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Human Rights and U.S. Foreign Policy a

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Summary and Keywords

In its formulation of foreign policy, the United States takes account of many priorities and factors, including national security concerns, economic interests, and alliance relationships. An additional factor with significance that has risen and fallen over time is human rights, or more specifically violations of human rights. The extent to which the United States should consider such abuses or seek to moderate them has been and continues to be the subject of considerable debate.

Keywords: human rights, U.S. foreign policy, Jimmy Carter, 1970s, United Nations, Department of State

Introduction

As early as Thomas Jefferson's 1776 Declaration of Independence, Americans discussed their "rights" and those of others. Such rights, however, were not fully realized by all who lived in the United States. Jenny Martinez argues that the movement to abolish slavery in the 19th century was "the first successful international human rights campaign." Attentiveness to human rights also can be identified in numerous instances in other periods of U.S. history. For example, Americans articulated concerns about the plight of the Greeks during their 1821 revolt against Ottoman rule, brutal Spanish tactics against Cuban rebels in the 1890s, and the victims of the 1915 Armenian genocide. In addition, Jewish Americans as well as American missionaries expressed distress at the repression of Jews in Romania and Russia in the late 19th century. Mark Bradley has argued that 1930s photographs exposed many Americans to the social and economic privations of their fellow citizens during the Great Depression and by extension opened them to caring about human rights abuses suffered by foreigners. Although Americans were concerned about human rights violations within the United States and beyond its borders before the 1940s, the issue was rarely a factor in U.S. foreign policy.

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Human Rights and the Cold War

Through the person of Eleanor Roosevelt, the United States played a key role in the drafting of the United Nations (UN) Universal Declaration of Human Rights, which on December 10, 1948, established an international human rights standard. The Declaration was an important outgrowth of the 1945 United Nations Charter, which, due to the initiative of the State Department, mentioned human rights in several places. Drafting the Declaration presented considerable challenges as members of the Human Rights Commission represented countries with different traditions and cultures, and they themselves held quite distinct worldviews. Furthermore, agreement on human rights questions was complicated by worsening Soviet-American relations and the anticommunism that spread in the United States in the aftermath of the war. In the end, representatives agreed to a preamble and thirty articles that outlined the political, civil, social, and economic rights to which humans should be universally and indivisibly entitled.

The U.S. commitment to international human rights declined in the Eisenhower years, when human rights were seen as a project of the United Nations that threatened American sovereignty. Subsequently, the Bricker Amendment controversy ended U.S. engagement with international human rights for several years. The Bricker Amendment, first proposed by Senator John Bricker (R-OH) in September 1951, was intended to address concerns that the president could commit the United States to international treaties that would contravene the U.S. Constitution. Explaining his rationale for the constitutional amendment, Bricker said in early 1952, "I do not want any of the international groups, and especially the group headed by Mrs. Eleanor Roosevelt which has drafted the Covenant of Human Rights, to betray the fundamental, inalienable and God-given rights of American citizens enjoyed under the Constitution." Support for the Bricker Amendment was firmly rooted in opposition to human rights treaties, a position shaped by Cold War politics, isolationism, and the implications of the civil rights movement for states' rights. Despite a wide range of civic support for UN conventions, the treaties' opponents succeeded in labeling them "un-American."

Bricker's amendment came to a vote in February 1954, falling one vote short of the required two-thirds support necessary. Given the threat it posed to the presidency, the Eisenhower administration decided to disavow UN human rights treaties as a way to undercut support for the amendment, and the Bricker Amendment controversy temporarily ended discussions about human rights in connection with U.S. foreign policy. ¹³

In the aftermath of the Bricker Amendment controversy, and as the United States faced challenges in facilitating the fulfillment of the rights of all of its citizens, attention to international human rights faded. In subsequent years, it emerged episodically, such as in the wake of the 1960 Sharpeville massacre in South Africa, the 1967 Greek coup, and the 1973 coup in Chile. Attention to human rights in the United States continued to be framed by the Cold War, and broader strategic issues limited American condemnation of

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some human rights violations, such as when U.S. interest in the normalization of relations with China led it to neglect the Cambodian genocide and to minimize the human rights records of its military allies. Furthermore, U.S. leaders paid far more attention to human rights violations in communist countries than in those governed by right-wing authoritarian regimes. Finally, American policymakers such as Secretary of State Henry Kissinger often argued that the United States should not comment critically on the domestic politics of other countries.

When human rights did figure into U.S foreign policy formulation in these years, it was often due to pressure from outside the executive branch. Members of nongovernmental organizations (NGOs) such as the National Association for the Advancement of Colored People (NAACP) or International Commission of Jurists raised awareness about human rights abuses and sought to influence U.S. policy. Such groups pursued a range of tactics to draw greater attention human rights violations, including compiling research reports, testifying before Congress, organizing demonstrations, and publicizing cases of abuse. The 1970s marked a period of growth in the number of NGOs devoted to human rights and the professionalization of their efforts: Helsinki Watch, the precursor to Human Rights Watch; the Washington Office on Latin America (WOLA); and the Lawyers Committee for International Human Rights, now known as Human Rights First, to name a few, were all established in the 1970s.

Members of Congress and diplomats serving overseas also sought to bring greater American attention to human rights violations. Due to a conviction that their efforts were not sufficiently shaping U.S. policy, in the mid-1970s Congress held hearings on U.S. human rights policy generally and the human rights situations in a number of countries. These hearings led to the passage of legislation that facilitated the institutionalization of human rights as an element in U.S. foreign policy. The most important innovations were the establishment of a bureau of human rights and humanitarian affairs within the State Department, human rights officers in every regional bureau, reports on the human rights records of countries receiving assistance from the United States (later the United States began authoring a report on every country in the world), and measures to curb military and economic assistance to countries that engaged in "patterns of gross violations of human rights." In addition, Congress passed legislation such as an amendment to the 1974 trade bill, the Jackson-Vanik Amendment, which sought to link increased Soviet-American trade with a loosening of Soviet restrictions on emigration.

In a shift from the *realpolitik* of the Richard Nixon years, upon assuming office in 1977 Jimmy Carter asserted that human rights considerations would be a priority in his foreign policy. Once in office, he took a number of steps to signal that he and his administration were concerned about human rights violations, including exchanging correspondence with Soviet human rights activist Andrei Sakharov. Rhetorically, Carter and his foreign policy aides outlined an American commitment to limit U.S. support for abusive regimes and to champion those fighting to advance greater respect for human rights. Institutionally, the Carter administration built upon recent congressional legislation to ensure that human rights were taken into consideration in U.S. decisions regarding loans,

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military assistance, and economic aid. These steps won Carter's policy considerable praise at the time and favorable treatments by historians in subsequent years. ¹⁵ Other appraisals of Carter's attention to human rights have criticized it as continuing patterns of overlooking human rights violations when a diplomatic relationship was important to U.S. national security interests. ¹⁶

The Reagan administration came into office intending to downgrade attention to human rights. Particularly noteworthy signals of this effort were Reagan's selection of Jeane Kirkpatrick as U.S. Ambassador to the United Nations given her writings critical of Carter's policy, Secretary of State Alexander Haig's pronouncement that the United States would focus on international terrorism rather than human rights, and the appointment of Ernest Lefever, an avowed critic of State Department activism on human rights, to head the Bureau of Human Rights and Humanitarian Affairs. ¹⁷ Facing considerable opposition, Lefever withdrew from consideration, and the Reagan administration had a mixed record on human rights in the subsequent years. He, his secretary of state, George Shultz, and many State Department aides were champions of the human rights of those living in the Union of Soviet Socialist Republics (USSR) and the Soviet bloc and pressed for greater respect for human rights in high-level negotiations with Soviet leaders. Yet his policy toward Central America facilitated and minimized countless violations of the human rights of Nicaraguans, Guatemalans, and El Salvadorans, among others. Similarly, he vetoed congressional sanctions against the South African apartheid regime.

The Chinese crackdown on demonstrations in Tiananmen Square in June 1989 presented a serious challenge to U.S. foreign policy. When the People's Liberation Army stormed the square with tanks, they crushed the protests with terrible human costs. In the aftermath, President George H. W. Bush's objective was to disavow the actions in Tiananmen Square without sacrificing the overall Sino-American relationship, which was of great importance to him personally and strategically. Therefore, he targeted the Chinese army with his reprisals by suspending military sales and contacts. Although he had said there would be no high-level contacts between governments, he sent three aides, including National Security Adviser Brent Scowcroft, on a secret mission to Beijing. The delegation ensured that communication would continue but did not secure any concessions from Chinese officials on the treatment of dissidents. Many outside the executive branch, in Congress or the American public, supported more far-reaching economic sanctions. How to address China's treatment of its dissidents and religious minorities has remained a complicated question for each subsequent president.

Human Rights After the Cold War

The end of the Cold War seemed to offer hope for a new U.S. approach to human rights, which would not prioritize anti-communism over the value and integrity of human lives. A series of challenges, whether in Yugoslavia or Rwanda, quickly suggested that the United States would not forcefully pursue protections for human rights internationally.

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In the wake of a March 1992 referendum, which led Bosnia-Herzegovina to declare its independence and the three ethnic groups within Bosnia to fight among themselves, U.S. Secretary of State James Baker famously declared that the United States "had no dog in this fight." Echoing his unwillingness to involve the United States in the breakup of Yugoslavia, State Department spokeswoman Margaret Tutwiler asked, "Where is it written that the United States is the military policeman of the world?" Despite increasing awareness of ethnic cleansing within Bosnia, particularly of camps in which Bosnian Muslims were held and subject to increasing atrocities, the Bush administration was not willing to intervene. The only real step taken by the Bush administration was participation in the delivery of humanitarian relief to Sarajevo as part of a United Nations mission.

During his presidential campaign Bill Clinton criticized the Bush administration's inaction, asserting that "no national issue is more urgent than securing democracy's triumph around the world."²⁰ Once in office, Clinton decried "ethnic cleansing" in Bosnia but did not act. Not until after Bosnian Serbs entered the UN safe haven at Srebrenica in July 1995 and killed some 7,000 Bosnian Muslims who had gathered there as well as the August 1995 bombing of a Sarajevo market did the United States and its partners in the North Atlantic Treaty Organization (NATO) feel compelled to respond because inaction was undermining credibility of NATO and the United States. NATO undertook Operation Deliberate Force, a three-week bombing campaign in August and September 1995 that, along with Croatian and Bosnian Muslim ground offensives against the Bosnian Serbs, precipitated a ceasefire. Thereafter, all sides agreed to the Dayton Peace Accords on November 21, 1995, which outlined a unified Bosnian state divided into autonomous regions that were constituted along ethnic and religious lines to be governed by a three-person presidency. NATO agreed to deploy 60,000 peacekeepers, 20,000 of which would be from the United States.

In 1999, the United States again intervened militarily in the former Yugoslavia when it initiated a bombing campaign against Serbia to stop ethnic cleansing in Kosovo, which had the potential to destabilize the region. In Kosovo and other cases, U.S. action was often motivated by more than just concern about the human rights abuses taking place. In the context of Yugoslavia, the credibility of the Clinton administration, the United States, and NATO were all increasingly at stake. Regional stability, particularly that of key allies such as Turkey and Greece, also was an important factor in shaping U.S. policy.

The Clinton administration, in contrast, chose not to intervene in the spring and summer of 1994, when Rwanda, a small country in central Africa, was the site of the world's most staggering genocide since the Holocaust. As many as 1 million Rwandans were killed. Although the two principal ethnic groups of Rwanda, the Hutu and the Tutsi, both suffered casualties, the conflict was dominated by the large-scale slaughter of Tutsi by Hutu. In the immediate aftermath of the outbreak of violence, the United States undertook military operations to evacuate its citizens, but it did not intervene to arrest the genocide that was unfolding. The United States, gun-shy from its humiliating departure from Somalia and without significant U.S. interests in Rwanda, did not act until

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much of the genocide had been curbed by the advance of the Rwanda Patriotic Front forces. In retrospect, President Clinton has acknowledged that his administration did not pay sufficient attention to the genocide and has characterized it as his worst foreign policy mistake. In his words, "We never even had a staff meeting on it. . . . I blew it." In March 1998, as part of Clinton's visit to Rwanda, he offered an apology for the fact that the international community had not acted to prevent or stem the violence in Rwanda, saying, "We did not act quickly enough after the killing began . . . we did not immediately call these crimes by their rightful name, genocide." 22

Human Rights and the War on Terror

How to balance the protection of human rights with the war on terror is a challenge that has spanned the administrations of both George W. Bush and Barack Obama. The conflict between these objectives created a scandal of significant proportions in 2003 with the release of photos depicting abuses at a prison in Iraq known as Abu Ghraib. The images showed guards tormenting prisoners with dogs, sexual humiliation, nakedness, and other violations of their human rights. The Bush administration's decision to ignore the 1949 Geneva Conventions for the treatment of prisoners of war precipitated the scandal, and revelations of American abuses weakened U.S. moral authority in the world and undermined the "soft power" it had accumulated in the late and post-Cold War era. ²³ In the wake of the Abu Ghraib scandal, the United States revised its guidelines for allowable physical abuse during interrogations. The scandal highlighted a broader practice of torture of prisoners in U.S. custody. Additional incidents of prisoner abuse have been cataloged at Guantanamo Bay in Cuba and Bagram Air Base in Afghanistan.

The abuses were result of what was termed "enhanced interrogation techniques." In 2002, the U.S. Office of Legal Counsel issued a memorandum that defined torture as causing "pain that is difficult to endure . . . equal in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death," and in October of that year, Guantanamo interrogators were given permission to use enhanced counter-resistance strategies that included the use of scenarios designed to convince the detainee that death or severely painful consequences were imminent for him and/or his family; exposure to cold weather or water; waterboarding or the use of a wet towel and dripping water to induce the perception of suffocation; and the use of mild, noninjurious physical contact such as grabbing, poking in the chest with the finger, and light pushing. ²⁴ In response to a memorandum requesting authorization for enhanced interrogation tactics, U.S. Secretary of Defense Donald Rumsfeld wrote, "I stand for 8–10 hours a day. Why is standing limited to 4 hours?" ²⁵

A 2014 Senate report on the Bush administration's torture program determined that 39 detainees had been subject to torture, that the use of these interrogation techniques did not produce intelligence that averted terrorist attacks, and that instead torture led to false confessions and inaccurate information. When a candidate for president, Obama had proclaimed that Bush's interrogation program was "an outrageous betrayal of our core

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values."²⁶ As president, Obama ordered all U.S. interrogators to use the strict standards adopted by the military in the wake of Abu Ghraib scandal.

Bush's legal advisers determined that the Geneva Conventions did not apply to detainees in the war on terror. Their legal memos characterized these detainees as "illegal enemy combatants" and applied that designation to al-Qaeda as well as the Taliban. In order to detain these "enemy combatants," the United States established prison facility at its naval base in Guantanamo Bay, Cuba. Because the facility was not on U.S. soil, the United States did not have to extend full rights and privileges outlined by the Constitution to detainees. Government officials envisioned long-term detention for combatants that the United States deemed security risks to country. The lack of due process accorded detainees, use of torture against prisoners there, and indefinite nature of detentions, however, have made the prison a target for human rights activists, legal scholars, and critics of the U.S. war on terror. It has also served to inflame sentiment against the United States in the Muslim world. In the first days of his presidency, President Obama issued an executive order announcing his intention to close the U.S. detention facility at Guantanamo Bay within a year but struggled throughout his presidency to do so.

Rendition or "extraordinary rendition" is a practice by which suspects were moved from one foreign state to another for the purposes of interrogation. Critics charged that the purpose of these transfers of custody was to subject the suspects to torture. The tactic predated September 11 but expanded dramatically in the wake of the attacks on New York and Washington. Many of those who underwent rendition were not charged with any crime. The Bush administration justified practice as means to "quickly obtain information for captured terrorists and their sponsors in order to avoid further atrocities against American civilians."²⁷ Rendition occurs despite a 1998 law that states that "the policy of the United States is not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."28 Those facing rendition were denied due process and have been abducted, hooded, and sent by private jet to foreign countries such as Egypt, Morocco, Syria, and Jordan, all of which the U.S. State Department had previously criticized for torturing prisoners. During the Obama presidency, the practice has continued.

In addition to transferring suspects to the custody of foreign governments, the Central Intelligence Agency (CIA) set up a system of covert prisons in the aftermath of 9/11, which included sites in eight countries. The prisons were located overseas because the CIA could not legally hold prisoners in isolation in secret prisons on U.S. soil. Prisoners at these sites faced the "enhanced interrogation techniques" mentioned earlier, such as waterboarding. President Obama ordered the secret prisons closed.

In 2013 National Security Agency (NSA) contractor Edward Snowden leaked a significant amount of top secret documents showing the previously unknown scope of electronic surveillance by American spy agencies. The revelations in his leaked documents showed

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that U.S. phone companies were providing Americans' phone records to the NSA; the U.S. government requested user data from companies such as Google, which were required by law to submit it; the NSA spied on foreign leaders; the NSA had a program to see everything that a user did on the Internet; the NSA had actively tried to undermine Internet security; the NSA collected all text messages; and it intercepted all phone calls made in the Bahamas and Afghanistan. Snowden's revelations, which spilled out in a series of news reports, prompted significant debate about the balance between protecting Americans' right to privacy and their civil liberties with the U.S. government's efforts to prevent further terrorist attacks. In the aftermath of these revelations, there have been only minor changes to U.S. practices.

George W. Bush's administration ordered over forty strikes by drones—unmanned aircraft used for surveillance and, more recently, aerial attacks. The Obama administration has raised that number into the hundreds.²⁹ These strikes are taking place largely in places tribal areas in Pakistan in which the Taliban and al-Qaeda operated. As a signal of the scale of the drone program, as of 2012, U.S. air force was training more pilots to fly drones than fighter jets and bombers combined. The Obama administration is said to support the drone program because it offers "precision, economy, and deniability." ³⁰ Drone use is justified in an armed conflict, but elsewhere U.S. policy has been to use them only at the invitation of a country's leaders or when no functioning government exists. There has been limited public discussion of the use of drones, including rules of engagement and legal justifications for use, including notably the targeting of a U.S. citizen who was a spokesperson for al-Qaeda. 31 In the administration's calculation, the benefits of drones are that they offer accuracy because pilots can monitor a target for hours before they strike. As the weapons have become more precise, civilian casualties have dropped, but there is still a potential cost of any strike. Furthermore, use of drones raises serious questions about judicial due process. Some have asked, are drone strikes just targeted assassinations from 30,000 feet? In 1976, President Gerald Ford signed an executive order: "No employee of the United States Government shall engage in, or conspire to engage in, political assassination."32 This order is still in force, although the Bush administration determined it could target terrorist leaders or leaders of roque states. The issue is not just a legal question because drone strikes damage U.S. image abroad, making it more difficult for Obama's stated commitment to improve the country's reputation. Many worry that drone strikes "have replaced Guantanamo as the recruiting tool of choice for militants."33

Beyond the intersection with U.S. struggles to combat international terrorism and protections of human rights, the Obama administration has pursued a low-key human rights strategy. He and his first secretary of state, Hilary Clinton, were slow to articulate a human rights policy and focused less on human rights violations in China than previous administrations have. Although late in his presidency Obama criticized countries that criminalized same homosexual behavior, he has largely refrained from raising human rights concerns in a public way.

Discussion of the Literature

Historical writing on the intersection of human rights and U.S. foreign policy has evolved considerably over the last ten to fifteen years. The three principal historiographical debates that have developed center on periodization, genealogy, and impact.

In his provocative book, *The Last Utopia*, Samuel Moyn argues that human rights "emerged in the 1970s seemingly from nowhere."³⁴ In examining U.S. diplomatic records, however, it is clear that concerns about human rights played a role in U.S. foreign policy before 1977, which Moyn has described as "the breakthrough year" for human rights.³⁵ Elizabeth Borgwardt, in particular, has shown how Americans were attentive to the importance of human rights protections as they negotiated the United Nations Charter and created international commitments to respect human rights in the wake of World War II.³⁶ And numerous Americans in and outside of government were concerned with human rights abuses such as racial discrimination, political imprisonment, and torture in countries as diverse as the Soviet Union, Greece, Chile, and South Africa long before 1977. One less addressed element about debates about when human rights emerged as a factor in U.S. foreign policy is the question of for whom. Attention to human rights among the executive branch and particularly the White House may have developed on a different timeline than concern among members of Congress, elite liberals, and a broader range of Americans.

Even more varied are explanations of why Americans, and through them the U.S. government, became concerned with human rights. Myriad interpretations exist, with different scholars emphasizing cultural, moral, political, and diplomatic factors, among others. For example, citing the influence of culture on Americans' thinking, Mark Bradley and Tim Borstelmann point to an awakening of empathy in the wake of Depression-era photographs or the publication Aleksandr Solzhenitsyn's *The Gulag Archipelago*. Daniel Cohen and others have emphasized the revulsion and horror at the Holocaust, and Barbara Keys has pointed to feelings of guilt and shame produced by U.S. involvement in the war in Vietnam in subsequent decades. Others have attributed official attention to human rights to political expediency or as a Cold War propaganda tactic.

Evaluating the consistency of U.S. attention to human rights has often proved quite contentious, with significant differences centering on how we evaluate the policy of the Carter administration. At the heart of these debates are differing views about how best the United States can diminish abuse of human rights; thus those who disagree about the effectiveness of Carter's policy have often differed on the priority ostensibly accorded by the Carter administration to human rights over other foreign policy priorities or more recently on the methods by which the United States could have better curbed human rights violations.

Today scholarship on human rights and U.S. foreign policy increasingly examines the transnational connections among human rights activists, explores attention to human

rights outside the Cold War context, and pushes the boundaries of contemporary history to analyze U.S. policy in the 1990s and beyond.

Primary Sources

Before the establishment of the Bureau of Human Rights and Humanitarian Affairs in the Department of State in 1977, human rights issues were most often addressed by officials connected with the United Nations—either the U.S. Ambassador to the United Nations, the U.S. representatives to the United Nations Human Rights Commission, or the Bureau of International Organization Affairs at the Department of State. For the first time the Department of State's Foreign Relations of the United States series has published a stand-alone volume on human rights. 40 Records relating to U.S. government consideration of human rights violations can also be found in the records of the State Department's regional bureaus and the cable traffic between Washington and U.S. embassies overseas. If research in Record Group 59: The General Records of the Department of State at the National Archives in College Park, Maryland, is not possible, many of the relevant records can be accessed in hard copy and, increasingly, electronic volumes of the Foreign Relations of the United States series. The perspectives of individual diplomats involved in shaping U.S. foreign policy with regard to human rights can be understood through use of Frontline Diplomacy: The Foreign Affairs Oral History Collection of the Association for Diplomatic Studies and Training.

When human rights considerations rose to the highest levels in U.S. foreign policy formulation, evidence can be found in the records of the National Security Council and other offices within the White House. Expressions of concern about human rights abuses can be located in the White House Central Files, although those files also contain many records unrelated to human rights violations overseas.

As members of Congress have often driven attention to human rights in U.S. foreign policy, their personal papers can be a useful resource. Of greatest utility are the papers of Representative Donald M. Fraser at the Minnesota Historical Society. To identify the location of other congressional members' personal papers, search in the Congressional Biographical Directory and then click on the Research Collections tab. The transcripts of congressional hearings and any resulting reports will also aid research efforts on this topic.

Some of the most important collections for understanding the influence of nonstate actors on U.S. foreign policy can be found at the Center for Human Rights Documentation and Research at Columbia University. Their most important collections include the records of Amnesty International USA, Human Rights Watch, and Human Rights First. A full list of their archives can be found here: http://library.columbia.edu/locations/chrdr/archive_collections.html other key archival collections include the papers of the International League for the Rights of Man at the New York Public Library and the records of the Washington Office on Latin America at Duke University. Beyond archival collections, there is a significant body of literature of memoirs by human rights activists

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who sought to influence U.S. foreign policy from either within the country or outside its borders.

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