer to that very real conflict that the world is facing between the imperatives of economic development and the equally compelling imperatives for a clean environment. Where I think human rights can contribute to this debate is by facilitating the debate and ensuring that all voices are in fact heard, because I don’t think there is a right answer to that question. But I know that there is a right process to get to the answer, and that right process is one where everybody affected on both sides has a say, freely. They all have a chance to debate, to organize, to engage in what for us is ordinary politics, but for much of the world is prohibited because of repression. It’s critical, if we’re going to get that balance right between providing for people’s immediate economic needs and providing for their environment, that the rights underlying a vigorous public debate are respected.

The final contribution I think the human rights movement can make to concerns for the environment has to do with the fact that the environmental problems that we’re facing are increasingly global. It’s no longer just the stream down the way that’s being polluted. As we all know, global warming is by definition a global problem. Carbon emissions on the other side of the world affect all of us. So we need to band together across national boundaries to address the problem. That’s something the human rights movement has had a lot of experience doing. We have built global coalitions of activists and civil society organizations to do things like ban the use of anti-personnel landmines — a campaign that we actually shared in the Nobel Peace Prize for. We did similar campaigns to ban the use of child soldiers and to create the International Criminal Court. Today, we’re embarking on a new global campaign to ban the use of cluster bombs.

These are all areas where there is an interest in a problem in many parts of the world, and there is greater strength addressing the problem together, rather than addressing it country by country in isolation. I suspect that if we really are going to tackle the big environmental problems that we’re facing, we’re going to need to build similar global networks, and I think the human rights movement can lead the way because we’ve been doing this for years. The environmental movement is doing more and more of it, but, frankly, is not nearly as advanced as the human rights movement in that respect.

“The human rights movement and the environmental movement are and should be important political allies. They are conceptual allies, they are political allies, and they need each other.”

Let me conclude simply by stating the obvious: The human rights movement and the environmental movement are and should be important political allies. They are conceptual allies, they are political allies, and they need each other. We all
need a clean environment and to get there we all need rights. One critique you often hear of progressive forces these days is that we’re too atomized, that each of us is pursuing our tiny little agenda while ignoring everybody else’s. I hope that what I’ve shown tonight is that there is a tremendous complementarity of interest between two very important movements, that we can be much stronger working together, and that given the magnitude of the problems we face, we need that strength in numbers. Thank you very much.
QUESTIONS AND ANSWERS

The audience submitted questions which were read by Joyce Neu.

KR: I should say, in terms of questions, I’m happy to answer questions about what I just talked about, but we also work on a lot of other things on which you can ask questions, so don’t feel like you have to be restrained.

JN: Thank you. I wonder if I could start with the naming and shaming issue. I’m thinking of where the corporate world and the governmental world kind of coincide, and that’s in Burma, where you have Unocal exploiting the Yadana oil fields, and then you have the government, which is one of the most repressive on earth. Even though many human rights organizations for more than a decade have named and shamed Burma, it doesn’t seem to have had much impact. Would you agree that it hasn’t had much impact? And secondly, can you explain why and what other options are available to deal with both situations?

KR: Well, first, it’s interesting that you ask that now because I think this is one of the most exciting times in Burma in the last decade. I don’t know how many of you have been following this, but the military junta in Burma hiked oil prices tremendously, I think five-fold or something. Nobody quite knows why; they clearly are having economic problems. That has set off massive protests, led by many monks and raising memories of the 1988 democracy movement that Aung San Suu Kyi was at the head of. The government has been responding in its usual way by beating people up, but it has also been responding with a certain restraint because it realizes, I think, that the world is watching. I don’t know how it’s going to play out. We’re actively involved in trying to push open the political space for these protests to proceed. But it shows that something that is frustratingly persistent, this military dictatorship, also has a certain brittleness to it. It could be something like these demonstrations that crack it open. It’s too early to say, but we really haven’t seen anything like this in a long, long time.

And he said, “Don’t worry. We’re building a clinic here and we’re building a school there. We’re being nice to the people around our pipeline.” That’s often the answer you get: “Don’t talk to us about the big picture. We’re throwing a few pennies toward the peons out there.”

JN: Thank you. To change topics a little bit, the Ugandan government has denied a recent report by Human Rights Watch called “Get the Gun!” which charges that there are Ugandan army abuses in Karamoja, a region
Uganda, and that they are planning to protest the charges made by Human Rights Watch. How will this impact the findings and/or future actions?

KR: It’s interesting. We’ve done a lot of work in Uganda over the years, mostly focusing on the north, the awful war between the government and the Lord’s Resistance Army. But this is a new region for us. We often find that when we first report on something, governments respond with either a blanket denial – which is this case – or with PR techniques. They’ll try to put out a cover story or lie or whatever it takes, which is why we very quickly learned that you can’t do one-shot human rights reporting. Some governments are conscientious: You show them a human rights problem and they say, “Oh my goodness, we didn’t know. We’ll change it tomorrow.” But that’s not the norm. Most governments are going to resist, and they use these PR techniques. Our job is to then come back at them with more reporting, more pressure.

Are we going to change the findings? No, we were right. And we’ll go back in six months and do another investigation. Maybe we’ll find an improvement, in which case we’ll say that. But if it’s the same, we’re going to say it’s the same. The idea is to keep coming back until finally the government understands that it’s not going to solve its PR problem with PR techniques. It’s only going to solve its PR problem by changing its behavior. And that’s how we make progress. We’re just in stage one with the Ugandan government right now.

JN: Thank you. I recall a report that you issued about eight years ago on Uganda, called “The Scars of Death,” and it was also basically very critical, very early on, about the [Yoweri] Museveni regime. So, you’ve been following this for some time. The next question: How are you able to interview victims who are in jail? How do you get that country’s officials to let you in to the jails?

KR: Well, it’s amazing the number of jails I’ve been in. Governments do let you in. They sometimes regret it, but they often have an interest in showing, or trying to show, that things are not as bad as are claimed. I’ll tell you a story. I was in Saudi Arabia in Dec. For the first time ever, the Saudi government decided to let an international human rights group conduct what they said was going to be a free investigation. We insisted we wanted to go into prisons, so they let us. The first day we were there we visited a big prison just outside Riyadh, and they figured, we can control these guys, no problem. After the little introductory tour by the warden, they let us into the first ward where we were going to be able to speak to prisoners. And, to our surprise, we were greeted by a group of caterers with a beautiful array of juices and fruit – I’m dead serious. On the ground were these lovely carpets which were so new you could still see the folds in them; they hadn’t even ironed them out. And then along the back wall there were seven or eight beautiful new computers which clearly had never been used. I think they thought we were going to say, “Oh, this is lovely. Next, please.” They were disappointed when instead we disappeared into the cells and didn’t come out for three hours. You can imagine, the prisoners told us in about two seconds what was going on, and described, in this case, awful beatings that they were suffering – which gave us something to talk to the warden about.

One of the things I always insist on doing when I’m in prisons is asking to see the punishment cells, because those are always the worst. After I got done speaking with this group of prisoners, I went to the warden and said, “Thank you very much. Now can I see the punishment cells?”

And he said, “Well, you can come back tomorrow to see those.”

And I said, “Nah, how ’bout now?”

And he said, “OK, well, let me call over there.”

And I said, “No, no, no. Why don’t we just walk over there. It’s just that building right there.”

He was obviously trying to clean them up rather quickly. But they didn’t have time, and we got in there. And, of course, they were horrendous. There were people in these cells who were for the most part just mentally ill: I met the
Prophet Muhammad, for example. There were people who really should never have been in prison, and clearly being put in isolation of this sort was making it much, much worse. Now, in this case, I think the government regretted what it had done, and they didn’t let us back in the next day.

But there are other times that things go better. We just had a case in Jordan where they let us in. There had been a new warden who we learned was beating up the prisoners. When we left, he retaliated against a lot of the prisoners and gave them a real thrashing. They called us back in using cell phones, and when we came back the next day, they started cutting themselves in protest, just to show how awful it was. It was such a scene that we actually got the warden fired within two days, and got rid of this awful guy.

So, why do governments let us in? They let us in because I think they hope that they can somehow snow us and that they’ll get a clean bill of health. But once they do it, they’re sort of stuck with it. The aim is to improve conditions, and very often we do. If we don’t get in, that’s not the end of the world. We just went to Tunisia to see what had happened to two people who were returned from Guantanamo. The U.S. government has this practice: When they’re going to send somebody to a country like Tunisia, which is notorious for torture, they say, “Oh, Tunisian government, will you promise not to mistreat these guys?” It’s called diplomatic assurances. And the Tunisian government says, “Absolutely. We’ll give you diplomatic assurances.” And, of course, nobody pays any attention.

And so, we went and we couldn’t talk to the prisoners, but we could talk to their lawyers, their family members, and we very quickly understood exactly what was happening to the prisoners. We put out a report about how utterly worthless these diplomatic assurances were, and how the U.S. should never be sending somebody back to a country like Tunisia on the basis of these flimsy promises. So, even when you don’t get in, there’s still a lot you can do.

JN: Thank you. In an article in *Foreign Affairs* in 2004, you wrote about the degradation of legal rights for detainees accused of being terrorists. Many of the leading candidates for president now seem reluctant to break with the war-on-terror model of combating terrorism. What does this mean for the future of legal rights for the detained?

KR: Good question. The problem with the so-called global war on terrorism is not that sometimes you have to use military force. The idea that the U.S. went to war in Afghanistan to deprive al-Qaeda of a base, that’s perfectly legitimate. I don’t think anyone really quarrels with that. Whatever you think of the war in Iraq, the fact that there is a war in Iraq means that applying war rules like the Geneva Conventions is the appropriate thing to do. What becomes controversial is the Bush administration’s claim that there is this global war on terrorism, meaning that they can use war rules everywhere else. And so, for example, when they picked somebody up in Malawi (as they have done), rather than prosecuting him through the local court system or asking for his extradition to the U.S., they simply snatched him and sent him to Guantanamo,
saying, “We don’t have to give you any rights. You’re an enemy combatant. We’re going to lock you up until the end of this particular war,” which in the case of the war against terror will probably never come.

There is a concept in the laws of war where in a regular conflict, you can detain the other side’s combatants until the end of the conflict. That’s black letter law, standard procedure. But that works in a context where you know who the other side’s combatants are: they’re wearing uniforms, they’re the guys who have the guns. But who’s a terrorist? Or worse, who’s a terrorist suspect? And when anybody can be a terrorist suspect in any country around the world, what that means is that you thought you had rights, you thought that the government couldn’t just detain you arbitrarily without bringing you before a judge and charging you with something, but in fact all it has to do is call you an enemy combatant and then they can dispense with the judge and simply lock you up at Guantanamo for the rest of your life.

That is where we are today. Most of us as Americans don’t really think about this because we don’t really think that we’re in jeopardy. Occasionally a [Jose] Padilla comes along, but for the most part, this is not something that Americans are facing themselves – but it is something that our government is doing to a lot of other people. It is setting a terrible precedent, because you can imagine how unsavory governments are using this concept to say, “Well, we’ll take our dissidents and we’ll call them enemy combatants and just lock them up the way Bush does.” And so, this is creating an enormous loophole to some of the most basic, basic due process, criminal justice protections.

JN: Thank you. Is Human Rights Watch doing any investigation into the environmental degradation in the United States?

KR: That’s a good question, and I don’t think we are, to be honest. The closest we have come, I suppose you could say, would be occupational hazards. We did a major study of the meatpacking industry, which is the source of major environmental problems. Our focus was more on industrial hazards. This is very dangerous work with knives flying and a lot of injuries. We focused on the ability of the workers to protect themselves, because most of the workers – because this is such dreadful work – are undocumented migrants. And they are terrified of forming a labor union or banding together and trying to address their workplace conditions because the employer responds by calling in Homeland Security and getting them deported. So, we did a major study on this connection between a lack of respect for basic human rights and, in this case, what you could say are environmental hazards – but within an industry. I think that’s the closest we’ve come, but there clearly is much more we should be doing.

JN: What are the prospects for China influencing Sudan to end the violence in Darfur?

KR: Well, it’s interesting. The Chinese government purchases two-thirds of Sudan’s oil. I think it’s safe to say that Sudan would not have the money to be paying the janjaweed to kill the people of Darfur if it was not for China’s oil revenue. And so, in that sense, China arguably has direct complicity in the killing in Darfur. At minimum, it has enormous leverage – tremendous influence – to try to force Khartoum to stop the killing. For years it was doing nothing. For years China had an active policy of non-interference in the internal affairs of other governments. It would deal with other governments with no strings attached – that was always the language that they would use. And we spent a lot of time highlighting that, in a sense shining a spotlight not just on the Sudanese government’s conduct in Darfur, but also on the Chinese government’s link to that, including talking about the Olympics – which is something the Chinese government really hated. We did this both negatively and positively. Negatively, we would stress this direct connection to the killing; positively, we would talk about China as an emerging, great power – doesn’t it want to be a responsible global citizen? We tried to appeal to the better instincts among the more progressive parts of the Chinese government.

Some combination of this clicked suddenly in Nov. and Dec. when, for the very first time, China began to play a constructive role in Darfur. At that point, it was China’s U.N. ambassador who was in negotiations in Addis
Ababa, Ethiopia, where he helped convince the Sudanese government to accept the deployment of a slightly larger peacekeeping force. More recently, China has appointed special envoys, imposed almost quasi-sanctions and helped finally persuade the Sudanese government to accept a much larger – 20,000 person – hybrid U.N.-African Union peacekeeping presence, which as I mentioned is about to be deployed. I don't think that would have happened without China's involvement.

We are getting hints that there may even be changes in China's behavior in places like Zimbabwe or Burma – we're not sure yet. But I have not given up on at least moving China a bit off of its destructive neutral attitude toward dictatorships. The best evidence so far of a shift is its response to Sudan. This is very much a work in progress, it's something on which we've got a lot more to do, but it's somewhere where we have made some progress, and I think we have to acknowledge that.

JN: Do you believe that the International Criminal Court should begin trying countries for environmental violations, so-called crimes against the environment?

KR: I worry about criminalizing everything. I do think there are different remedies for different problems. The International Criminal Court is, on a certain level, an invasion of sovereignty – most governments want to try their own. The idea of the International Criminal Court is that there are certain crimes that are so severe that we're not just going to leave it to the local government. The local government gets first crack at it, but if it does not do its duty, then the International Criminal Court will step in. And we define those crimes not simply in terms of any old human rights violation, but only in terms of the most severe violations: genocide, war crimes, crimes against humanity. That's it, not even aggression; we haven't even agreed on that yet. So, I would be reluctant to start throwing in other things like environmental abuse as such a fundamental crime. There are a lot of things that we can do to build political pressure for better respect for the environment before we start criminalizing it. In fact, I don't even know who you'd begin to criminalize. I mean, who is responsible for global warming today? Where do you start? So, a problem can be severe, but it doesn't have to be a crime. There are other ways of dealing with it.

JN: Thank you. This person says that he or she recalls the sit-ins and student protests for peace and civil rights in the '60s. What will it take for this generation to, as he or she puts it, wake up, act up and demand social change and corporate accountability?

KR: Good question. I'm not as despairing about this generation. I see a lot of activism. If I look at the people who come and volunteer at Human Rights Watch or work at Human Rights Watch or get involved in our activities or our events, there's a lot of interest in these issues. The Internet has made that easier; it's much easier to educate oneself. You can go to the Human Rights Watch Web site, you can go to a lot of other places and you can learn about these issues. There are lots of opportunities to get involved, whether it's working with an organization like Human Rights Watch or Amnesty, or getting involved in direct protests in Washington or elsewhere.

Now is maybe a good point to mention this: Human Rights Watch has set up support committees in different cities. We've had one in L.A. for a long time and we have one in San Francisco, one in Santa Barbara. We have not had one here. And my colleague here, Shira Roman, has moved to San Diego and is in the process of setting up a group here. I hope that will facilitate the kind of involvement that the questioner asks about, whether by students or by others who at some level want to get involved. This can be in different ways: It can be listening to our researchers who come through and describe their work in different countries. It can be helping to organize our film festival or sponsoring different international visitors who come through. It can be financial support. It can be personal activism. So, we hope to provide more activities so that it's easier to answer that question.
JN: That’s great. The last question is, what or who inspires you in this work?

KR: First of all, I work with a great group of people. I have enormous admiration for some of our frontline researchers, because they’re the ones in the middle of that war zone and who are collecting the testimonies with enormous cost. We just put a report out a couple of weeks ago on Hezbollah’s rocket attacks into northern Israel. Hezbollah responded with their TV station, by starting to attack our research team that was in Beirut for the press conference. There was one guy, his name is Ricky Goldstein, who had been one of the investigators in northern Israel, and they said he was the cousin of Baruch Goldstein, the Israeli who in Hebron had gone into a mosque and massacred a bunch of Palestinians. Hezbollah was basically saying, go kill Ricky Goldstein. So, we had to get him out of that country very quickly. Our young Lebanese researcher who lives in Beirut was threatened with treason charges. The government pulled him in for questioning and was basically threatening to imprison the guy because he had the audacity to report on Hezbollah.

I’m here describing some of my staff members, but the ones who I have even more admiration for are the people who are the local activists with whom we work, because as much as the people working for Human Rights Watch can be very brave, they also have the added protection of working for a well-known international organization. If somebody goes after them or they’re in prison, we can call the embassy, we can get the press to talk about it, we have all kinds of ways of fighting back. But if you get similar people who have none of these connections – they have just a small, little organization, essentially working on its own – those are the people who are at risk.

I’m thinking of this young woman who we honored last year, who was an attorney in Nepal at a point when the Nepalese government was arresting and disappearing – meaning killing – various people they saw as opposition figures.3 She had the audacity to start filing lawsuits in court insisting that the military make “reappear” and turn over the people they had just “disappeared.”

She was doing this when she could have been disappeared at any stage herself. She started filing something like 10 lawsuits a day, and the government had to start listening to her. The courts were embarrassed and they had to start asking the government where these people were, and the government didn’t know what to say. So it started producing people. People who had disappeared suddenly started reappearing, rather than being killed. And she did this over and over, saved countless lives and at any point could have been killed herself. It is people like that who keep me going. They make a huge difference.

3 Mandira Sharma, a human rights lawyer and activist from Nepal, was awarded the 2005 Human Rights Defender Award.
RELATED RESOURCES

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WEB SITES:


International Criminal Court. The International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. Retrieved Jan. 2008 from www.icc-cpi.int.


European Court of Human Rights. The European Court of Human Rights is an international court based in Strasbourg, France. It consists of a number of judges equal to the number of member states of the Council of Europe that have ratified the Convention for the Protection of Human Rights and Fundamental Freedoms. Retrieved Jan. 2008 from www.echr.coe.int/echr.

ARTICLES, LAWS AND REPORTS:


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