The Rights Stuff, Brian Urquhart, May 15, 2003

_Taking Liberties: Four Decades in the Struggle for Rights_  
by Aryeh Neier  
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In all the bloodshed and violence of the twentieth century, a conspicuously hopeful development was the emergence of human rights as a concern that governments can no longer ignore. The official reaction to the 1915 massacre of 800,000 Armenians by the Turks or to Hitler’s first anti-Semitic atrocities was that no government had a right to interfere in the domestic affairs of another state. The final years of the century saw at least one major armed international intervention to stop a gross abuse of human rights in Kosovo, as well as the arraignment of two former heads of state (Milosevic and Pinochet), and many other politicians, soldiers, and officials, for crimes against humanity.

After the genocidal horrors of World War II became widely known, the United Nations adopted, in 1948, the Universal Declaration of Human Rights. Other human rights conventions soon joined the declaration, but action to give them practical effect was slow to follow. For twenty years or more that responsibility was left largely to governments and to the intergovernmental UN Commission on Human Rights, whose treatment of human rights abuses was absurdly selective and severely constrained by political considerations. The commission ignored, for example, the Soviet Gulag, the Great Leap Forward and the Cultural Revolution in China, as well as Idi Amin and Pol Pot. Until the establishment of a UN high commissioner for human rights in 1993, the UN approach to human rights was a notable case of putting the fox in charge of the chicken coop.

The burgeoning of nongovernmental organizations (NGOs) in the 1960s gave life and reality to many important causes. An early result was the birth of a worldwide environmental movement. In the 1970s NGOs throughout the world, sometimes at considerable risk to themselves, began to campaign against violations of human rights. Amnesty International, the champion of “prisoners of conscience,” won the Nobel Peace Prize in 1977. In the United States the Helsinki Watch Committee, founded in 1978, grew over the next ten years into Human Rights Watch, an unprecedented undertaking that challenged governments by meticulously documenting, and publishing, their violations of human rights.

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As director of Human Rights Watch in its formative years, Aryeh Neier was a leader and major innovator in this revolutionary process, and his new book, _Taking Liberties_, is a wonderfully
detailed account of his career. An effective human rights activist needs moral and physical
courage, an unfailing sense of outrage, an unflagging urge to take the initiative, and the
intellectual capacity to hold on to basic principles in confused and highly emotional situations.
Neier’s book gives a vivid picture of the patience and ingenuity required to translate noble
principles and good intentions into practical reality.

Neier’s early years were a good conditioning for his chosen career. He was born in Berlin on
April 22, 1937, two days, as he points out, after the parades and festivities marking the annual
celebration of Hitler’s birthday. His parents were Jews from Poland who had made a comfortable
middle-class life for themselves in Germany, and they left their escape from Nazi Germany
dangerously late, leaving for England only on August 16, 1939, two weeks before the war started.
Neier’s father, a teacher and writer in Berlin, had to look for work as a manual laborer in wartime
Britain, and Neier’s earliest memory is of a traumatic eleven-month stay in a “hostel” for refugee
children. He attributes his lifelong preoccupation with prisons and other forms of confinement to
his loathing for that institution. He even suggests that it was the source of a career in which he
could always be in control.

After the war, Neier moved with his family to the United States. In 1963, at the age of twenty-six,
he began work as field director of the American Civil Liberties Union, and two years later
became the executive director of its New York branch. In 1970 he was appointed executive
director of the national organization. In 1978 he took a break as a visiting professor at NYU, but
the accession of Ronald Reagan to the presidency in 1980 caused him to leave academic life in
order to become involved once again in public policy work. He became overseer of Helsinki
Watch and the new Americas Watch, and subsequently the director of the new global
organization, Human Rights Watch. In 1993 Neier left Human Rights Watch for the George
Soros Foundations and the Open Society Institute. It has been said that if George Soros is the only
American to have his own foreign policy, Aryeh Neier is his secretary of state.

Throughout his career Neier has shown an extraordinary ability to formulate both clear basic
principles and well-thought-out practical objectives and campaigns. At the ACLU the aim was, in
the words of a New York Times editorial, “to extend the reach of the Bill of Rights to new groups
and subject areas.” This reach included prison conditions, unnecessary government secrecy, and
the rights of women, the mentally ill, and children in foster care. Neier and his remarkable team
of associates, including at various times Morton Halperin, Ruth Bader Ginsburg, John Shattuck,
and Eleanor Holmes Norton, never shied away from unpopular or controversial issues such as
police abuse, then one of the most bitterly divisive issues in New York City. When Vietnam War
protesters were subjected to police violence, Neier attended the protest demonstrations and was
himself arrested; he also observed and documented the police breakup of the protest takeover of
Columbia University in 1968.

During the Vietnam War the ACLU was especially concerned with defending the First
Amendment and the principle of freedom of expression. It intervened in the cases brought by the
government against The New York Times and The Washington Post over the publication of the
Pentagon Papers. It attacked the compilation and dissemination of political dossiers by government agencies, especially the FBI. When protesters came to Washington for a huge anti-Vietnam War demonstration and the FBI got the names of thousands of them from the bus companies that had brought them there, the ACLU went to federal court and got the practice stopped. When the ACLU went to court to stop its compilation of political dossiers, the New York City Police Department hastily started to destroy files on nearly one million people.

The Watergate affair provided a new opportunity for a campaign against political surveillance. In October 1973, the ACLU called for Nixon’s impeachment for using the IRS, the FBI, and other federal institutions as instruments of illegal political surveillance. In fact Neier believes that the dismantling by Congress, after Nixon’s resignation, of America’s political surveillance system—parts of which went back to the time of Senator Joseph McCarthy and beyond—by means of the Privacy Act, the Family Educational Rights and Privacy Act, amendments to the Freedom of Information Act, and other legislation, was the most important victory of all for civil liberties. It is a victory that needs to be carefully guarded today when terrorism has become a national priority and obsession.

Its 1977 defense of the right of the American Nazi Party to march in Skokie, Illinois, got the ACLU more publicity, and more ridicule, than any of its hundreds of other cases, and Neier devotes a persuasive chapter to all the paradoxes, accusations, and resignations that the case engendered. In a letter setting out at length the argument for the ACLU position, Neier wrote,

Civil liberties is [sic] the antithesis of Nazism.

Perhaps that explains best why we defend free speech for Nazis…. We defend free speech for Nazis—or anyone else—because we say that government may not put any person or group beyond the pale of constitutional protection.

In a striking practical demonstration of this spirit Eleanor Holmes Norton publicly defended, on behalf of the ACLU, the right of the then ultra-segregationist George Wallace to speak at Shea Stadium in New York City. An impatient critic accused the ACLU of “poisonous evenhandedness.”

Neier gives poignant and often surprising details of the scores of cases in which he was involved: racial discrimination; women’s right to abortion; drug addicts’ right of access to methadone; prison conditions (which Governor George Wallace described as “hotel-like comfort”); the horror of casual commitment to a mental asylum; the often appalling institutional conditions in facilities for the retarded and mentally ill. Sometimes the ACLU won and sometimes it lost, and sometimes it made mistakes. For example, it failed to ensure that adequate services were available for the large number of mental patients throughout the US whom it helped to set free from hellish mental institutions during the 1970s and 1980s. The cases range from the horrific to the simply weird. Because his father said he was paranoid, a young and perfectly sane Florida carpenter, Kenneth Donaldson, was confined in a mental asylum for fifteen years until the ACLU managed to get

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While at NYU, Neier worked with Robert L. Bernstein and Orville Schell, the founders of the Helsinki Watch Committee, whose purpose was to document and protest the repression of dissenters in the Soviet Union, and of the recently created Americas Watch. Neier became the overseer of both organizations, as well as of Asia Watch (1985), Africa Watch (1988), and Middle East Watch (1989), which now make up the global Human Rights Watch. In its early years Human Rights Watch was sometimes looked at skeptically by older human rights groups. It shifted the focus of human rights work from the traditional target of abused individuals to the policies of abusive governments and the “surrogate villains,” as Neier calls their supporters.

Over the opposition of President Ford, Congress had mandated the establishment of a Bureau of Human Rights in the State Department and barred United States assistance to governments who were deemed human rights violators. President Jimmy Carter and his assistant secretary of state for human rights, Patricia Derian, had, with considerable success, made human rights an important factor in US foreign policy, especially in Latin America. The Reagan administration appeared to be bent on reversing the advances that had been made. By determined lobbying, Neier and Bernstein were able to block the appointment of Alexander Haig’s candidate as assistant secretary of state for human rights, Ernest Lefever, a conservative with a record of opposition to human rights as an element of United States foreign policy.

In 1980 the human rights situation in the Soviet Union was desperate, and the local supporters and activists of Soviet Helsinki Watch had been virtually wiped out. The first priority was therefore to produce credible reports on Soviet human rights abuses. Unlike other Human Rights Watch initiatives, this activity was popular with the Reagan administration. Neier’s proposal for a ban on the use of landmines, however, was unwelcome. And, for an administration in which the obsession with communism had virtually replaced the concern for human rights, his organization’s attack on US support of despot and human rights violators, especially in Latin America, was anathema. Elliott Abrams, who had been appointed assistant secretary of state instead of Lefever, challenged many Americas Watch initiatives in Central America. The resulting struggle strengthened the new human rights organization.

In a 1982 speech to the British Parliament, Reagan redefined human rights as the promotion of democracy. This gave Human Rights Watch a basis on which to challenge the administration’s close relationships with what Jeane Kirkpatrick had memorably called “moderate autocrats friendly to American interests”—Marcos, Pinochet, and “Baby Doc” Duvalier, among others—as well as with despotic regimes which were supported because they were supposed to be fighting communism in places like Guatemala and El Salvador. El Salvador, with its notorious “death squads” and government-sponsored atrocities, was a principal target of Americas Watch. United States assistance to El Salvador was conditional on certification to Congress every six months.
that human rights conditions had been met. When Americas Watch first showed that the administration’s certification was mendacious, there was a violent reaction in Washington; but Americas Watch continued to report on human rights abuses in El Salvador by all sides. Neier’s more or less friendly relationship with Elliott Abrams ended after a 1985 confrontation on Nightline during which Abrams dismissed as false authenticated reports of the army’s massacres of civilians in El Salvador.

Nicaragua and Guatemala presented formidable challenges as well as considerable risks to Americas Watch investigators, many of whom, and often the most intrepid, were women. Neier, who frequently visited the countries in which his investigators were working, gave much agonized thought to the safety of these vulnerable people and to the tantalizing question of whether complete secrecy or the maximum international publicity gave them the best measure of protection.

The conditions in Guatemala, where an estimated 200,000 people were killed in “disappearances” and other abuses, were particularly hazardous. (Reagan had commiserated with President Rios Montt of Guatemala that the human rights reports on Guatemala were a “bum rap.”) When Neier went to Guatemala for the funeral of two assassinated members of the Group for Mutual Support, or GAM, a local group that had been set up to search for the “disappeared,” he was advised by the US embassy to leave the country at once. Two sympathetic members of the US Congress had already been advised not to come to Guatemala. Neier persisted, attended the funeral, and also managed to get out of the country the young woman who, at great personal risk, had organized a demonstration at the funeral. In Nicaragua there were serious human rights violations on both sides. Human Rights Watch was attacked by people on the left in the United States for denouncing repressive Sandinista practices, while its exposé of atrocities by the Nicaraguan contras was strongly disputed by the Reagan administration.

Perhaps Neier’s most important innovation at Human Rights Watch was to concentrate on violations of the laws of war and to find ways of holding the guilty and their supporters accountable. Since its founding in the nineteenth century, the International Committee of the Red Cross has tried to persuade combatants to respect international humanitarian law and the laws of war, but the ICRC does not publish its findings in the belief that confidentiality is the price it must pay for access to those who desperately need its help. While respecting the essential value of the work of the ICRC, Neier believed that there was a need for another body that would systematically monitor and publicly denounce violations of the laws of war. In 1983, when the fall of the military junta in Argentina suggested that an era of brutal military dictatorships in Latin America might be coming to an end, Human Rights Watch launched a campaign to hold accountable those guilty of human rights violations and crimes against humanity. This became the dominant theme of the human rights movement throughout the world. It was the basis for truth commissions of one sort or another, the doctrine of “universal jurisdiction” as claimed in the arrest of Pinochet, ad hoc UN criminal tribunals (former Yugoslavia, Rwanda, Sierra Leone), and finally the recently established International Criminal Court.
In July 1992, Human Rights Watch called for a tribunal for the former Yugoslavia because of the magnitude and ethnic nature of the crimes committed there. In February of the following year, on the initiative of the Clinton administration’s ambassador to the UN, Madeleine Albright, the UN Security Council authorized the establishment of an International Criminal Tribunal for the former Yugoslavia (ICTY). The tribunal got off to a slow and ineffectual start, but hit its stride in 1994 with the appointment as chief prosecutor of the remarkable Judge Richard Goldstone, who in his native South Africa had headed the Standing Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, an organization that had been crucially important in preparing for the peaceful transition from apartheid to majority rule. Goldstone’s pioneering work as prosecutor gave the ICTY credibility, and his success gave a new impetus to the concept of establishing accountability. The UN tribunal for Rwanda, again after a slow start, also began to perform adequately. The work of these tribunals was followed by the establishment, in 2002, of the permanent International Criminal Court.

Providing for accountability by no means exhausted Neier’s formidable energy and imagination. On one visit to Poland to contact Solidarity after two years of martial law, he tells us he carried, ostensibly as a gift, a pack of Gauloises in which one cigarette contained a coded message from supporters in Paris. To his alarm, the recipient of the Gauloises immediately ripped the packet open and lit up a cigarette, fortunately not the one with the message in it. In 1983 Neier’s reports on conditions in Poland helped to persuade the Reagan administration to impose sanctions on Poland in protest against martial law.

Four years later, after Reagan’s ambassador to the UN, Vernon Walters, had told the UN Human Rights Commission that Cuba was holding 15,000 political prisoners in appalling conditions, Neier visited Cuba. His report infuriated both parties—Cuba for its criticism of its prison system, including the total control of thought and expression, and the Reagan administration for giving the lie to Walters’s report of 15,000 political prisoners.

Neier was unable to form an indigenous Chinese human rights group. The Human Rights Watch report on “Prison Labor in China” did not deter the US from granting Most Favored Nation status to China. China was, on balance, a Human Rights Watch disappointment.

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In 1993 Neier handed over to Kenneth Roth the leadership of Human Rights Watch and joined the informal, fast-reacting, and financially independent world of George Soros’s philanthropic enterprises, eventually becoming president of Soros Foundations and the Open Society Institute. Before Neier’s arrival, Soros had worked almost exclusively in the countries of the former Soviet empire. With Soros’s full agreement the Open Society Institute began to support many of Neier’s earlier causes—banning landmines; holding leaders accountable for war crimes, crimes against humanity, and genocide; and trying to encourage various countries to confront the crimes of the past. The institute promoted, among other things, fair elections in Peru, the Ivory Coast and
Zimbabwe; criminal justice reform in Russia and South Africa; and humanitarian assistance in Bosnia and Chechnya.

As the manager of the $50 million Soros fund for Bosnia, Neier periodically visited Sarajevo when it was under siege. He had the good fortune never to have experienced the restrictions and political inanities that often bedevil field workers for intergovernmental organizations like the United Nations; he writes of his outrage at the performance of the UN and its local civil and military representatives in Bosnia. In his view, the UN mandate to give humanitarian assistance rather than take decisive action only encouraged the Serbs. This policy had of course been made by governments in the Security Council, not by UN workers in the field. He criticizes UN Secretary-General Boutros Boutros-Ghali and his representative in Bosnia, Yasushi Akashi, for opposing air strikes to halt Serbian attacks.

Neier does not, however, mention that the people at the UN were concerned that air strikes without strong NATO ground forces would cause the Serbs, as later happened, to retaliate against the widely dispersed and lightly armed UN peacekeepers for whose lives the UN was responsible. Nor, in criticizing Boutros-Ghali, does Neier recall that when a UN peacekeeping force in Bosnia was originally proposed, Boutros-Ghali, addressing the Security Council, had expressed strong objections—which were overruled—to sending into a battle zone a peacekeeping force with largely humanitarian functions. On this occasion Boutros-Ghali’s objections were rather similar to Neier’s own criticisms of the UN operation.

Neier enlisted the Texan Fred Cuny, the “master of disaster,” to design projects to be paid for by the Soros grant for Bosnia. Fearless, imaginative, and ingenious, Cuny performed several near miracles in Sarajevo, providing running water for a population whose regular supply had been cut off by the Serbs, boosting the ailing electrical supply, connecting Sarajevans to sources of natural gas, and bringing in seeds for the cultivation of rooftop gardens. As geniuses often do, Cuny made traditional humanitarian organizations look pedestrian.

Cuny’s next assignment ended in a tragedy that Neier says weighs more heavily on him than anything else in his forty-year career. In January 1995, Neier asked Cuny to go to Chechnya to advise on humanitarian projects that the Open Society Institute could support. Chechnya was then one of the most miserable and dangerous places on earth. On his return to the United States Cuny suggested several projects, briefed the administration in Washington, and wrote an article in these pages that was highly critical of both the Russian and the Chechen leadership.

At his own suggestion Cuny returned to Chechnya in March. Neier received his last call from Cuny on April 1, and then nothing further was heard from him. Neier was joined in a long, exhaustive, and hazardous search by members of Cuny’s family, the heroic Lionel Rosenblatt of Refugees International, and many others, but no trace of Cuny and his two Russian companions or any convincing reason for their fate could be found. With Cuny’s death international humanitarian action lost its most intrepid and most creative champion.
Since the mid-1980s Neier had been in touch with Alex Boraine, who had resigned from the South African parliament to establish the Institute for a Democratic Alternative for South Africa. In 1994 Boraine was interested in a particularly vital aspect of South Africa’s forthcoming transition to interracial democracy, the necessity of confronting the crimes of the past. Neier agreed that the Open Society Institute would fund a Project on Justice in Transition, with Boraine as director. Boraine proposed to Nelson Mandela that the government set up a Commission on Truth and Reconciliation. The commission differed in important ways from similar institutions in Latin America and elsewhere. To get amnesty in South Africa, people had to ask for it themselves and to disclose and acknowledge their crimes; their confessions were made orally and in public. Under the presidency of Archbishop Desmond Tutu, the commission made a dramatic contribution to the peaceful transition to a democratic South Africa.

Neier visited Kosovo in 1993 and, after writing an account of his visit in *The New York Review of Books*, was refused another visa by Belgrade for three years. In 1998, when the Yugoslav army tried to wipe out the Kosovo Liberation Army, he tried, with little success, to involve Judge Louise Arbour, then the prosecutor of the International Criminal Tribunal for the former Yugoslavia. Neier felt strongly that the NATO action against Milosevic was a just war unjustly carried out. The main concern had been to avoid NATO casualties. There were no NATO ground forces to provide protection for the embattled Kosovars, and the air attacks did vast damage to Serbia. In a question once again very relevant today, Neier asks whether the prerequisite of fighting a just war should be the readiness to fight the war in a just manner.

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In his introduction Neier writes that in the 1960s everyone professionally engaged in defending rights in the United States would have fitted into a good-sized living room, and their counterparts in the rest of the world into a much smaller room. Now there are thousands of professional rights advocates all over the world, and human rights groups have become a significant institutional presence in America and in many other countries. Political leaders and combatants alike know that they can be judged according to international law and may be brought to account for their actions. Neier had a leading part in this extraordinary development.

Neier’s book is a refreshing account of principle and intellect in action, as well as a useful reminder that enthusiasm and noble ideas do not go very far without courageous leadership and skilful organization. Indeed Neier’s orderly and intelligent militancy sometimes seems too good to be true until one considers the results. Neier is at pains to deny that he is either a fanatic or a workaholic. He is, he writes, committed to his work without being obsessed by it.

The international human rights campaign has made an impressive start, but it is still a delicate, and relatively rare, plant. There are many countries, including China, where little progress has been made. In international crises, and especially in war, human rights are often one of the first concerns to be thrown overboard. The war against Iraq, however righteous its objective, may well involve serious human rights violations. There is already a tense, if one-sided, debate in the
United States about the desirable balance between the “war on terror” and civil rights. The same war on terror has led the United States to embrace as close allies a number of governments with notoriously indifferent human rights records—Uzbekistan, Pakistan, Saudi Arabia, and Egypt, to mention only a few. Universal jurisdiction is not a universally popular concept, and its most visible manifestation, the International Criminal Court, is outspokenly opposed by the US as well as by several other governments. Millions of people all over the world still suffer under tyranny and the perennial violation of their rights.

There is a long way to go before the violation of human rights becomes a regular concern of governments as well as a basis for international action. Reporting on the inauguration on March 11 of the International Criminal Court, The New York Times stated that the court’s purpose is to deal with “dictators and war criminals” and “individuals…accused of large-scale crimes against civilians”—a remarkably apt description of Saddam Hussein. As far as I know, the ICC itself has at present no direct means of following up its judgments with action. Sometime in the future, perhaps, the United Nations will agree on a practical routine for dealing with convicted dictators. That would, certainly, have been a helpful and clarifying factor in the recent controversy over Iraq.

Only vigilance and a determined devotion to this most civilized of causes—a significant turning point in the history of human society—can increase popular awareness and support and build on the foundations that have been so admirably laid. That will take another generation of leaders like Eleanor Roosevelt and Aryeh Neier, and all the dedicated people who worked with them.

1. Abrams is now senior director for Near East and North African Affairs in the Bush administration. 


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