

CHAPTER 31

THE TRUMP ADMINISTRATION'S INSIDIOUS APPROACH TO HUMAN RIGHTS

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As Donald J. Trump took office on January 20, 2017, observers expected little from his administration's human rights policy—traditionally the extent to which government officials take account of human rights violations and protections as they formulate foreign policy. Specifically, few anticipated that the administration would weigh the human rights records of foreign governments as it determined military and economic assistance, formal as well as informal alliances, and high-level visits. The prospect of such an approach raised concerns, as it would have represented a break from decades of U.S. foreign policy. The administration's record ultimately exceeded anxious speculation—not only was the United States largely unconcerned with the protection of human rights internationally, but also observance of human rights in the United States was undermined in many ways, and the administration laid a foundation for drastically revising American human rights commitments had the president won a second term. Many Americans have long conceived of human rights violations as an external phenomenon, but during the Trump presidency, human rights were under assault at home and abroad.

In many ways, the Trump administration pursued a “values-free foreign policy,” driven by a primarily transactional view of international relations.¹ One of the principal reasons Trump was not guided by ideas in his foreign policy formulation was that, in contrast to his predecessors, the president did not subscribe to the idea of American exceptionalism. Trump's antiexceptionalist vision manifested itself in a reluctance to criticize other leaders and an affinity

for dictators such as Russia's Vladimir Putin, the Philippines' Rodrigo Duterte, and Turkey's Recep Tayyip Erdoğan.² Defending his admiration for Putin, Trump told Fox News host Bill O'Reilly, "We have a lot of killers . . . you think our country is so innocent?"³

Trump's first secretary of state, Rex W. Tillerson, embraced the president's transactional approach to foreign policy, and specifically the ways in which attention to human rights could inhibit the advancement of a narrow conception of American interests. Later, Trump's second secretary of state, Mike Pompeo, pursued selective attention to human rights, largely focused on issues of interest to him and his evangelical Christian brethren, and he undertook an effort, motivated by those beliefs, to reframe how the United States defined human rights.

Although during his confirmation hearings Tillerson had said that "Our approach to human rights begins by acknowledging that American leadership requires moral clarity. We do not face an 'either or' choice on defending global human rights. Our values are our interests when it comes to human rights and humanitarian assistance," most other early signals did not assuage the concerns of human rights observers.⁴ For example, in the White House, new nomenclature on Trump's National Security Council suggested a downgrading of attention to human rights: the term was deleted from a special assistant's title.⁵ Similarly, in his first year as secretary of state Tillerson did not attend the State Department's rollout of its annual reports on individual countries' human rights records. His absence, which broke with the precedent of his Democratic and Republican predecessors, drew rebukes and the claim that Tillerson's actions indicated a downgrading of attention to human rights at the State Department.⁶

Tillerson declared his position on human rights and his support for Trump's brand of transactional foreign policy in his first remarks to State Department employees in May 2017. In a seeming direct refutation of his comments during his confirmation hearings, he argued that advancing "values" "creates obstacles to our ability to advance our national security interests, our economic interests."⁷ Balancing values and national security, as Tillerson framed it, is a challenge that has confronted U.S. administrations for decades. But rarely had a president or his secretary of state argued that human rights had no place at all in U.S. policy.

We now know that Tillerson's remarks led to an effort to educate the secretary on the intersection of human rights and U.S. foreign policy. State Department Policy Planning Staff director Brian Hook drafted a memo, entitled "Balancing Interests and Values," which offered a rationale to Tillerson for some increased attention to human rights. Hook argued that the United States did not face a choice between interests and values in connection with its adversaries; he wrote, "We do not look to bolster America's adversaries overseas; we look

to pressure, compete with, and outmaneuver them. For this reason, we should consider human rights an important issue in regard to U.S. relations with China, Russia, North Korea, and Iran.” He concluded, “Pressing those regimes on human rights is one way to impose costs, apply counter-pressure, and regain the initiative from them strategically.”⁸

Trump’s potential inattention to human rights could have been mitigated, as when President Ronald Reagan tried to downgrade attention to human rights upon assuming office. Along with many members of his new administration, Reagan had criticized elements of Jimmy Carter’s human rights policy before entering the White House, charging that Carter had not improved human rights meaningfully and had neglected the U.S. national interests. Furthermore, Reagan’s aides suggested at the outset of his presidency that Reagan wanted to emphasize spreading democracy and defeating terrorism rather than championing human rights.

After the withdrawal of Reagan’s first nominee for assistant secretary of state for human rights and humanitarian affairs in the face of widespread congressional and public opposition, the administration recognized the salience of human rights, and the White House worked to convey its concern for the issue to Congress, the American public, and an international audience.⁹ The administration learned from the experience, appointed a new candidate who garnered unanimous support, and leaked parts of a State Department memorandum entitled “Reinvigoration of Human Rights Policy,” which stated, “human rights is at the core of our foreign policy.”¹⁰ More significantly, when George Shultz replaced Alexander Haig as secretary of state, he proposed greater U.S. attention to human rights in its bilateral relations with the Soviet Union and made human rights one of the four points on the agenda he formulated for all subsequent discussions with the Soviet Union.¹¹

In the months following Tillerson’s speech, there were some signals that the Trump administration might follow a pattern similar to Reagan’s. The secretary sought to assure critics that he recognized the significance of human rights and would advance the issue internationally. He publicly presented a report on human trafficking, noting the ways in which it threatened national security and victimized “the most vulnerable.”¹² Tillerson also expressed U.S. “concern” about “atrocities” in Myanmar and called for an independent investigation of abuses there.¹³ In November 2017 remarks at the Woodrow Wilson Center, Tillerson said, “You can’t de-prioritize human rights,” and on international human rights day, Tillerson issued a statement asserting, “Standing up for human rights and democracy is a foreign policy priority that represents the best traditions of our country.”¹⁴ Each of these instances suggested that Tillerson may have been trying to change the narrative on his approach to human rights.

Despite the shift in Tillerson’s rhetoric regarding human rights, the Trump administration continued to telegraph its move away from championing the

issue. In a notable step, the United States withdrew from the UN Human Rights Council, arguing that the body protected human rights violators and was marked by anti-Israel bias.¹⁵ Here, as in other instances, the Trump administration seemed more interested in defending governments from criticisms of their human rights records than concerned about the humans whose rights were being violated. In what is likely the most significant instance of Trump seeking to buffer allies from unwanted examination of their human rights records, in the wake of the murder of the journalist and U.S. resident Jamal Khashoggi by Saudi officials, the president prioritized preserving strong Saudi-American ties over any concerns about state-sanctioned murder. As Trump recounted to the *Washington Post* journalist Bob Woodward regarding Saudi crown prince Mohammed bin Salman, "I saved his ass."¹⁶

Several foreign policy makers, however, pursued alternative approaches, including the U.S. ambassador to the United Nations (UN) Nikki Haley and members of Congress. In New York, Haley focused on the plight of Syrian refugees, human rights violations in Venezuela, and violence against the Rohingya in Myanmar.¹⁷ Her attention to human rights may have been driven by her role at the international organization, and her physical distance from Washington may have granted her more latitude to press the issue.

Members of Congress from both parties also increasingly worried about the administration's commitment to protecting human rights. Raising their concerns publicly, whether in op-eds like Senator John McCain's piece in the *New York Times* or the bipartisan letter sent by fifteen senators to the president, members of Congress argued that U.S. support for human rights had historical precedent and "strengthens the security, stability, and prosperity of America."¹⁸ Moving beyond rhetoric, members of Congress repeatedly sought to limit U.S. support for Saudi Arabia, given the manner in which it waged war against the Houthis in Yemen. Most notably, in 2019 Congress passed legislation preventing arms sales to Saudi Arabia and calling for the removal of U.S. forces from the conflict; Trump vetoed both bills.¹⁹ Such actions signaled an awareness that too closely aligning the United States with repressive governments presented real threats to the U.S.—specifically to its military and its international reputation.

The last time the United States was led by such transactionally minded officials, President Richard Nixon and national security advisor and later secretary of state Henry Kissinger, Congress initiated legislation that was intended to safeguard American values by preventing U.S. military and security assistance to governments that engaged in "a consistent pattern of gross violations of human rights."²⁰ Then, as in the Trump presidency, members of Congress argued the United States should not be in the business of supporting regimes that violated human rights.

After the president fired Tillerson on March 31, 2018, U.S. policy evolved. In contrast to Tillerson, who seemed threatened by the idea of human rights, Mike

Pompeo, who was sworn in as secretary of state on April 26, 2018, lavished concern on several issues. Most striking was the secretary's focus on religious freedom. Pompeo signaled his attention through bureaucratic reform, raising the profile of the Office of International Religious Freedom and repeatedly holding ministerial meetings on religious freedom.

Elliott Abrams, Reagan's first assistant secretary of state for human rights and humanitarian affairs, said that during the first year and a half of the Reagan administration, "There was no human rights policy. There was a critique of Carter [administration] policy, combined with an instinctive distrust of the phrase, crowd, and community associated with it."²¹ Abrams's reflection offers an instructive parallel to the evolution from Tillerson's approach, which could be characterized as only a critique of earlier policy that purportedly threatened American interests through its pursuit of values and ideas, to Pompeo's, which advanced an ideologically driven approach to U.S. foreign policy.

In a positive step, Pompeo finally participated in the unveiling of the annual human rights country reports in 2019. The elevation of the reports, however, coincided with an increasing politicization of their content. For example, observers lodged multiple complaints about the reports' characterization of gender rights, such as renaming a section on "Reproductive Rights" as "Coercion in Population Control."²² Under Pompeo, the Bureau of Democracy, Rights, and Labor, which is responsible for drafting the annual human rights country reports and monitoring human rights abuses internationally, finally received the administration's first Senate-confirmed assistant secretary of state, Robert Destro, on September 23, 2019.

Yet, as Trump's four years in office progressed, interested observers learned that inattention to human rights internationally was not the worst outcome of a transactional foreign policy. Grave threats to American identity, values, and security came from two avenues—policies that increased violations of human rights domestically and efforts to limit formally the American commitment to human rights.

In the 2016 presidential campaign and in his first weeks in office, Trump repeatedly disregarded American political norms and increasingly put domestic civil rights and international human rights at risk. The president's assaults on the press, efforts at voter suppression, forced family separation at the border, indefinite detention of children, limits on travel from majority-Muslim countries, and drastic decreases of refugee admissions flouted longstanding American practices and policies.²³

These Trump administration policies potentially contravened a range of rights articulated in the UN Universal Declaration of Human Rights, including Article 3—"the right to life, liberty and security of person"; Article 5—freedom from "cruel, inhuman or degrading treatment or punishment"; Article 9—freedom from "arbitrary arrest, detention or exile"; Article 14—"the right

to seek and enjoy in other countries asylum from persecution"; Article 18—"the right to freedom of thought, conscience and religion"; Article 19—"the right to freedom of opinion and expression"; and Article 21—"the right to take part in the government of his country."

With less visible immediate impact but the potential for far-reaching consequences, especially if Trump had won a second term, Pompeo's State Department initiated efforts in 2019 to redefine the meaning of "human rights" for U.S. foreign policy with the establishment of the Commission on Unalienable Rights to guard against human rights being "corrupted or hijacked or used for dubious or malignant purposes."²⁴ The commission reported to the Policy Planning Staff, bypassing the expertise that existed in the Bureau of Democracy, Human Rights, and Labor. Moreover, its title suggested that the department might redefine more narrowly the content and origins of human rights despite the United States' longstanding international and national commitments to respecting human rights, universally and indivisibly.

Pompeo's Commission on Unalienable Rights threatened the United States' international reputation in that it politicized U.S. attention to human rights. The most striking claims in the commission's report suggested that the true unalienable rights were "negative rights," or the right to be free from something; that the most significant unalienable rights in the U.S. context were property rights and the right to religious liberty; that definitions of "positive rights," or the right "to" something, say healthcare, might vary by country; that a prioritization of rights was "desirable"; and finally that it was "reasonable for the U.S. to treat economic and social rights differently from civil and political rights."²⁵ The potential consequences of such an approach could have been far reaching. For example, by articulating a hierarchy of rights, the initiative implied that human rights are divisible. Second, by suggesting that rights might vary based on the national context, the commission undermined the claim that human rights are universal. The commission sought to narrow conceptions of human rights, contravening longstanding efforts to expand definitions of human rights and seek greater observance, not less, of existing, internationally agreed-upon rights. In the end, the commission's report was one more piece of evidence that the Trump administration was an unreliable international ally.

Human rights were under threat throughout Trump's presidency and potentially faced even graver consequences if he had been reelected. His administration's actions, and inaction, led to abuses domestically and reduced the consequences for violations internationally. As a result, the reputation of the United States as an observer, protector, and champion of human rights eroded.

Democratic presidential candidate Joseph Biden declared during the campaign that human rights would be "at the core of U.S. foreign policy." President Biden's secretary of state, Antony J. Blinken, used his appearance at the unveiling of the 2020 country reports on human rights to draw a sharp distinction

between the Trump and Biden administrations' approaches.²⁶ Rhetorically Blinken disavowed the absence of values in U.S. foreign policy in the previous four years, declaring, "Standing for people's freedom and dignity honors America's most sacred values." He committed the Biden administration to the universal and indivisible nature of human rights, condemned the Commission on Unalienable Rights, and announced its disbandment. Blinken pledged that sections on women's rights, withdrawn from the country reports in the Trump years, would be restored. Furthermore, he acknowledged the deficits in the United States' own record on human rights and pledged to address them "with full transparency." Finally, he signaled that the Biden administration intended to resume working within the UN Human Rights Council, with Congress, and with civil society to advance human rights.²⁷

In office Biden and Blinken have fulfilled many of the president's campaign promises, including by holding the Summit for Democracy in December 2021. Biden's administration has recognized the need to redress problems in the U.S. human rights record at home and abroad, and in June 2022, United States Agency for International Development (USAID) Administrator Samantha Power announced a range of initiatives focused on domestic and international democracy promotion.²⁸ Yet, shortly thereafter, Biden visited Saudi Arabia, which he had described as a "pariah," given Khashoggi's murder, while on the campaign trail.²⁹ Biden's shift suggests that the United States continues to balance its commitment to human rights with other principles, such as lowering energy prices. In this respect, Biden's approach to human rights is in line with that of his recent predecessors, with the exception of Trump.

Notes

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