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# THE ROUTLEDGE HISTORY OF HUMAN RIGHTS

*Edited by  
Jean H. Quataert and Lora Wildenthal*

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## CONTINUITY AND CHANGE IN US HUMAN RIGHTS POLICY

Sarah B. Snyder

The degree to which US government officials should take human rights violations and protections into account as they formulate foreign policy has prompted considerable discussion, especially in the years since 1945. These debates have largely focused on civil and political rights that overlap with rights granted to US citizens by the Constitution, including the rights to due process and free speech and protections from religious persecution as well as from cruel and unusual punishment. Within the framework of a human rights policy, US policymakers may weigh the human rights records of other governments as they make decisions on military and economic support, formal and informal alliances, or high-level visits. Those decisions are premised on the idea that human rights are universal and thus not limited by citizenship or country of residence. Throughout its history, the US government has been largely consistent in minimizing attention to human rights concerns in its policy formulation. The two exceptions to this low level of interest took place when championing human rights aligned with the government's existing foreign policy priorities or when nongovernmental activists successfully pressured branches of the US government to take human rights violations into greater account. (Although the United States participates in international and regional organizations concerned with human rights, when it has engaged on human rights, it has done so largely unilaterally.)

This essay addresses US human rights policy in six distinct periods. First, it examines US efforts to create a human rights framework for the postwar world and the challenges the Cold War presented to a continued focus on human rights. Second, it outlines a new approach by US officials to human rights in the 1960s. Third, in the late 1960s and early 1970s, we see greater activism on human rights by members of Congress and nongovernmental organizations (NGOs). Fourth, in the mid- to late 1970s, we can identify the beginnings of a more broad-based movement for greater attention to human rights violations and efforts to address them through US power, a movement that culminated to some degree with, fourth, the end of the Cold War in Europe. Fifth, after the Cold War, the United States struggled to find a new organizing principle for its foreign policy agendas that would have a resonance similar to that of containment of the Soviet Union. Championing human rights presented one possibility, but it was not uniformly embraced between the end of the Cold War and the attacks on 11 September 2001. Sixth, the final section addresses how US policymakers struggled to balance human rights and security in the face of terror in the George W. Bush

and Barack Obama years. I also highlight multiple examples in which the United States had no response to human rights violations.

### Beginnings

As early as Thomas Jefferson's 1776 Declaration of Independence, Americans discussed their "rights" and those of others. Jefferson wrote that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."<sup>1</sup> His declaration signaled a commitment to individual as opposed to group or collective rights and revealed an understanding of rights as "natural" rather than the province of governments to extend.

Concerns about human rights received greater, if uneven, attention after the establishment of the United Nations (UN) in 1945. Early in the post-World War II era, US officials were engaged in ensuring that human rights were a part of the UN and in shaping the organization's most significant articulation of those rights.<sup>2</sup> The 1945 UN Charter mentioned human rights in several places, and human rights became one element of the UN's mission. Historian Amanda McVety writes that US policymakers active in shaping the postwar world "had been taught that they should do something in the face of human suffering."<sup>3</sup> In the preceding years, President Franklin D. Roosevelt's speeches had served to popularize the concept of human rights. For example, Roosevelt said, "Freedom means the supremacy of human rights everywhere."<sup>4</sup> According to historian William Hitchcock, Roosevelt sought an order "based not only on individual liberties but also on collective responsibility for other human beings."<sup>5</sup> Roosevelt, along with allies in Latin America and the British Commonwealth, pressed for human rights to be included in the proposals for the Dumbarton Oaks conference that set up the UN.<sup>6</sup>

The United States played a significant role in shaping early practical UN human rights commitments. US officials had begun working on an international bill of rights as early as 1942.<sup>7</sup> In addition, through its delegate, former first lady Eleanor Roosevelt, the United States made a significant contribution to the development of an international human rights regime and the country's own acceptance of such a program. Legal scholar Mary Ann Glendon argues that Eleanor Roosevelt was essential to US acquiescence to the idea of including social and economic rights in the UN Universal Declaration of Human Rights.<sup>8</sup> Roosevelt played a substantial role as the UN Human Rights Commission worked to draft a document that outlined international human rights norms and protected individual freedoms. The United States committed a high-level figure who explicitly conjured Franklin Roosevelt's ideals because both the UN and the liberal postwar order that American officials hoped the UN could create were central to US foreign policy objectives in the late 1940s.

### The primacy of the Cold War

Within the United States, attention to human rights questions was overtaken by worsening Soviet-American relations and the anticommunism that spread in the country in the aftermath of the war.<sup>9</sup> Dwight D. Eisenhower's administration argued it would pursue its human rights strategy through, as Secretary of State John Foster Dulles put it, "persuasion, education and example rather than formal undertaking" such as an international treaty.<sup>10</sup> The Bricker Amendment controversy ended US 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 might commit the United States to international treaties that would contravene the US Constitution. Bricker wanted to guard against international treaties being self-executing, or put another way, he wanted a requirement that the US Congress pass legislation implementing all international treaties and executive agreements. 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.<sup>11</sup>

Support for the Bricker Amendment was firmly rooted in opposition to human rights treaties and international institutions more broadly, a position shaped by Cold War politics and desires to maintain racial discrimination.<sup>12</sup> Proponents of the Bricker Amendment were concerned that executive agreements, international human rights treaties, and the entire UN structure might enable the spread of communism domestically as well as present threats to American sovereignty.<sup>13</sup> Despite a wide range of civic support for UN conventions, the treaties' opponents succeeded in labeling them "un-American." Although Bricker's amendment failed to gain the two-thirds support required, the United States did not prioritize human rights in any way during the Eisenhower years as the issue did not align with US interests, threatened executive branch power, and had limited support among activists.

### A new approach to human rights

Signaling a rhetorical shift from the Eisenhower years, President John F. Kennedy included the term "human rights" in his 1961 inaugural address, declaring that a new generation of Americans were "unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world."<sup>14</sup> Yet Kennedy's policies never fulfilled the broad promises of his speech. Ongoing struggles for civil rights at home and other factors limited US attention to human rights abroad. The high stakes of the Cold War also meant that human rights considerations were often overlooked in favor of pressing national security priorities.

In terms of appearances, Kennedy's approach differed significantly from Eisenhower's. Kennedy submitted three UN conventions to the Senate for ratification, paid attention to political prisoners in Cuba, put pressure on South Korea to end military rule, imposed an arms embargo against South Africa, and worked to avoid a declaration of independence by Rhodesia.<sup>15</sup> In these efforts, Kennedy was primarily motivated by Cold War considerations; in these cases supporting human rights claims aligned with broader US foreign policy goals. For example, US official William J. vanden Heuvel urged a greater focus on Cuban human rights violations:

By concentrating the spotlight on the refugees and the 50,000 political prisoners in Castro jails, we would remind the world that another Police State has been created which is capable of all of the torture and brutality which this century has symbolized.<sup>16</sup>

As early as his 1960 presidential campaign, Kennedy took several steps to publicize the different approach he would bring to US policy toward Africa, including highly publicized meetings with African leaders and funding African students' travel to the United States. Kennedy wanted to gain liberal and African American support for his campaign, but he also had larger Cold War priorities: Africa could be a new opportunity for the expansion of US influence.<sup>17</sup> According to historian Roland Burke, "Decolonization initiated a global human rights debate," driving attention to apartheid, racial discrimination, and anticolonialism.<sup>18</sup> Given its trade and strategic interests, the Kennedy administration initially expressed its opposition to apartheid through rhetorical and symbolic measures, such as integrating social functions at American facilities in South Africa.<sup>19</sup> The government also came under external pressure to withdraw military and political support of the South African government.<sup>20</sup> In the middle of 1963, the US government decided to stop selling arms to South Africa to avoid damage to its relations with black African nations. Kennedy's attention to human rights in these cases demonstrates the public diplomacy considerations that shaped US policy as well as the readiness with which the United States incorporated human rights as a consideration when it aligned with other goals.

President Lyndon B. Johnson made great strides domestically with the Civil Rights Act and Voting Rights Act, but internationally his attention to Vietnam crowded nearly all other issues out of the picture, which meant that human rights rarely aligned with Johnson's policy agenda. One exception was the US response to the crisis over Rhodesia's unilateral declaration of independence from Great Britain in 1965, intended to ensure the continuation of white minority rule.<sup>21</sup> That event heightened American and international attention to human rights issues during Johnson's presidency. In response to white leader Ian Smith's unilateral declaration of independence, the United States withheld recognition of his government, recalled the American consul, shelved its US Information Agency activity, froze loans and credits to Smith, opposed American travel to Rhodesia, and demanded that those who did travel there have British visas. In addition, the United States imposed an embargo against shipments of military equipment and arms, encouraged American businesses to cease dealings with Rhodesia, and suspended sugar imports from the territory. Furthermore, the United States and Great Britain supported ending the shipment of oil and petroleum products to Rhodesia.<sup>22</sup> As with Kennedy, all of these efforts aligned with other national interests. Johnson's administration highlighted its stance on Rhodesia when it sought to appeal to newly independent African governments. Furthermore, American activists such as civil rights leader Martin Luther King, Jr. and Roy Wilkins, Executive Director of the National Association for the Advancement of Colored People (NAACP), pressed the administration to act against racial discrimination.<sup>23</sup> Their assessment of Johnson's domestic and foreign policy records was important to the president.

In the aftermath of the 1967 Greek *coup d'état*, the Johnson administration condemned the nature of the Greek regime, repeatedly inquired with the junta about the fate of political prisoners, and implemented an embargo against heavy military exports to Greece. However, it did not actively oppose the new leaders, despite their attack on Greek democracy. Even the selective embargo, implemented in May 1967, was later lifted due to Greece's place in the North Atlantic Treaty Organization (NATO) alliance, showing that when it came to human rights violations in Greece, broader Cold War foreign policy concerns carried more weight.<sup>24</sup> Activists outside of government and in the US Congress sought to toughen the US response; however, the Johnson and Nixon administrations stifled efforts to end military assistance to Greece.

Richard Nixon's administration confronted a series of human rights decisions in its first term due to growing congressional, diplomatic, and nongovernmental pressure. Yet championing human rights considerations over other priorities did not fit Nixon's conception of US foreign policy. Therefore, when the Nixon administration had to decide whether to continue the selective embargo Lyndon Johnson had implemented in May 1967, due to concerns that stemming the flow of military aid to Greece could weaken the NATO alliance, it resumed full military assistance. In formulating US policy toward Rhodesia, Nixon supported easing Johnson-era sanctions by allowing the import of chrome to the United States. Such a step aligned with Nixon's broader efforts to pursue what it regarded as a more balanced approach toward southern Africa but left the United States noncompliant with UN sanctions against Rhodesia.<sup>25</sup>

As Nixon devised his policy of détente toward the Soviet Union, he chose to minimize concerns about Soviet human rights abuses and privileged instead arms control, trade, and other agreements with the Soviets. According to Secretary of State Henry Kissinger, although "the United States always stands for human liberty, for individual rights, for freedom of movement, and for freedom of the person ... the United States has to conduct foreign policy with many nations around the world."<sup>26</sup> In Nixon's and Kissinger's views, interfering on behalf of Soviet Jews would be akin to the Soviets intervening in race relations in the United States. Speaking about Soviet dissident Andrei Sakharov in his confirmation hearings to become Secretary of State, Kissinger conceded that he may have been "moved as an individual" by the scientist, but questioned "whether the principal exercise of our foreign policy should be directed toward affecting the foreign policy of those societies."<sup>27</sup> Nixon's successor Gerald Ford would later come under increasing pressure to address the plight of Soviet Jews. Despite his continuing commitment to negotiating with the Soviets, he ultimately signed legislation that included the 1974 Jackson-Vanik Amendment, which had the effect of limiting Soviet-American trade.

Wide-scale repression in Chile in the wake of the September 1973 coup focused many Americans, if not always those in the White House, on human rights in the years that followed.<sup>28</sup> The Chilean case, which captured American attention in part due to the murder of two US citizens in the early days of the coup, fit within a broader framework of US leaders privileging right-wing violence over human rights in Latin America. In this context, Secretary of State Henry Kissinger maintained that human rights violations were internal matters in which the United States should not intervene. Given such priorities, he even admonished one ambassador, whom he viewed as pressing the issue too forcefully, to "cut out the political science lectures."<sup>29</sup> An alliance between members of Congress and nonstate actors, however, produced legislation that signaled Americans' concerns about human rights violations in Chile. For example, Senator Ted Kennedy (D-MA) attached an amendment to the 1976 International Security Assistance and Arms Export Control Act that banned any shipment of US manufactured weapons to Chile in effect ending all military assistance, credits, and cash sales of military equipment to Chile.<sup>30</sup>

In some ways, rather than discussing President Ford as having a human rights policy, it is more appropriate to talk about Secretary of State Henry Kissinger's policy, as he clearly was the architect of US human rights policy and the greatest obstacle to more significant executive branch activism on the issue.<sup>31</sup> Kissinger resisted pressure from many sides to take greater account of human rights violations in formulating US foreign policy. Whether from conservative democrats who disagreed that the pursuit of détente

should trump the plight of Soviet Jews, or liberals in Congress who recoiled at US complicity in the coup in Chile, Kissinger's leadership was often questioned, yet he remained firm almost to the end of Ford's presidency that human rights were not a matter of concern in US foreign policy. The existing documentary record shows that the Ford administration, like the two that preceded it, was unwilling to incorporate concerns about human rights into foreign policy unless those concerns explicitly supported other foreign policy objectives. Such intransigence inspired growing activism among actors in the legislative branch and outside of government.

### Democratization of US policymaking

In the late 1960s and early 1970s, two factors shaped growing American attentiveness to human rights in the formulation of US foreign policy during the late Cold War: congressional activism and the influence of nonstate actors such as organizations devoted to protecting human rights. The growing influence of these two constituencies, particularly on human rights, marked a meaningful shift in US foreign policy formulation. In Congress, a campaign for increased consideration of human rights in US foreign policy was led by Representative Donald M. Fraser, a Democrat from Minnesota who began publicly questioning the morality of US foreign policy in the 1960s.<sup>32</sup> Fraser believed the Cold War framework inhibited consistency between American morality and the government's foreign policy; his calls for greater attention to human rights were part of an effort to develop a new approach to relations with the wider world. As head of the House Foreign Affairs Subcommittee on International Organizations and Movements, Fraser organized a series of hearings in 1973 and ultimately pressed a number of measures that forced the US government to take greater account of human rights when formulating and executing its foreign policy. Explaining his support for human rights, Fraser suggests that by emphasizing the issue in foreign policy, the United States would be "consistent with [its] values."<sup>33</sup>

After 15 sessions in which more than 40 witnesses testified, the subcommittee drafted a report entitled "Human Rights in the World Community: A Call for US Leadership." The report made a series of suggestions, many of which were eventually implemented. First, the subcommittee formulated ideas about how Congress could enhance US support for human rights internationally. In its report, the subcommittee pressed the State Department to "treat human rights factors as a regular part of US foreign policy decision-making" and advocated greater US attention to human rights in its foreign policy.<sup>34</sup> In addition, it outlined a range of tactics the United States could use to influence governments to end abuse of human rights, such as discreet bilateral conversations, public efforts in international organizations, and ending military and economic assistance.

The subcommittee's report advocated reorganizing the State Department to better equip it to consider human rights as an element of US foreign relations. First, it suggested the establishment of an Office for Human Rights in the Bureau of International Organization Affairs. Second, it proposed designating a human rights officer in each regional bureau in the Department. Third, the subcommittee urged the Department to appoint an assistant legal adviser on human rights and form an Advisory Committee on Human Rights.<sup>35</sup> Despite its resistance to Fraser's hearings, the State Department tried to anticipate and blunt the subcommittee's suggestions by making administrative changes before the report's release. Within several months of the report the State Department

had designated someone in the UN Political Affairs office to be in charge of human rights, appointed an assistant legal advisor for human rights, and selected human rights officers in three regional bureaus.<sup>36</sup> The next year State Department official James M. Wilson, Jr. became coordinator for humanitarian affairs.

There were several key consequences for US human rights policy following the subcommittee's report. First, members of Congress interested in human rights increasingly shifted their focus to curbing US military assistance to repressive governments. Congressional concern reached a decisive point in September 1974 when 104 members of Congress wrote to Kissinger, suggesting declining support in the House for military assistance to authoritarian regimes. They wrote:

In the absence of extraordinary circumstances, we do not believe that long-term U.S. foreign policy interest are served by maintaining supportive relationships with oppressive governments, especially in the military field, since military power is directly associated with the exercise of governmental control over the civilian population.

Unless U.S. foreign policies – especially military assistance policies – more accurately reflect the traditional commitment of the American people to promote human rights, we will find it increasingly difficult to justify support for foreign aid legislation to our constituents.<sup>37</sup>

In the aftermath of the subcommittee's hearings, Congress took incremental steps to try to curb assistance to repressive governments.<sup>38</sup> Congress passed Section 32 of the Foreign Assistance Act of 1973, which stated: "It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes."<sup>39</sup> State Department officials criticized Section 32 as a "one-time thing" that did not allow the United States to maintain leverage with repressive governments and as unhelpful given the lack of definition of political imprisonment.<sup>40</sup> Congress therefore included far more specific language in the subsequent year's legislation. Section 502B of the 1974 Foreign Assistance Act stipulated:

Except under extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights. Those violations are defined to include torture; cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty and security of person.<sup>41</sup>

The executive branch was able to circumvent 502B, however, by determining that human rights violations did not rise to the level of "gross violations" or that when there were significant human rights abuses, they did not constitute a "consistent pattern."<sup>42</sup> Between November 1974 and November 1975, no country had its military aid or sales stopped due to 502B.<sup>43</sup> As one scholar has put it, 502B is a "case study of executive frustration of congressionally mandated foreign policy."<sup>44</sup> As Fraser later wrote, "We might as well have opened the barn door and let the horses out right there! The Nixon-Ford administration walked right through that door."<sup>45</sup> US policy regarding human

rights finally shifted because members of Congress, supported by nonstate actors, were committed to attention to the issue as a key component of US foreign policy.

The State Department began adopting a more proactive approach, including requesting in January 1975 reports on human rights violations from embassies abroad.<sup>46</sup> Yet the State Department under Ford and Kissinger did not send Congress individual reports on the human rights records of countries receiving military assistance in 1975, as members of Congress had been expecting.<sup>47</sup> Using language that particularly angered congressional supporters of human rights legislation, State Department officials declared: "We have found no adequately objective way to make distinctions of degree between nations."<sup>48</sup>

In response, Congress passed Section 301 of the International Security Assistance and Arms Export Control Act of 1976, which tightened the language in 502B to make the reporting mandatory. Ford vetoed the law, forcing Congress to pass a weakened version to secure a presidential signature.<sup>49</sup> Furthermore, the Harkin Amendment, or Section 116 of the International Development and Food Assistance language of the Foreign Assistance Act of 1961, prevented the extension of economic aid to governments that engaged in gross violations of human rights "unless such assistance will directly benefit the needy people of such country."<sup>50</sup> In the wake of stricter legislative language, the State Department and Congress worked together more successfully on monitoring human rights.

### The beginning of a human rights movement

As human rights activist Aryeh Neier has put it, "the overwhelming majority of the world's national and local organizations promoting human rights have been established since the last half of the 1970s."<sup>51</sup> Within the United States, these include the Lawyers Committee for International Human Rights, now known as Human Rights First, which formed in 1976, and Helsinki Watch, the precursor to Human Rights Watch, established in 1979. Their proliferation was due in part to globalization. Ongoing innovations in telecommunications and information technology facilitated greater nongovernmental activism on human rights, and human rights violations were "more visible" in a globalized world.<sup>52</sup> Specifically, the lower cost of international travel facilitated human rights activists' ability to engage in contacts across national and East-West borders.<sup>53</sup> New trends in the dissemination of information domestically and transnationally also played an important role. Because ideally the information produced by human rights activism spurred government action to advance the human rights agenda, the collection of information about human rights abuses was a critical component of human rights campaigns.<sup>54</sup> In addition, private foundations such as the Ford Foundation increasingly supported human rights activism beginning in the 1970s, which put more resources at activists' disposal.<sup>55</sup> The power of these activists still was linked to the extent to which their concerns aligned with administration priorities.

Jimmy Carter's inauguration ushered in greater high-level attention to human rights. Carter championed human rights in his speeches and spoke out about human rights abuses in Argentina, the Soviet Union, and Uganda.<sup>56</sup> In addition to his rhetorical focus, Carter made personnel appointments that signaled a commitment to human rights, including naming civil rights activist Patricia Derian to be Assistant Secretary of State for Human Rights and Humanitarian Affairs. Most famously, Carter exchanged correspondence with

the Soviet dissident Andrei Sakharov, but his actions did not stop there. His policy of publicly pointing out human rights violations, the issue's salience in Cold War competition with the Soviets, and an upsurge in Soviet repression meant the White House and State Department responded to many reports of abuses. Indeed, Carter's first months in office produced extensive administration commentary on Eastern European human rights cases. The United States responded to the arrest of Soviet dissident Yuri Orlov, to accusations that Jewish refusenik Anatoly Shcharansky had worked for the Central Intelligence Agency, and to the arrests and trials of Jewish refuseniks Ida Nudel and Vladimir Slepak.<sup>57</sup>

Soon after the election, the Carter administration commissioned a review of the role of human rights in US foreign policy, which would determine how the government responded to human rights abuses internationally. By July 1977, a Presidential Review Memorandum was drafted, delineating the administration's view of three types of human rights: freedom from government intervention such as wrongful arrest, torture, and false imprisonment; the right to food, shelter, medical care, and education; and civil and political rights. The administration's broad articulation of human rights is notable given that observers have suggested that Western leaders ignored social and economic rights during the Cold War.<sup>58</sup> It also outlined the US human rights strategy abroad: to emphasize American morals and virtue, spread the rule of law, and support and expand democratization efforts in the Soviet Union and Eastern Europe.<sup>59</sup> According to the memorandum's drafters, however, the Carter administration needed to be careful not to single out particular countries and instead to emphasize the global nature of its focus. The Presidential Review Memorandum signaled a shift in tactics and illustrates the administration's recognition that vocally supporting human rights was imperiling other significant priorities such as détente and arms control negotiations.

Despite policy advice that Carter adopt a balanced, global approach to human rights, many contemporary and subsequent observers have criticized inconsistencies in his approach. Similar to Kennedy, Johnson, Nixon, and Ford, Carter was episodic in his protection of human rights internationally and often prioritized Cold War concerns.<sup>60</sup> In particular, critics have charged that for geopolitical reasons that Carter administration did not subject the human rights records of, for example, Romania, Cambodia, Iran, South Africa, Indonesia, and China to sufficient scrutiny.<sup>61</sup> His complicated relations with the Shah in Iran and Anastasio Somoza in Nicaragua also raised questions about the consistency and consequences of Carter's policies.

Ronald Reagan criticized Carter's policy on human rights during the 1980 campaign, and upon taking office, his administration sought to transform the US approach to human rights.<sup>62</sup> It shifted emphasis to express concern about international terrorism. The Reagan administration charged that Carter's policy had not improved human rights and had neglected US national interests.<sup>63</sup> In his published memoirs and private diaries, Ronald Reagan said relatively little about human rights.<sup>64</sup> Yet, in the assessment of Kathryn Sikkink, "No human rights policy in U.S. history was more hotly contested in its time, or is more controversial today, than the practices and legacy of the Reagan administration."<sup>65</sup> In my view, this controversy is due to the strong influence of Reagan's anticommunism in shaping his approach to human rights. This was not inconsistent with previous presidents' approaches, but his willingness to overlook human rights abuses in Central America, South Africa, and the Philippines for Cold War aims frustrated many observers.

In some regions, such as Central America, the Reagan administration justified devastating human rights violations in the name of preventing the spread of communism.<sup>66</sup> In the assessment of Hauke Hartmann, the Reagan administration “hijacked” the Carter administration’s emphasis on human rights to fit its conservative emphasis on “democratization.”<sup>67</sup> In other spheres, particularly the Soviet Union and Poland, Reagan spoke forthrightly and repeatedly in defense of human rights activists and against repression in the Soviet bloc.<sup>68</sup> Finally, in a number of cases like South Africa, the Philippines, and Chile, the Reagan administration’s stance evolved. The degree of credit that should be given to the US government for changes in those countries is often refracted through a political lens.<sup>69</sup> Those who attribute great significance to Reagan’s support for human rights in these cases often overlook the degree to which Reagan came late or unwillingly to the cause.<sup>70</sup> Overall, however, Reagan’s record is difficult to characterize neatly, which is one of the reasons his policy remains so contested today.

### Human rights after the Cold War

As the political scientist John W. Dietrich wrote, at first “The end of the Cold War and other contemporaneous shifts appeared to finally remove all the long-standing limitations on U.S. human rights policy.”<sup>71</sup> Early signals of a new US approach included heightened rhetoric, increased humanitarian interventions such as in the former Yugoslavia, greater participation in international treaties, and domestic legislation such as the Leahy Law, which prevents assistance to military units that commit gross violations of human rights. Yet trade, antiterrorism, and the weakness of nongovernmental actors all limited a transformation of US human rights policy.<sup>72</sup> The approach of the US government, which ignored human rights violations in China and Rwanda and only acted in Bosnia when its reputation was threatened, therefore was highly consistent regardless of the Cold War context.

George H. W. Bush and his aides were less concerned with reforming the human rights practices of communist regimes than their predecessors had been, prioritizing stability over transformation. This shift was likely due to individual preferences. For example, neither his published writings nor his diary entries suggest human rights violations were a significant concern.<sup>73</sup> In addition, Bush’s chief foreign policy aide Brent Scowcroft had been skeptical of emphasizing human rights as a priority in US foreign policy since the 1976 election.<sup>74</sup>

Thus, it is not surprising that Bush and his advisers did not see ethnic cleansing in Bosnia as warranting US intervention. It is telling that there is no entry for Bosnia in Bush’s co-written memoirs with Scowcroft. After the outbreak of civil war there in 1992, Secretary of State James Baker asserted that the United States did not “have a dog in this fight.”<sup>75</sup> Political scientist Jon Western has argued that the first Bush administration intervened in Somalia due to mounting pressure on the United States to respond to the crises there and in Bosnia. In the midst of the 1992 presidential election, demands on the administration to act intensified, and officials made a tactical decision, as Western puts it, that “if the United States was going to intervene, it would be in Somalia – not in Bosnia” because the US military perceived the former as the easier operation.<sup>76</sup>

Bush was similarly reluctant to react to the brutal suppression of demonstrators in China’s Tiananmen Square in June 1989. In the aftermath, his objective was to disavow Chinese actions without sacrificing the overall Sino-American relationship. Bush decided

to target the Chinese army with his reprisals by suspending military sales and contacts.<sup>77</sup> Many members of the US Congress, the American public, and international leaders supported more far-reaching sanctions. Controversially, Scowcroft and Deputy Secretary of State Lawrence S. Eagleburger traveled to China the next month in secret, raising questions about the degree of the Bush administration’s concern with the Chinese crackdown. Relations with China were controversial for the remainder of President Bush’s term.

As Yugoslavia disintegrated in the early 1990s, nearly 300,000 people were killed. The new Clinton administration struggled to formulate an approach to Bosnia; Secretary of State Warren Christopher called it “the problem from hell.”<sup>78</sup> US officials focused more closely on Bosnia in the wake of the murder of over 7,000 Muslims in the UN safe haven of Srebrenica in July 1995. The following month a devastating attack on a Sarajevo market further drew attention to Western inaction. The two attacks, which made the United States and NATO look impotent, finally led to more forceful action. The NATO bombardment, seen as essential to maintaining NATO and American credibility, pushed the warring parties to negotiate. On 21 November 1995, after 20 days of nonstop negotiations at Dayton Air Force Base in Ohio, all sides reached a peace agreement.

In the span of several months in the spring and summer of 1994, Rwanda, a small country in southern Africa, became the site of a staggering genocide. As many as 1 million Rwandans were killed. Although the United States, Italy, France, and Belgium undertook military operations to evacuate their foreign nationals, they did not intervene to stop the violence in Rwanda because acting to arrest the killings was not seen as in alignment with the Clinton administration’s priorities. As Holly Burkhalter put it, “Washington was strangely silent” in the first weeks of the killings in Rwanda.<sup>79</sup> The US hesitation was shaped by the trauma of its recent intervention in Somalia, where 18 US soldiers had died. The United States subsequently outlined conditions for its future involvement in UN peacekeeping missions, and these conditions were not met in the case of Rwanda.

### Human rights and the War on Terror

The terrorist attacks on 11 September 2001 shattered any remaining hopes that the end of the Cold War might usher in a new approach to human rights in US foreign policy. As the country confronted nearly 3,000 deaths, George W. Bush’s administration developed a multipronged approach that included a willingness “to work sort of the dark side,” as Vice President Dick Cheney put it the following week.<sup>80</sup> Not only did human rights considerations not figure prominently in US foreign policy under the second Bush administration, but the United States became a human rights violator as well. The Office of Legal Counsel determined that the Geneva Convention protections did not apply to Taliban, al Qaeda, or other terrorists held in captivity.<sup>81</sup> They were so-called unlawful enemy combatants and not prisoners of war. Later that year, the Office of Legal Counsel defined torture as an act that causes pain akin in “intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death.”<sup>82</sup> Interrogators at the US detention facility in Guantanamo Bay, Cuba 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, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing.<sup>83</sup> In addition, the United States subjected suspected terrorists to “extraordinary rendition,” which transferred them to foreign governments, including those known to torture suspects and sent detainees to secret prisons, often referred to as “black sites.”<sup>84</sup>

Over Bush’s two terms, US human rights policy became increasingly controversial. Notably and in contrast to earlier administrations, in Bush’s case it was US human rights abuses, rather than support for foreign governments engaging in human rights violations, that was of concern. The lack of due process accorded detainees, the use of torture against prisoners at Guantanamo, and the indefinite nature of detentions made the prison a target for human rights activists, legal scholars, and critics of the US war on terror. Furthermore, a 2014 Senate report 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 torture had led instead to false confessions and inaccurate information.<sup>85</sup> Other observers have emphasized that US torture under the Bush administration weakened national security, including by serving as a recruiting tool for terrorists.<sup>86</sup>

Human Rights Watch Executive Director Kenneth Roth outlined a range of steps that the new Obama administration could take to signal a renewed American commitment to human rights, including closing CIA black sites, ending the use of torture, investigating human rights abuses by US personnel, and closing the prison at Guantanamo Bay.<sup>87</sup> Shortly after his inauguration, Obama and his aides pronounced new policies, many of which aligned with Roth’s suggestions, including the closure of the CIA’s secret prison system, an expressed commitment to the Geneva Convention, adherence to the military’s interrogation rules, and a promise to close the detention center at Guantanamo Bay. Yet Obama did not succeed in closing the prison, and his failure to end detention at Guantanamo Bay was one of a number of elements of Obama’s record that led some disappointed observers to charge that Obama’s approach to human rights was more rhetorical than real.<sup>88</sup> To some, the president’s commitment to “principled pragmatism” regarding human rights looked and sounded as if his administration did not prioritize commitment to human rights.<sup>89</sup> Furthermore, the expansion of the US drone warfare program led to the deaths of many innocent civilians over Obama’s two terms.<sup>90</sup> Despite nongovernmental pressure, his administration did not modify its practices. Yet the Obama administration also broadened the definition of human rights championed by the United States. National Security Adviser Susan Rice asserted that the administration had supported LGBTQ activists internationally and worked to protect the rights of LGBTQ Americans, which were in line with Obama’s enhanced attention to such rights in his second term.<sup>91</sup>

Examining the attention to human rights given by US foreign policy in the years since 1945 demonstrates a growing consideration of the issue. Largely fueled by external pressure from members of Congress, nongovernmental organizations, and concerned citizens, US presidents and their aides increasingly had to evaluate human rights considerations when making decisions about foreign assistance, rhetorical support or condemnation, or more forceful actions such as military intervention. Yet perhaps not surprisingly, the US government rarely prioritized human rights unless doing so aligned with other policy objectives. Studying US human rights policy formulation illuminates means by which activists can shape other governments’ approaches.

## Notes

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- 12 Natalie Hevener Kaufman and David Whiteman, “Opposition to Human Rights Treaties in the United States Senate: The Legacy of the Bricker Amendment,” *Human Rights Quarterly*, 1988, vol. 10, 310, 318; Hanne Hagtvedt Vik, “The United States, the American Legal Community and the Vision of International Human Rights Protection,” 1941–1953, PhD diss., University of Oslo, 2009, p. 10; Evans, “Hegemony,” 626; and Kaufman, *Human Rights Treaties*, p. 24. Other scholars interpret the Bricker amendment controversy as rooted in isolationist tendencies rather than concerns about maintaining segregation or other conservative rationales for supporting the amendment. Nolan, “The Last Hurrah,” 337; and Duane A. Tananbaum, “The Bricker Amendment Controversy: Its Origins and Eisenhower’s Role,” *Diplomatic History*, 1985, vol. 9, no. 1, 81.
- 13 Nolan, “The Last Hurrah,” 338–9; Tananbaum, “The Bricker Amendment Controversy,” 75, 79; and Kaufman, *Human Rights Treaties*, pp. 9, 38, 62, 112.
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  - 26 Nomination of Henry A. Kissinger, Hearings before the Senate Committee on Foreign Relations, 93rd Congress, 1st Session, 11 September 1973, p. 116. Online. Available at <https://babel.hathitrust.org/cgi/pt?id=uc1.b5148892;view=1up;seq=24> (accessed 26 December 2018).
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  - 31 The Nixon administration may have been a degree less engaged on human rights because the Nixon Doctrine involved relying on second-tier, often authoritarian, powers to maintain regional security. Daniel J. Sargent, *A Superpower Transformed: The Remaking of American Foreign Relations in the 1970s*, New York: Oxford University Press, 2015, p. 69. We can, however, identify some shifts in US policy over the Ford years. Whether the result of new legislation, the dynamics of a presidential campaign, or a different president in the White House, the Ford administration paid more attention to human rights than the Nixon administration had. According to David Forsythe, Ford, as a member of Congress, had “strongly supported human rights across the board.” David P. Forsythe, *Human Rights and U.S. Foreign Policy: Congress Reconsidered*, Gainesville: University of Florida Press, 1988, p. 150.
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  - 39 Foreign Assistance Act 1973, 93rd Congress, 1st Session. In April 1974, the State Department asked for widespread reporting on the treatment of political prisoners from its embassies.
  - 40 University of South Dakota, Vermillion, South Dakota, University Libraries, Archives and Special Collections, James G. Abourezk Papers (hereafter USD UL Abourezk Papers), Box 312, Folder 5, Ingersoll to Morgan, 27 June 1974 and Ingersoll to Morgan, 28 July 1974; Department of State, *Foreign Relations of the United States, 1969–1976, Volume E-3, Documents on Global Issues, 1973–1976*, Washington, DC: Government Printing Office, 2009, Document 240; and Fiscal Year 1975 Foreign Assistance Request, 4, 5, 11, 12, 13, 18, 19, 20, 26 June and 1, 2, 10, 11 July 1974, 93rd Congress, 2nd Session. For further discussion of Abourezk and his amendments, see Barbara J. Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s*, Cambridge, MA: Harvard University Press, 2014, pp. 133–40. See also Clair Apodaca, *Understanding U.S. Human Rights Policy: A Paradoxical Legacy*, New York: Routledge, 2006, p. 35.
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  - 42 Clair Apodaca, “U.S. Human Rights Policy and Foreign Assistance: A Short History,” *Ritsumeikan International Affairs*, 2005, vol. 3, 66, and Stephen B. Cohen, “Conditioning U.S. Security Assistance on Human Rights Practices,” *American Journal of International Law*, 1982, vol. 76, no. 2, 268.
  - 43 Cohen, “Conditioning U.S. Security Assistance,” 252.
  - 44 Cohen, “Conditioning U.S. Security Assistance,” 277. Forsythe argues that general human rights legislation is not useful because “the votes are not there to force the executive to follow the letter – or indeed some times even the spirit – of the laws adopted.” David P. Forsythe, “Congress and Human Rights in U.S. Foreign Policy: The Fate of General Legislation,” *Human Rights Quarterly*, 1987, vol. 9, no. 3, 382.
  - 45 Donald M. Fraser, “Human Rights and U.S. Foreign Policy: Some Basic Questions Regarding Principles and Practice,” *International Studies Quarterly*, 1979, vol. 23, no. 2, 179.
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## PART IV

AFTER FORMAL EMPIRE AND  
THE COLD WAR

How human rights are practiced around  
the globe (1980s–2001)