

Human Rights Issues

Are they a low priority under President Obama?

Human rights advocates are voicing disappointment with what they have seen so far of President Obama's approach to human rights issues in forming U.S. foreign policy. They applaud Obama for working to restore U.S. influence on human rights by changing President George W. Bush's policies on interrogating and detaining terrorism suspects. But they also see evidence that the Obama administration is reluctant to challenge authoritarian governments for clamping down on political dissidents or rigging elections. As one example, these critics complain that Obama should not have tried to curry favor with the Chinese government by postponing a meeting with the Dalai Lama until after the president visits China in November. Administration officials insist Obama is devoted to human rights and democratization and cite among other moves the decision to join the United Nations Human Rights Council. Conservative critics, however, say the council is a flawed institution and the United States should have stayed out.



President Barack Obama reaffirmed U.S. support for human rights during an address to the United Nations General Assembly on Sept. 23. Two weeks later he was awarded the Nobel Peace Prize "for his extraordinary efforts to strengthen international diplomacy and cooperation between peoples."

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Human Rights Issues

BY KENNETH JOST

THE ISSUES

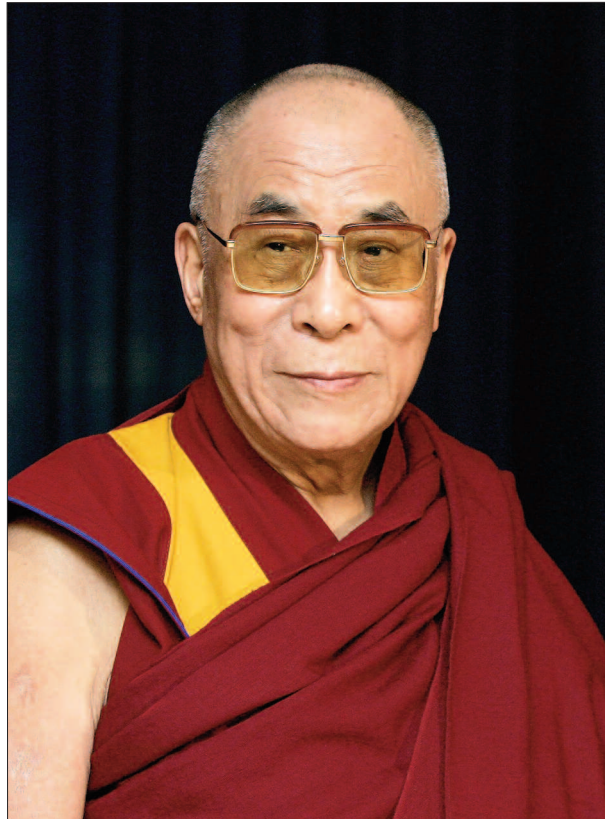
As a young boy, Tenzin Gyatso, the 14th Dalai Lama, received a gift in his Tibetan homeland from President Franklin D. Roosevelt: a gold watch showing the phases of the moon and the days of the week.

Nearly seven decades later, the leader of the Tibetan government in exile as well as the spiritual leader of Tibetan Buddhists had the watch with him in 2007 as another U.S. president, George W. Bush, bestowed on him the Congressional Medal of Freedom.

When he visited Washington in early October, however, the 74-year-old Buddhist monk was less warmly received by the current president, Barack Obama. To avoid offending the Chinese government over its political and cultural struggles with Tibetan dissidents, Obama decided to postpone a personal meeting with the Dalai Lama until after the president's visit to China in November.

Administration officials insisted that deferring what has been since 1991 a regular drop-in at the White House was no slight. They noted that the postponement had been agreed to in meetings between the Dalai Lama's advisers and one of Obama's closest aides, Valerie Jarrett, in advance of the monk's weeklong visit to Washington in early October.

The Dalai Lama himself brushed off any hint of hurt feelings from the postponement. In an Oct. 7 interview, he told CNN's Wolf Blitzer that he considered Obama "sympathetic" to the



Getty Images/Ralph Orlovski

The Dalai Lama says he is not upset about not meeting with President Obama during his visit to Washington in early October. Obama postponed meeting with the Tibetan leader to avoid offending the Chinese government over its treatment of Tibetan dissidents; the meeting will occur after Obama visits China in November. Human rights advocates see the postponement as a sign of weakness in the administration's support for human rights and democratization.

Tibetan cause and expected the president to raise the issue with Chinese leaders during his mid-November visit. "More serious discussion is better than just a picture, so I have no disappointment," he said.¹

Human rights advocates, however, see the postponement as a mistake in itself and a troubling sign of weakness in the Obama administration's approach in promoting human rights and democratization in other countries. "It plays into the narrative that the administration will defer to power rather than principle," says Tom Malinowski, Washington director for Human Rights Watch.

"That obviously sends a message," says Elisa Massamino, chief executive officer of Human Rights First. "Decisions like that can be very powerfully damaging to the solidarity with the people who we claim to be standing with."

Obama cheered human rights advocates with the steps he took in his first days in office to scrap some of the controversial detention and interrogation policies that his predecessor, Bush, had adopted to deal with suspected terrorists following al Qaeda's Sept. 11, 2001, attacks on the United States. "You can't overstate the importance of that in terms of sending a signal to our own people and to the rest of the world that the United States is going to return to taking those commitments to fundamental human rights seriously," says Massamino.

In the months since then, however, human rights advocates on the political left and political right have been finding more to fault than to

praise in Obama's dealings with countries viewed as human rights violators.

"They haven't yet come up with a consistent approach to human rights as to what they're trying to get in human rights as opposed to what they're trying to get country by country," says Jennifer Windsor, executive director of Freedom House, an older group generally seen as more conservative than such newer organizations as Human Rights First and Human Rights Watch. "I sort of wonder why it's taking them so long," Windsor says. "They keep on apologizing."

"So far, his administration has been characterized by a marked turning away

Global Freedom Declines for Third Year

Global freedom suffered its third consecutive year of decline in 2008, according to the annual survey by Freedom House. Overall, the human rights monitoring and advocacy organization rated 89 countries with a total population of 3.1 billion as free, 62 countries with 1.4 billion people as partly free and 42 countries with 2.3 billion people as not free.

Notable developments during the year, according to the report, included declines in Russia and in the non-Baltic countries of the former Soviet Union; stagnation in the Middle East and North Africa and substantial reversals for democracy in sub-Saharan Africa. The group also voiced disappointment with China's failure to improve its human rights situation during the year it hosted the Summer Olympic Games.

Among countries of particular importance to the United States, Iraq was credited with registering a small gain because of ebbing violence and reduced political terror, while Afghanistan was moved from partly free to not free because of "rising insecurity and increasing corruption and inefficiency in government institutions."



Source: "Freedom in the World 2009," Freedom House, www.freedomhouse.org/template.cfm?page=363&year=2009

from interest in human rights and democracy that has been a feature of United States foreign policy since the presidency of Jimmy Carter," says Joshua Muravchik, a fellow at the Foreign Pol-

icy Institute at Johns Hopkins University's School of Advanced and International Studies in Washington and a leading neoconservative expert on human rights.

Grumbling about the president's human rights record was already widespread before Obama became the unanticipated recipient on Oct. 9 of this year's Nobel Peace Prize. In selecting

Obama, the Norwegian Nobel Committee said he had created “a new atmosphere of international politics,” adding, “Democracy and human rights are to be strengthened.”²

A few hours later, Obama said he was “surprised” and “humbled” by the award. “I do not feel that I deserve to be in the company of so many transformative figures that have been honored by this prize,” he said. But Obama said he would accept the award as “a call to action to confront the common challenges of the 21st century.”

The reaction to the award in the United States and around the world was decidedly mixed. “Too early,” said Lech Walesa, the Polish labor leader and later prime minister who was the 1983 Nobel laureate. But other previous winners applauded the selection. In a congratulatory letter, the Dalai Lama, the 1989 laureate, told Obama that the Nobel committee “has rightly noted your efforts towards a world without nuclear weapons and your constructive role in environmental protection.”

Within the United States, Democrats and some Republicans voiced approval of the selection, but many GOP politicians were unenthusiastic to negative. Much of the reaction among mainstream media commentators and bloggers was skeptical, even from some liberals. (See “At Issue,” p. 925.)

The divisions over the peace prize mirror experts’ evaluations of Obama’s contributions on human rights issues after nine months in office. “The jury is still out, but I think the Obama administration is headed in the right direction,” says David Kaye, head of the International Human Rights Clinic at UCLA Law School and a former State Department official under Presidents Bill Clinton and George W. Bush.

But Michael Mandelbaum, director of the foreign policy program at Johns Hopkins, says the administration has downplayed human rights. “They very conspicuously backed away from the strong advocacy of rights, from putting

Obama: Democracy Is a Human Right

President Obama has stressed the importance of democracy and human rights in four recent speeches to international audiences, beginning with a widely hailed address at Cairo University in June. Human rights groups say they are encouraged by Obama’s remarks but are looking for more concrete actions from the administration to support democratization and civil society movements.

“America does not presume to know what is best for everyone, just as we would not presume to pick the outcome of a peaceful election. But I do have an unyielding belief that all people yearn for certain things: the ability to speak your mind and have a say in how you are governed; confidence in the rule of law and the equal administration of justice; government that is transparent and doesn’t steal from the people; the freedom to live as you choose. These are not just American ideas; they are human rights. And that is why we will support them everywhere.”

— remarks at Cairo University, Cairo, Egypt, June 4, 2009

“The arc of history shows us that governments which serve their own people survive and thrive; governments which serve only their own power do not. Governments that represent the will of their people are far less likely to descend into failed states, to terrorize their citizens, or to wage war on others. Governments that promote the rule of law, subject their actions to oversight, and allow for independent institutions are more dependable trading partners. And in our own history, democracies have been America’s most enduring allies, including those we once waged war with in Europe and Asia — nations that today live with great security and prosperity.”

— remarks at the New Economic School graduation, Moscow, July 7, 2009

“America will not seek to impose any system of government on any other nation — the essential truth of democracy is that each nation determines its own destiny. What we will do is increase assistance for responsible individuals and institutions, with a focus on supporting good governance — on parliaments, which check abuses of power and ensure that opposition voices are heard; on the rule of law, which ensures the equal administration of justice; on civic participation, so that young people get involved; and on concrete solutions to corruption like forensic accounting, automating services, strengthening hotlines, and protecting whistle-blowers to advance transparency and accountability.”

— remarks to the Ghanaian Parliament, Accra, July 11, 2009

“Democracy cannot be imposed on any nation from the outside. Each society must search for its own path, and no path is perfect. Each country will pursue a path rooted in the culture of its people and in its past traditions. And I admit that in the past America has too often been selective in its promotion of democracy. But that does not weaken our commitment, it only reinforces it. There are basic principles that are universal; there are certain truths which are self-evident — and the United States of America will never waver in our efforts to stand up for the right of people everywhere to determine their own destiny.”

— remarks to United Nations General Assembly, New York, Sept. 23, 2009

Source: The White House, www.whitehouse.gov/the_press_office

that at the center of their policies and putting that at the center of their rhetoric," he says.

The United States took the lead after World War II in the adoption of international human rights agreements, but human rights took a back seat to global power politics during the tensest years of the Cold War. In the late 1970s, however, President Jimmy Carter made human rights an explicit centerpiece of U.S. foreign policy. Every president since then has continued the stated commitment to human rights, though in markedly different ways.³

President George W. Bush continued to voice support for human rights and used his second inaugural address in 2005 to put promoting democracy at the center of his foreign policy goals. The results of Bush's policies — in Iraq, the Mideast and the rest of the world — are disputed. Whatever Bush's final legacy may be, many experts and advocates say Obama is shaping his approach to the issues in conscious distinction with Bush's more aggressive approach. "They are almost afraid to speak out against human rights abuses in any country because it's going to be like Bush," says Freedom House's Windsor.

Admirers note that Obama has given four major foreign policy speeches reaffirming U.S. support for human rights, most recently at the United Nations General Assembly. (See box, p. 913.) They also point out that Obama appointed two longtime human rights advocates to pivotal posts at the State Department. Harold Hongju Koh, a former Yale Law School dean, is serving as the department's legal adviser; Michael Posner, the longtime head of Human Rights First, was confirmed in late September as assistant secretary of state for human rights, democracy and labor. "These two guys are really, really committed to a value-driven, human rights-oriented U.S. foreign policy," UCLA's Kaye says.

The admirers acknowledge, however, and critics emphasize that Obama has also sought to "engage" with sever-

al countries with deplorable human rights records, including Egypt, Syria, Iran and Myanmar (formerly Burma). Muravchik accuses Obama of "a rush to have new and friendly relations with a whole series of the most cruel and dictatorial regimes."

The debate over Obama's policies takes place against what Freedom House describes in its most recent annual report as the third consecutive year of decline in global freedom. The report credits Bush — and his two predecessors, Clinton and his father George H. W. Bush — with helping promote positive developments for democracy since the end of the Cold War. But it also points to "a turnaround in democracy's fortunes" in Bush's second term and points to "the lack of . . . durable gains" in the Middle East and North Africa as "a major disappointment for American policy."⁴ (See map, p. 912.)

Apart from the changes in the post-9/11 interrogation and detention policies, Obama's most concrete action to date is the decision to join the United Nations Human Rights Council, a U.N. forum reconstituted in 2006 that the Bush administration pointedly boycotted. As with Obama's moves on anti-terrorism policies, reactions to the decision divide along ideological lines: Liberals support the move; conservatives do not. (See sidebar, p. 916.)

Obama's trip to China will be closely watched for new clues on how human rights fits in with other U.S. interests — economic, diplomatic, strategic — in dealing with countries with less than exemplary human rights records.

As the president prepares for the trip, here are some of the major questions that human rights watchers are debating:

Is the Obama administration deemphasizing human rights in U.S. foreign policy?

In a visit to China and other Asian countries in February, Secretary of State Hillary Rodham Clinton raised eyebrows

among human rights advocates by appearing to put rights issues below other U.S. concerns. In comments to the traveling press corps, Clinton said the United States would continue pressing China on Tibet, Taiwan and free-speech issues, but added, "Our pressing on those issues can't interfere with the global economic crisis, the global climate change crisis and the security crisis."

Human rights groups complained in advance about signals that human rights issues were to be downgraded on the trip. "Extremely disappointed," said Amnesty International USA. Today, many human rights advocates continue to question Clinton's statement. "We're not going to talk about human rights until we solve global warming and the economic crisis?" asks Muravchik, the Johns Hopkins fellow. "That gives them a pretty large margin of impunity."⁵

Beyond U.S.-China relations, the administration appears to be basing its human rights policies on a view that private diplomacy is more effective than public rhetoric in encouraging authoritarian governments to turn away from repressive policies. Human rights advocates on the left and right disagree.

"They're saying they want to achieve real gains and to engage in order to get something accomplished," says Freedom House's Windsor. "In the past, we have not seen quiet diplomacy work."

"It's not enough to say we're going to talk with people," says Massamino of Human Rights First. "It's not an end in itself."

A former Bush administration official goes further. "It seems clear to me that the Obama administration has no human rights policy," Elliott Abrams, deputy national security director for democracy in Bush's second term and now a senior fellow with the Council on Foreign Relations, tells the conservative *FrontPageMagazine.com*. "That is, while in some inchoate sense they would like respect for human rights to grow around the world, as all Americans would, they have no actual policy to achieve

that goal — and they subordinate it to all their other policy goals.”⁶

Other human rights advocates, however, say the criticism is overblown. “The administration understandably wanted to distinguish itself from what it saw as the [Bush administration’s] overly messianic and at times aggressive and hectoring approach toward these issues,” says Human Rights Watch’s Malinowski. “The narrative of Bush cared and Obama doesn’t,” he adds, “is extraordinarily simplistic and misguided.”

Thomas Carothers, vice president for studies at the Carnegie Endowment for International Peace in Washington, also says the criticism of Obama’s policies is exaggerated. “The idea that we’ve suddenly gone soft on Russia, on China and so forth tends to be a bit of an overstatement,” he says.

Still, Malinowski says human right advocates have cause for concern. Obama’s apparent approach, he says, “can easily be interpreted and to some extent is being interpreted by the permanent foreign policy

bureaucracy at the State Department as an argument for engaging [repressive] governments without pressure, without sanctions, without a significant emphasis on what [bureaucrats] dismiss as moral issues.”

Muravchik, the Johns Hopkins fellow, says the administration’s approach reflects a wrongheaded effort to differentiate Obama’s policies from Bush’s. “There was an obvious opening in keeping with his desire to be critical of Bush’s legacy to say that in this area Bush pronounced good ideas but didn’t deliver,” Muravchik says. “Instead, he’s said that Bush was on the wrong track in essence by telling other governments how to behave.”

Obama’s engagement strategy, Muravchik concludes, “necessarily involves a downgrading if not betrayal of human rights.” Other human rights watchers, however, are prepared to suspend judgment to see what results are achieved by the approach reflected, for example, in Clinton’s comments on China.

“A charitable reading of that is that we need to find new tactics; we’re not going to engage in a Kabuki dance; that’s not getting results,” says Massamino of Human Rights First.

“There’s a lot to be said for the idea that in pushing a human rights agenda,



Secretary of State Hillary Rodham Clinton visits with South African soldiers assigned to U.N. peacekeeping duties in the Democratic Republic of the Congo during her weeklong visit to war-torn Africa in August. Earlier in the year she was criticized for saying human rights should not “interfere” with U.S.-China relations.

AFP/Getty Images/Roberto Schmidt

sometimes and in some places and with some countries it’s better to push it quietly,” says UCLA professor Kaye. “Over time, it may be that the Obama administration will either see that working or will see it not working. In those situations where they see it not working, they may move the disagreements from the private channels to the more public ones.

“It’s too early to conclude that they are sacrificing the human rights agenda for some Kissingerian realpolitik,” he concludes, referring to Henry Kissinger, who served as secretary of state under Presidents Richard M. Nixon and Gerald R. Ford. “I don’t think that’s what’s happening.”

Is the Obama administration reducing U.S. support for democratization in other countries?

President Obama used one of his first major foreign policy speeches abroad to reaffirm to his Egyptian audience and the broader Muslim world the United States’ support for promoting democracy. Democratic principles such as freedom, equality and rule of law “are not just American ideas,” Obama said in the June 4 address in Cairo. “They are human rights. And that is why we will support them everywhere.”

Obama made no reference in the speech, however, to the repressive policies of his host, Egyptian President Hosni Mubarak. In advance, he even rejected a reporter’s suggestion to describe Mubarak as “authoritarian.” And when Obama hosted the Egyptian leader at the White House on Aug. 18, the subject of democracy was unmentioned in public comments.⁷

The on-again, off-again invocation of the democracy message leaves human rights advocates less than satisfied. “President Obama could have been more explicit,” says

Malinowski, the Human Rights Watch director in Washington. “It’s important that the president’s private messages to leaders like Mubarak be emphasized with public messages. I agree that was a missed opportunity.”

Former Bush administration official Abrams bluntly criticized Obama for selecting Cairo as the site of the earlier address and then omitting any mention of human rights in the joint press availability with Mubarak at the White House. “Democracy activists in Egypt have been abandoned,” he said in the *FrontPageMagazine.com* interview.

Muravchik, the Johns Hopkins fellow, is similarly critical of Obama’s delayed

Report on Abuses in Gaza Sparks Concern

Critics see anti-Israel tilt by U.N. Human Rights Council.

Israel launched a three-week air and ground assault on Gaza in December 2008 aimed at stopping Palestinian militants from firing missiles at civilian targets across the border. During and after the invasion, the ruling Hamas government in Gaza charged that Israeli forces had committed war crimes by wantonly attacking Palestinian civilians.¹

Now, a respected South African jurist has found both sides responsible for endangering civilians during the conflict. In a report commissioned by the United Nations Human Rights Council, Judge Richard Goldstone recommends that Israel and Gaza conduct their own investigations of human rights abuses by their side during the fighting. If no investigations are forthcoming within six months, Goldstone wants the U.N. Security Council to turn the dispute over to the International Criminal Court.²

Goldstone's report has drawn critical reactions from both sides. Israel has condemned Goldstone, who is Jewish, for furthering what they perceive to be the council's constant berating of the Jewish state.³ Many Israelis complain that complying with the investigation would be fruitless because the council is already biased against them.

While Hamas has lauded Goldstone for denouncing Israeli military tactics and agreed to investigate some portions of the report, the rival Palestinian Authority originally decided to defer action, citing an inadequate number of people needed to support an investigation. However, after facing criticism for their decision, the authority requested that the U.N. conduct a special session on the conflict.

Several prominent human rights organizations, specifically Amnesty International and Human Rights Watch, have defended the report for calling attention to rights abuses. The U.N.'s top human rights official, Navi Pillay, has offered her endorsement, as well.

The report has focused worldwide attention on the Human Rights Council, a 47-nation body created in 2006 to replace a larger U.N. human rights forum widely denounced as ineffective. Critics said the earlier U.N. Commission on Human Rights was unsuccessful at prosecuting nations that violated human rights and showed poor judgment in allowing countries with questionable human rights records, including China and Russia, to be members. Under President George W. Bush, the United States criticized the commission and refused to join the council.

President Obama changed the policy, however, and the United States joined the council in May 2009. Critics say the council is still fundamentally flawed and inordinately critical of Israel. But human rights groups are applauding the shift. They say that U.S. involvement and an altered structure will help bring human rights abusers to justice.

The council has enacted a new, periodic review of all 192 U.N. member states in order to monitor human rights conditions in every state. Council members are chosen by the U.N. General Assembly instead of by the Economic and Social Council, which was previously in charge of elections. Additionally, a complaints procedure allows individuals and organizations to bring potential violations to the attention of the council.⁴

Proponents of the council say the changes signal a vast improvement over the commission, but many claim that a disproportionate amount of time continues to be spent on Israel's alleged human rights violations while others, such as Sudan, face little investigation. The council has appointed an independent expert to monitor Sudan and asked the country to remedy human rights violations but has taken no disciplinary action against the government.⁵

During its three-year existence, the council has passed a resolution on freedom of expression that prohibits limiting expression

response to evidence of irregularities in the Iranian presidential election in June. "Obama was so devoted to this course of making friends with the dictators that he refused for the first week to say or do anything to encourage the Iranian people," Muravchik says. "After a week went by, it was clear that his stand was untenable in terms of the views of the Iranian people, the American people and the stands of some other Western leaders. So he spoke out, which was all to the good but quite belated."

To democratization expert Carothers, Obama's speech represents a recasting

of the Bush administration's approach to promoting democracy. "He set out an alternative rhetorical framework that emphasizes that we will not impose democracy on others, that we recognize that different kinds of democracy exist and that we will be sure not to equate elections with democracy," Carothers says.

Carothers says Obama's approach will be "more appealing to people in many parts of the world." But he adds, "It is clear that this administration is not going to make democracy promotion a major emphasis of its policy."

In Egypt, the administration seems to be trying to heal the rift in U.S.-Egyptian relations, which were seen to have suffered in the Bush years because of his administration's criticisms of Egypt's record on human rights. The Bush policies were widely credited, however, with encouraging some liberalization by the Mubarak government.

Today, human rights advocates say repressive policies are returning in Egypt just as U.S. support for democratization efforts is lagging. "Despite the president's speech, there's been little indication that the Egyptian government's

in order to protect religion. It has examined the continuing conflict in Gaza and passed resolutions aimed at remedying rights violations in Myanmar (formerly Burma) and the Democratic Republic of the Congo (DRC), particularly those involving women and children.

Many cite the ability of the United States to broker the freedom of expression resolution with Egypt as a sign that the council is enacting positive change. However, critics still claim that the council shows favoritism towards some countries, with bloc voting by region significantly furthering that bias. Specifically, the Arab countries and many of the African countries vote together on resolutions, making it difficult to pass those that allow the examination of rights violations in places like the DRC.

The Goldstone report has again brought these criticisms to the surface. In the special session requested by the Palestinian Authority, the council endorsed the report, a move that allows the investigation to be taken before the U.N. Security Council. This is the seventh of 12 sessions in the past year involving Israel — another indication many say, of the rights council's bias against Israel. The United States voted against the report and has veto power over the Security Council's agenda, making it unlikely the investigation will travel that far. China and Russia voted for the report but have since indicated their opposition to involving the Security Council.⁶

Last month, speaking in Geneva, U.S. Assistant Secretary for Democracy, Human Rights and Labor Michael Posner and State Department legal adviser Harold Hongju Koh expressed hope that U.S. involvement in the council would help to create a non-political U.N. body able to support victims and prosecute rights violators.⁷ But the United States and Israel have expressed concern that the Goldstone report and proceedings within the rights council demonstrate a political bias against Israel and do not focus enough on human rights violations by the Palestinians.

In a 24-page assessment, Freedom House gives the council mixed ratings, with a passing grade only on the use of so-called special rapporteurs and failing grades on adoption of resolutions on urgent human rights crises. The organization specifically criticizes the council for a “disproportionate” number of resolutions critical of Israel. More broadly, the report concludes that democratic countries on the council have failed to counter the “considerable resources” devoted by a “small but active group” of non-democratic countries to limiting the council's effectiveness in protecting human rights.⁸

— Emily DeRuy

¹ For background, see Irwin Arief, “Middle East Peace Prospects,” *CQ Global Researcher*, May 2009, pp. 119-148.

² See “Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict,” Sept. 25, 2009, www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf. See Christiane Amanpour, “A Look at the Allegations of Israeli and Hamas War Crimes,” CNN International, Sept. 30, 2009, for interviews with Judge Goldstone and former U.S. Secretary of State Madeleine Albright.

³ See Amir Mizroch, “Grappling with Goldstone,” *The Jerusalem Post*, Sept. 18, 2009, p. 9.

⁴ See “The Human Rights Council,” The U.N. Human Rights Council, www2.ohchr.org/english/bodies/hrcouncil/ for full description of council structure.

⁵ “Human Rights Council Establishes Mandate of Independent Expert on Sudan for One Year,” U.N. Human Rights Council, June 18, 2009, www.unhcr.ch/hurricane/hurricane.nsf/view01/91B0E40B4256A0C3C12575D900712245?opendocument. For background, see Karen Foerstel, “Crisis in Darfur,” *CQ Global Researcher*, September 2008, pp. 248-270.

⁶ See Neil MacFarquhar, “U.N. Council Endorses Gaza Report,” *The New York Times*, Oct. 16, 2009, www.nytimes.com/2009/10/17/world/middleeast/17nations.html?_r=1&scp=1&sq=Goldstone%20report%20&st=cse.

⁷ “Geneva Press Briefing by Harold Hongju Koh and Michael Posner,” United States Mission, Sept. 28, 2009, <http://geneva.usmission.gov/2009/09/28/koh-posner/>.

⁸ See “The U.N. Human Rights Council Report Card: 2007-2009,” Freedom House, Sept. 27, 2009, www.freedomhouse.org/uploads/special_report/84.pdf.

human rights record is at all a concern to this administration or that they're willing to put any material support or diplomatic heft in order to get a reversal of the deteriorating situation in Egypt,” says Freedom House's Windsor.

U.S. aid to democratization programs in Egypt, including funding for civil society groups, fell from \$55 million in fiscal 2008 to \$20 million in the current fiscal year. The Obama administration is proposing a modest increase to \$25 million for the current year.

Overall, the administration is requesting \$2.81 billion for democratization pro-

grams for fiscal 2010, an increase of \$234 million, according to an analysis by Freedom House. “To their credit, they actually kept democracy and human rights levels up,” says Windsor.⁸

Windsor says U.S. support for pro-democracy groups is important because of the resistance by authoritarian countries to outside aid. “Over the last three to four years, there's been a backlash by governments to make sure that no ‘color revolution’ occurs in their own country,” she says, referring to the pro-democracy “Orange Revolution” in Ukraine and “Rose Revolution” in Georgia.

“We think neither the Bush administration nor the Obama administration has fully stood up for the right to cross-border help to fulfill human rights,” Windsor continues.

In Egypt, a U.S. embassy official insisted in response to criticism from Egyptian activists that U.S. support continues. “We may have changed tactics, but our commitment to democracy and human rights promotion in Egypt is steadfast,” an embassy official said in an e-mailed response to a reporter's questions.⁹ But Carothers says human rights issues generally are getting only

limited attention as the administration deals with other major foreign policy problems in Iraq, Iran and Afghanistan.

"They have been very busy with the major crises on their hands and have neither articulated nor begun to implement any kind of broad approach on human rights," Carothers says. "These are really pressing, and human rights seems to be of secondary concern."

Was President Obama right to have the United States join the United Nations Human Rights Council?

When a Danish newspaper published a full page of satirical depictions of the Prophet Muhammad in 2005, Muslim leaders around the world denounced the publication as a defamation of Islam. Many called on the Danish government to take legal action against the newspaper. A Danish prosecutor found no basis for proceeding against the newspaper, however. And many leaders and commentators in Europe and the United States criticized the Muslim response as a threat to freedom of expression.

The dispute exemplified the tension between many Muslims and much of the rest of the world over how to reconcile free speech with freedom of religion. Now, the United States and predominantly Muslim Egypt have joined in sponsoring a broad U.N. reaffirmation of freedom of expression that condemns religious intolerance but significantly omits any legal sanctions for criticizing religion or specific faiths.

The freedom of expression resolution, adopted Oct. 2 by consensus by the United Nations Human Rights Council, marked the first significant accomplishment by the United States since the Obama administration's decision to join the still-new U.N. forum. The Bush administration had refused to join the council after it was created in 2006 to replace the U.N. Commission on Human Rights, which was widely criticized as weak and ideologically polarized.¹⁰

Many human rights advocates say the passage of the freedom of expression resolution demonstrates the Obama administration was right to join the council. "The United States was successful in reaching out to Egypt," says Neil Hicks, senior adviser on U.N. issues for Human Rights First. By omitting any reference to defamation of religion, the resolution means that "there will no longer be an effort to weaken protection of freedom of expression in the name of protecting religion," Hicks says.

Other human rights advocates, however, are troubled by passages in the resolution critical of the rising incidence of religious intolerance and stereotyping. The resolution has "some very good language and some problematic language," says Paula Schriefer, director of advocacy at Freedom House, who follows U.N. issues. "There's some question whether this foray has been completely successful."

Hicks acknowledges the resolution is only "a step in the right direction" and may not end the dispute. Like most human rights advocates, however, including Freedom House, Hicks applauds the U.S. decision to participate in the council. "Our hope is that with U.S. membership there will be a concerted effort to stand up for democratic values in the council," Hicks says. "We're waiting for that to happen."

Some conservative human rights watchers, however, say the United States should have stayed out. "It was a token of the Bush administration's devotion to human rights that it would refuse to wade into this cesspool," says Johns Hopkins fellow Muravchik. "It is a great pity that the Obama administration has reversed that."

To join the council, the United States won election by 167 of the 192 members of the U.N. General Assembly in balloting in May. Among the 14 other countries elected were five with checkered human rights records, including two major powers, China and Russia; the regional power Saudi Arabia; and two smaller countries, Cameroon and Cuba.¹¹

The U.N. Commission on Human Rights, the predecessor forum, had drawn criticism for being open to membership by — and domination by — human rights violators. In an effort to remedy the problem, membership in the new council requires an absolute majority of votes from the General Assembly rather than election from a regional bloc.

Proponents say the council is also stronger because all U.N. members will be subject to a "universal periodic review" of their records on rights issues, with council members up for review first. The commission had no procedure for reviewing human rights conditions in every country, Hicks says.

Supporters say membership by human rights violators is inevitable, but U.S. membership will strengthen the democratic bloc within the council. "Without United States leadership, other democratic countries rarely stand up effectively for human rights," says Human Rights Watch's Malinowski. "And repressive countries tend to band together quite effectively."

Mandelbaum at Johns Hopkins faults both the council and its predecessor for an anti-Israel bias. "They spend all their time persecuting the only country in the Middle East that takes human rights seriously: Israel," he says. Israel, which is not a member of the council, strongly criticized a report commissioned by the council that accused Israeli forces of human rights abuses during the invasion of Gaza launched in December 2008. (*See sidebar, p. 916.*)

Hicks agrees that the U.N. rights bodies have been guilty of "over-concentration on the Israeli-Palestinian situation," but he says that council actions adopting country-specific resolutions on Myanmar and Congo this year have shown some signs of reduced geographic-bloc voting.

In any event, most human rights experts applaud the Obama administration's decision to join the council. "The United States goes into these

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Chronology

1945-1990s

U.S. takes lead in establishing United Nations, writing international human rights law; U.S. support for democracy tempered by Cold War rivalry with communist bloc.

1945

United Nations established.

1948

Universal Declaration of Human Rights adopted by the U.N.

1950s

U.S. supports coups to oust leftist regimes in Guatemala, Iran; blocks unified election in Vietnam; sends no aid to anti-communist revolt in Hungary.

1960s

U.S. role in Vietnam War escalates; U.S. takes no action as Soviet Union crushes reform movement in Czechoslovakia.

1975

Vietnam War ends with fall of Saigon government, reunification under communist regime. . . . Helsinki Accords signed; Soviet bloc agrees to respect human rights.

1977-1981

President Jimmy Carter puts human rights at center of U.S. foreign policy.

1980s

U.S. support for right-wing regimes in Central America, contras in Nicaragua widely criticized in U.S., elsewhere; U.S. aid helps oust authoritarian leaders in Philippines, Haiti.

1989

Berlin Wall falls; Eastern European countries throw off communist governments; Cold War ends.

1990s

Human rights machinery institutionalized at United Nations; U.N. high commissioner for human rights created; war crimes tribunals established in former Yugoslavia, Rwanda.

2001-Present

Bush administration war on terror policies criticized, democracy promotion legacy questioned; Obama administration criticized for downplaying human rights.

2001

President George W. Bush launches invasion of Afghanistan for harboring al Qaeda after Sept. 11, 2001, attacks on U.S.; prepares aggressive policies to detain, interrogate “enemy combatants.”

2002

U.S. opens prison camp for suspected terrorists at Guantánamo Bay Naval Base in Cuba; move widely criticized in Muslim world and by some European allies. . . . International Criminal Court established; U.S. declines to participate.

2003

U.S.-led invasion of Iraq topples Saddam Hussein; with U.S. support, parliamentary elections, referendum on new constitution held in 2005.

2004

U.S. labels killings of civilians in Sudan’s Darfur province “genocide.” . . . With U.S. backing, Hamid Karzai elected president of Afghanistan; parliamentary elections follow in 2005.

2005

Bush, in second inaugural address, promises U.S. support for democracy “in every nation and culture.”

2006

U.S. declines to participate in newly created United Nations Human Rights Council.

2008

Bush prepares to leave office with democracy, human rights legacy sharply debated.

January-March 2009

Barack Obama inaugurated; repudiates Bush policies on detention and interrogation; promises to close Guantánamo within year (January). . . . Secretary of State Hillary Rodham Clinton draws fire for saying human rights should not “interfere” with U.S.-China relations (February). . . . U.S. signs U.N. petition favoring decriminalization of homosexual conduct (March). . . .

April-June 2009

U.S. wins election to U.N. Human Rights Council; administration signals support for U.N. convention to eliminate discrimination against women (May). . . . Obama says U.S. will support human rights “everywhere”; U.N. Ambassador Susan Rice indicates administration support for U.N. pact on children’s rights (June).

July-September 2009

Clinton visits war-torn Congo during Africa visit (August). . . . Obama tells U.N. General Assembly U.S. has “too often been selective” in promoting democracy (September).

October 2009

Human Rights Council adopts freedom of expression resolution; endorses report opposed by U.S. that accuses Israel of targeting civilians in Gaza; U.S. critics say stance shows need to pull out of council. . . . Clinton, others unveil new policy on Sudan/Darfur; “carrots and sticks” approach criticized by some.

Clinton Vows Opposition to Violence Against Gays

'Killing campaign' in Iraq goes unpunished, rights group says.

The victim was taken from his parents' Baghdad home late one evening in April by four armed, masked men, who shouted insults as they dragged him away. His body was found in a garbage dump in the neighborhood the next day, his genitals cut off and a piece of his throat ripped out.

The victim's offense: He was gay. Three weeks later, when Human Rights Watch investigators spoke with the victim's 35-year-old partner, he struggled to speak. "In Iraq, murderers and thieves are respected more than gay people," he said.¹

The incident was part of the group's report, published in August, which describes a "killing campaign" by "death squads" that swept through Iraq in the early months of 2009. The campaign was concentrated in Baghdad's Sadr City, the stronghold of supporters of the anti-American Shiite cleric Moktada al-Sadr, but killings also were reported in other cities.

The killings were done "with impunity," according to the report, based on three weeks of on-site interviews by Scott Long, director of Human Rights Watch's LGBT Rights Project, and a second investigator. Iraqi police and security forces did little to investigate or try to halt the killings, the report said. No arrests or prosecutions had been announced when the report was published.

Iraq is one of many countries where violence against lesbian, gay, bisexual or transgender persons occurs and goes unpunished or is even abetted by authorities. In many others, LGBT persons are subject to harassment, intimidation and even prosecution because of their sexual orientation or gender identity. In Senegal, nine people, including the head of an AIDS service organization, were arrested in December 2008 and given long prison sentences the next month, purportedly for engaging in homosexual conduct.²

Now, Secretary of State Hillary Rodham Clinton is promising that the United States will do more to track and oppose violence in other countries against LGBT persons. "Where it happens anywhere in the world, the United States must speak out against it and work for its end," Clinton said in a Sept. 11 speech to the Roosevelt Institute in New York City, where she was receiving the institute's Four Freedoms Medal.³

Despite widespread criticism of President Obama for allegedly downplaying human rights, LGBT rights advocates are giving the administration positive marks for increased attention to those issues after eight years of general neglect under President George W. Bush. "They've been very open to the dialogue," says Michael Guest, senior counselor at the Council for Global Equality, a coalition founded in 2008 to work for LGBT rights around the world.

Guest notes that the Obama administration decided in March to support a United Nations petition sponsored by France and the Netherlands calling for decriminalization of homosexual conduct. The Bush administration had taken no position on the resolution, now supported by 67 countries. Guest served as ambassador to Romania in the second Bush administration until his resignation in 2007 over the lack of spousal benefits and privileges for his partner.

In her speech, Clinton promised to give increased attention to violence against the LGBT community in the State Department's annual country-by-country reports on human rights. The most recent report, published in February and compiled during the Bush administration, includes what Guest calls the most detailed listing of LGBT rights violations to date. Among the incidents in 2008 noted were the murder of a transgender activist in Honduras, imprisonment in Egypt of men suspected

Continued from p. 918

things recognizing that the council is not a perfect body," says UCLA's Kaye. "Rather than sitting outside and complaining, it's now inside the tent." ■

BACKGROUND

'Unalienable' Rights

As the first of the United States' founding documents, the Declaration of Independence affirmed a

belief in the "unalienable" human rights of "life, liberty, and the pursuit of happiness" and the democratic principle of "consent of the governed." Those beliefs have remained central American ideals ever since. In the 20th century, the United States put its military and diplomatic might behind efforts to promote democracy and human rights — with limited success after World War I, somewhat more after World War II. Human rights remained a talking point during the Cold War but often took a back seat to geopolitics in the conflicts with two communist powers: the Soviet Union and China.¹²

The American Revolution succeeded in part because of aid from France. The young Republic turned a deaf ear in the 1820s, however, to pleas for help in the Greek war of independence. Then-Secretary of State John Quincy Adams said the United States was a "well-wisher to the freedom and independence of others," but "champion and vindicator only of her own." In the century's two major external wars — with Mexico (1846-1848) and Spain (1898) — the United States claimed to be spreading democracy, but the conflicts were aimed, in fact, at continental expansion and imperial conquest, respectively.¹³

of being HIV-positive and extensive discrimination in India against gays and lesbians in education and employment.⁴

The United States raised the issue of violence and rights violations against LGBT persons on Oct. 8 at a meeting of the Organization for Security and Co-operation in Europe, a regionwide human rights forum. Earlier, a U.S.

representative had noted concern about the refusal in some countries to grant permits for pro-LGBT “pride” parades. Guest says increased U.S. attention to documenting LGBT issues is important because problems often go unreported. “LGBT communities in many countries are extremely marginalized, and social and cultural norms are such that nobody complains,” he says.

Long also applauds the administration’s statements on LGBT rights but says more concrete actions are needed. “What we’re still looking for is action at the embassy level in countries where egregious things are going on,” he says.

As one example, Long points to Uganda, where legislation was introduced in parliament in early October to tighten an existing prohibition on homosexual conduct by making any advocacy of or information about homosexuality a crime.⁵ Long notes that Uganda received substantial funding under the Bush administration’s AIDS initiative. “It will be a test of the Obama administration to see if it uses its leverage to oppose this bill,



AFP/Getty Images/Orlando Sierra

LGBT activists in Tegucigalpa, Honduras, protest the murder of a transgender activist on May 15, 2009. Secretary of State Hillary Clinton has promised to give increased attention to violence against the LGBT community.

which would be devastating to gays and lesbians,” he says.

In its report on the Iraq killings, Human Rights Watch calls on the United States and U.S.-led multinational forces in Iraq to assist Iraqi authorities in investigating the killings and vetting and training Iraqi police on human rights issues with “no exceptions for sexual orientation and gender expression or identity.” Long sees no action

thus far on either of the recommendations. “It’s not clear the embassy has done anything,” he says.

— **Kenneth Jost**

¹ “They Want Us Exterminated,” Human Rights Watch, August 2009, www.hrw.org/en/reports/2009/08/16/they-want-us-exterminated. The report does not identify the victim and uses a pseudonym for his partner.

² See Donald G. McNeil Jr., “Senegal: Where AIDS Efforts Are Often Praised, Prison for Counselors Is a Surprise,” *The New York Times*, Jan. 20, 2009, p. D6.

³ The full text is on the State Department’s Web site: www.state.gov/sec/retary/rm/2009a/09/129164.htm. The one-paragraph reference drew coverage only in LGBT media. See Rex Wockner, “Clinton Says U.S. Will Fight Anti-Gay Violence Worldwide,” *Windy City Times* (Chicago), Sept. 23, 2009.

⁴ “2008 Country Reports on Human Rights Practices,” U.S. State Department, Feb. 25, 2009, www.state.gov/g/drl/rls/hrrpt/2008/index.htm. See also “U.S. Government Documents Trend of Severe Human Rights Abuse Against LGBT People,” Council for Global Equality, February 2009, www.globalequality.org/storage/cfge/documents/dos_human_rights_report_2008_analysis.pdf.

⁵ See “Rights Groups Challenge Uganda’s New Same-Sex Proposal,” *Voice of America English Service*, Oct. 16, 2009.

As an emergent global power, the United States entered World War I with an explicit goal to “make the world safe for democracy.” President Woodrow Wilson envisioned a postwar order founded on national self-determination with peace maintained by the League of Nations. With the United States out after the Senate’s refusal to ratify the Versailles Treaty, the League was weakened from birth. The newly independent nations of Central and Eastern Europe mutated into dictatorships in the 1920s and ’30s. And an isolationist-minded United States did nothing during the Spanish Civil War to prevent Francisco Franco’s fascists from ousting a democratic government.

World War II brought a renewed commitment to human rights and democracy from the United States. Before the U.S. entry into the war, President Franklin D. Roosevelt in January 1941 identified four freedoms — freedom of speech and expression, freedom of religion, freedom from want and freedom from fear — as fundamental to people “everywhere in the world.” Roosevelt’s major wartime partner, British Prime Minister Winston Churchill, vowed in October 1942 that the war would end with “the enthronement of human rights.” Like Wilson before him, Roosevelt envisioned a postwar order of national self-determination, including decolonization by wartime al-

lies Britain and France. Decolonization proceeded only slowly over the next two decades, however. And the postwar settlement with the Soviet Union, an ally in the war, left Moscow in effective control of Eastern Europe.

As the war ended, the United States took the lead role in establishing an institutional and legal infrastructure intended to preserve the peace while promoting human rights. The charter of the newly created United Nations declared the goal of promoting “human rights and fundamental freedoms for all.” As a member of the U.S. delegation, Eleanor Roosevelt, the late president’s widow, helped create and became

the first head of the U.N. Commission on Human Rights. And the commission organized the drafting of the Universal Declaration of Human Rights, adopted by the U.N. General Assembly on Dec. 10, 1948. The treaty's 30 articles detail individual rights that are to serve "as a common standard of achievement for all peoples and all nations."

Hopes for a worldwide flourishing of human rights fell victim to the Cold War. As UCLA's Kaye points out, the ideological conflict with the Soviet Union forced the United States to struggle between devotion to human rights and pursuit of other geopolitical interests. Republican and Democratic presidents alike often resolved the conflict by supporting U.S. allies despite poor records on human rights and democracy. During the Chinese civil war, U.S. support for the Nationalist leader Chiang Kai-shek failed to prevent the communist takeover in 1949, which made Asia — like Europe — a major locus of ideological conflict with the United States and its allies.

A combination of ideological and economic interests led the United States during this period to organize coups that replaced leftist, democratically elected governments with right-wing U.S. allies in such countries as Iran (1953), Guatemala (1954) and Chile (1973). After the French defeat in Vietnam in 1954, the United States divided the nation rather than allow an election likely to have been won by the communist leader Ho Chi Minh. The United States did nothing, however, when Hungarians revolted against

the communist government in 1956 or when Czechoslovakians rose up against their communist rulers in 1968. By then, the United States was bogged down in the Vietnam War, which ended in 1975 with the country unified under communist rule.

Rights Commitments

The end of the Vietnam War coincided with other developments that helped give human rights new prominence both domestically and internationally. The Soviet Union and its Eastern European satellites joined with the United States and Western Europe in 1975 in the historic Helsinki

human rights to be given greater priority in comparison to other national interests in the formation of U.S. foreign policy.

The Helsinki Accords — technically, the Final Act of the Conference on Security and Co-operation in Europe — were signed by the United States, Canada, the Soviet Union and all European countries but two (Albania and Andorra). They committed all of the countries to "respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief." In signing the agreement, the Soviet Union won the West's recognition of postwar borders, but with the proviso that they could be changed by peaceful means. The Soviet Union

and the West remained at odds over how to define rights, but the accords spawned the creation of "Helsinki watch" monitoring groups that helped focus attention on alleged abuses.

Democrat Carter won election over Republican Gerald R. Ford in 1976 largely because of Ford's pardon of former President Richard M. Nixon for the Watergate scandal. In keeping with his moralistic approach to domestic and foreign issues alike, Carter promised in his campaign to make human rights a centerpiece of U.S. foreign policy. He institutionalized

that commitment in his first year in office by creating in the State Department the Bureau of Human Rights and Humanitarian Affairs (now, the Bureau of Human Rights, Democracy and Labor). With the 30th anniversary of the Universal Declaration of Human Rights in 1978, Carter vowed again to make human rights central to U.S. policy as long as he was president. In the next year,



Palestinian youths throw stones at Israeli soldiers near the West Bank town of Hebron on Oct. 12, 2009. The United States has opposed a U.N. Human Rights Council report that accuses Israel of targeting Palestinian civilians in Gaza.

AFP/Getty Images/Hazem Bader

Accords, which committed all signatories to respect for human rights. In the United States, President Carter's election and four years in office left a lasting legacy of human rights as a central theme in U.S. foreign policy for future presidents, Republicans and Democrats alike. Then in the 1990s the fall of the Soviet Union and the end of the Cold War allowed

Secretary of State Warren Christopher told a congressional committee that the United States had contributed to the atmosphere that enabled civilian regimes to replace military rulers in several countries and release political prisoners in some others.

With the election of the conservative Republican Ronald Reagan in 1980, rights issues became a sharp partisan divide in the United States. Democrats criticized Reagan for a renewed hard line in relations with the Soviet Union and for support of right-wing, rights-abusing regimes in El Salvador and Guatemala and right-wing rebels in Nicaragua. Under Reagan, however, U.S. aid to democratic movements abroad was institutionalized with the establishment of the National Endowment for Democracy as a publicly funded, privately operated entity. And by his second term Reagan was being credited with a turnaround on human rights exemplified by the U.S. backing of the successful ouster of two authoritarian U.S. allies: Ferdinand Marcos in the Philippines and Jean-Claude Duvalier in Haiti.

The dissolution of the Soviet Union and the ouster of communist regimes throughout Eastern Europe came with stunning suddenness during the presidency of George H. W. Bush. Reagan's admirers credit the downfall to his hard-line stance, but they and less-partisan observers also say the communist regimes failed because of the failure of communism itself. Whatever the causes, the events opened the door to opportunities for democratization and liberalization. Two decades later, Russia remains under critical scrutiny on rights issues, but many of the Eastern European countries are credited with successful transitions to democratic, rights-respecting governments.

Despite the easing of East-West tensions and a professed commitment to human rights, President Clinton was seen by rights advocates as falling short in some actions — for example, in delink-

ing rights and trade with China and moving slowly to confront the humanitarian crises in the Rwanda conflict and in the wars in the former Yugoslavia. UCLA professor Kaye notes, however, that Democrat Clinton had to contend with a Republican-controlled House for six of his eight years in office and a GOP-controlled Senate for four.

The 1990s saw great progress, however, in the institutionalization of rights machinery at the United Nations, beginning in 1993 with the creation of the position of High Commissioner for Human Rights. Despite continuing controversy for its alleged anti-Israel bias, the Commission on Human Rights became an invaluable source of information by increase the use of so-called special rapporteurs to investigate and report on conditions in individual countries and in broad areas such as arbitrary detention, child prostitution and violence against women. The U.N. Security Council also approved the creation of war crimes tribunals for the Balkan and Rwandan conflicts, even as a U.N.-sponsored conference was drafting a treaty to create a permanent International Criminal Court (ICC). Concerned with possible prosecution of U.S. service members, however, the United States was one of seven countries to vote against approval of the treaty in the U.N. General Assembly in 1998.

Rights Dichotomies

President Bush's record on human rights was sharply disputed during his eight years in the White House and remains sharply disputed today. Bush's admirers say the wars in Afghanistan and Iraq brought human rights improvements in both countries; critics say rights conditions in both countries continue to be unsatisfactory. The opposing camps similarly disagree on the detention and interrogation policies that Bush adopted in his "war on terror." Even Bush's critics concede, however,

that his administration took positive steps on some human right fronts unconnected with the post-9/11 events.

Bush adopted an aggressive legal strategy after the Sept. 11, 2001, attacks on the United States to apprehend, detain and interrogate suspected al Qaeda members and sympathizers. Most notably, he claimed that the Geneva Conventions did not apply to the "enemy combatants" rounded up in Afghanistan and elsewhere and that they could be held at the Guantánamo Bay Naval Base in Cuba outside jurisdiction of federal courts. Both claims stirred strong opposition from European allies and from human rights groups within and outside the United States. Both claims were also rejected by the Supreme Court, which held in a series of cases that the Guantánamo detainees were protected by the Geneva Conventions' so-called Common Article 3 and that they could use federal habeas corpus petitions to challenge the legality of their imprisonment.

Bush mixed national security objectives with human rights goals in the wars both in Afghanistan and in Iraq. Admirers see human rights gains. "There are free elections in Iraq," says Johns Hopkins professor Mandelbaum. "Women go to school in Afghanistan."

In its most recent annual report issued in February 2009, however, Human Rights Watch is sharply critical of rights conditions in each. In Iraq, the government — described as resting on a narrow ethnic and sectarian base — is blamed for widespread torture and abuse of detainees. The report says girls and women are subject to gender-based violence; gays and lesbians are also subject to violence "by state and non-state actors." In Afghanistan, the government — described as weak and riddled with corruption — is faulted for taking no action on a justice-and-reconciliation plan adopted in 2006. Education for girls continues to lag, the report says, because of violence in some regions and social pressures elsewhere.

While criticizing Bush for taking “backward” steps on the war on terror, UCLA’s Kaye says his presidency should not be viewed “as purely a dark period” on human rights issues. As one example, he notes the administration’s decision in 2004 to accuse the Sudanese government of genocide in the rebellious province of Darfur. The administration also contributed to an international peace-keeping force and opposed a suspension of the ICC warrant against Sudan’s president, Omar Hassan al-Bashir, for allegedly overseeing genocide in Darfur. Kaye also praises Bush for expanding U.S. programs to combat HIV/AIDS abroad. Bush won congressional approval for a \$15 billion anti-AIDS initiative in 2003; as it was set to expire in 2008 he signed a five-year, \$48 billion expansion. Kaye also gives Bush credit for tackling other global issues, such as human trafficking.

The Bush administration had less interest, however, in international human rights treaties. Most notably, the administration strongly opposed ratification of the treaty creating the ICC. Clinton had signed the treaty in 2000 but deferred asking the Senate to ratify it until after the court was in operation. Once the court began operations in 2002, however, Bush said he would not ask for ratification unless U.S. service members were exempted from possible prosecutions. Kaye notes that Bush also did not push for U.S. action on other international human rights covenants, including the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women. In its report, Human Rights Watch also cites the U.S. opposition to the U.N. Human Rights Council as an example of the Bush administration’s “arrogant approach to multilateral institutions.”

During his campaign, Obama strongly criticized the Bush administration’s anti-terrorism policies as having lowered respect for the United States around the world. In his acceptance speech at

the Democratic National Convention on Aug. 27, 2008, he promised to “restore our moral standing.” He also vowed to “build new partnerships to defeat the threats of the 21st century: terrorism and nuclear proliferation, poverty and genocide, climate change and disease.”

As president, Obama moved quickly to redeem one of his promises by reversing some of Bush’s anti-terror policies in his first week in office. He scrapped legal opinions that had questioned the applicability of the Geneva Conventions to suspected terrorists, shuttered the Central Intelligence Agency’s secret prisons and set a one-year deadline for closing the Guantánamo prison camp.

In a series of foreign policy addresses from June through September, Obama also sought to reengage with the international community on a wide range of issues, including democracy and human rights. In his June 4 speech in Cairo, Obama pointedly underlined for the Muslim world the importance of religious tolerance and women’s rights. In Ghana on July 11, he faulted post-colonial Africa for too much corruption and too little good governance. A few days earlier in Moscow, however, Obama steered clear of any direct criticism of Russia’s restrictions on political freedoms. And his Sept. 23 speech to the U.N. General Assembly included only a single paragraph on democracy — but with the significant admission that the United States “has too often been selective in its promotion of democracy.” ■

CURRENT SITUATION

Rights Policies in Flux

The Obama administration shows signs of becoming more active on

international human rights issues, but it continues to draw mixed reactions from human rights groups and experts.

In the weeks since Obama’s address to the U.N. General Assembly, the administration has unveiled a new strategy aimed at easing the humanitarian crisis in the Sudanese province of Darfur and implementing the 2005 peace accord between the country’s predominantly Arab North and Christian and animist South. The administration has also strongly protested the Sept. 28 massacre and mass rapes of political protesters in the West African nation of Guinea, called for investigation of possible abuses during Sri Lanka’s now-ended civil war and protested the arrest of a prominent human rights lawyer in Syria.

UCLA professor Kaye applauds the new Sudan policy for use of “benchmarks” to judge the government’s compliance with the requested actions, but he adds, “The jury’s still out.” He says the statements on Guinea, Sri Lanka and Syria are “important signals” of the administration’s human rights policy, but more action is needed. “One should hope that the statements of opposition and outrage are followed up by diplomatic moves,” he says.

Johns Hopkins fellow Muravchik questions what he calls “the softer line” toward the Sudan government. Like Kaye, he views the U.S. stances on Guinea, Sri Lanka and Syria as unexceptional. The United States has “nothing at stake in Guinea or Sri Lanka,” Muravchik says, “and issuing a protest about the arrest of a human rights lawyer is a fairly routine and mild thing to do.”

The Sudan policy, announced by Clinton on Oct. 19, represents a conscious effort to find a balance between a hard-line approach emphasizing punitive sanctions and a refusal to deal with Sudanese President Bashir and a more conciliatory stance combining positive incentives and engagement with Bashir’s government.¹⁴

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At Issue:

Does President Obama deserve the Nobel Peace Prize for 2009?



BEN COHEN
EDITOR, THE DAILY BANTER.COM

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although Obama has governed as a centrist, one can't help but think that he is turning a very heavy ship ever so slowly leftwards, and that deep down, his heart lies far further to the left than he would like to let on. There is little doubt that Obama would, if he could, enact the extension of equal rights to gays, end the war in Iraq and Afghanistan, reconcile the Israelis and Palestinians and seriously reform the financial system.

The truth is, however, that a country taken over by special interests cannot be turned around quickly.

It is true that Obama has largely failed to deliver on all the above. But then again, he has only been in power for 11 months. And there has been progress — the engagement with the Middle East, multilateralism as the first option rather than the last, substantially increased unemployment benefits, cheaper student loans, a commitment (on paper at least) to reducing carbon dioxide emissions and a rebranding of America abroad.

Does this warrant a Nobel Peace Prize? Yes, and here's why.

The United States became a feared and despised state under the rule of the George W. Bush administration. The brazen disregard for global opinion, the trampling of international law and the overt environmental destruction were hallmarks of a presidency determined to project American power at all costs. With one election, the world forgave — and almost forgot — the tragic Bush years as a young, black president who spoke of hope rather than hatred, and cooperation rather than force, swept into power.

This monumental shift cannot and must not be underestimated.

Obama's Peace Prize was not necessarily given to him for what he has accomplished. It was given to him for what he can accomplish. As South African Archbishop Desmond Tutu put it:

"It is an award that speaks to the promise of President Obama's message of hope."

Hope will not fix the environment, stop the wars in Afghanistan and Iraq or prevent bankers from stealing all of our money.

Obama can certainly do better, much better than he is doing now. But it is too early to cast judgment, and he deserves time to make the changes he promised.

Obama has won the most prestigious prize for contributions to humanity in the world.

Now he must earn it.



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in July 2006, speaking to schoolchildren, Betty Williams, the Nobel Peace Prize winner from Northern Ireland, said she would "love to kill George W. Bush." This year's recipient, Barack Obama, has yet to encounter a problem for which blaming Bush is not a solution. He fits the Nobel Peace Prize mold, which by and large is determined by a committee that runs an affirmative-action program giving preference to those people who view world peace as an absence of American influence — extra points to Americans who hate the American ideal.

Like Al Gore and Jimmy Carter before him, Barack Obama has done nothing to further peace in our time but has repudiated strong American leadership. The Nobel committee, possessed by the spirit of former British Prime Minister Neville Chamberlain, has descended to farcically awarding prizes for prospective peace that will never come and global warming fixes that will never work, but will make Al Gore a very rich man.

The Peace Prize long ago ceased to have any relevance to anyone outside the left. Awarding the prize to Yasser Arafat, who had the blood of thousands on his hands, was akin to awarding a safe-driving certificate to Ted Kennedy. The only thing the prize now stands for is approval from the anti-American European left. We should hope the president of the United States would pause to consider that, but as he did not, we can be sure he agrees.

In fact, in Barack Obama's short tenure as president he has done his best to apologize for perceived American abuses of power and arrogance, backpedaled on key issues of national security and flirted with some of the most kleptocratic, tyrannical regimes in modern history. Siding with tyrants over the democracy-loving people of Honduras, giving lip service to freedom as Iranians were gunned down in the streets of Tehran and coddling up to our Chinese bankers have ingratiated the man with those who have always been offended by the last 10 words of "The Star Spangled Banner." If that merits a peace prize, most Americans would probably prefer war.

The prospective peace the Nobel committee hopes for will not come. It is as illusory as the pot of gold at the end of the rainbow. Barack Obama's vanity will, however, compel him to pursue it. We can be sure his peace will be America's loss.

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The six-year-long crisis in Darfur — part of the turmoil in Africa's largest country spanning more than two decades — has defied peacekeeping and mediation efforts by the international community. Government-aided militias are blamed for killing at least 350,000 people; more than 2.4 million people have been displaced, most of them living in refugee camps that depend on international humanitarian groups for food and other supplies. In his campaign, Obama had called for strong sanctions against Bashir's government.

Darfur advocacy groups are voicing guarded optimism about the new approach. Jerry Fowler, president of the Washington-based Save Darfur Coalition, said the policy was similar to the “balance of incentives and pressures” that the group had been calling for. But he said the policy would not succeed without “substantial presidential leadership.”

From a critical perspective, however, Bret Stephens, a *Wall Street Journal* columnist, mocked the administration's “menu of incentives and disincentives” in the policy. “It's the kind of menu Mr. Bashir will languidly pick his way through till he dies comfortably in his bed,” Stephens wrote.¹⁵

On Guinea, Clinton registered a strong protest over the killing of more than 150 demonstrators in the capital of Conakry opposing the military government of Capt. Moussa “Dadis” Camara. There were also reports of dozens of rapes — including mass rapes and sexual mutilation of the victims — by government soldiers. Clinton on Oct. 7 denounced the brutality and violence as “criminality of the greatest degree” and called on Camara to step down. She also dispatched William Fitzgerald, deputy assistant secretary of state for African affairs, to Guinea to deliver the protest.¹⁶

The State Department's report on Sri Lanka, issued on Oct. 22, detailed alleged atrocities by both sides in the

now-ended insurgency by a militant Tamil group seeking to create a separate homeland on the South Asian island nation. The report, requested by Congress, described as credible allegations that the government had targeted civilians and that the Tamil United Liberation Front had recruited children for the fighting. The report called for a full investigation by the government. “A very important part of any reconciliation process is accountability,” State Department spokesman Ian Kelly said.¹⁷

On Syria, the administration joined Britain, France and international human rights groups in calling for the release of the prominent lawyer and former judge Haitham Maleh, who has been jailed since his Oct. 14 arrest. Maleh, 78, has opposed Syria's Baathist government and called for lifting the state of emergency it imposed after taking power in 1963. The arrest is “the latest Syrian action in a two-year crackdown on lawyers and civil society activists,” the State Department said.¹⁸

The flurry of new statements “doesn't change the picture much,” says Muravchik. “It's always true that any U.S. administration will be on the side of human rights if there is no cost to it in the coin of other U.S. foreign policy goals,” he explains. “The problem that every administration faces is that insofar as we use some of our political influence and capital to press for human rights, we necessarily create frictions with governments that abuse human rights that make it harder for us to do other kinds of business with them.”

Rights Treaties in Limbo

The Obama administration is signaling support for ratifying two long-pending United Nations-sponsored treaties on women's rights and children's rights, but Senate action is in

doubt because of continued opposition from social conservatives and others.

The United States is all but alone in failing to join the two treaties: the Convention on the Elimination of All Discrimination Against Women and the Convention on the Rights of the Child. Besides the United States, only six other countries have failed to ratify the treaty on sex discrimination: Iran, Nauru, Palau, Somalia, Sudan and Tonga. Somalia is the only other country not to have approved the children's rights charter.¹⁹

The United States signed both treaties during Democratic administrations, but Republican opposition in Congress — fueled by opposition from social conservatives — has prevented the Senate ratification needed to give the treaties force of law. Now, the Obama administration says it wants both treaties ratified, but it has not set a timetable for moving on either one.

Social conservatives say both treaties pose threats to traditional family roles in the United States and to states' prerogatives on social issues. Some critics also question the treaties' practical effect since the signatories include any number of countries with poor human rights records. But human rights groups and other social welfare advocates say U.S. support for the treaties is important both symbolically and in practice. But they reject warnings that the treaties would impinge on private family arrangements.

The treaty on women's rights — sometimes known by the acronym CEDAW — was completed in 1979 and signed by the United States the next year while Carter was president. The Senate Foreign Relations Committee held hearings on the treaty in 1988, 1990, 1994 and 2002.

President Clinton submitted the treaty for ratification in 1994 with reservations on some issues including paid maternity leave and combat assignments for women. In the face of GOP opposition, Clinton never pressed for a Senate floor vote. Under

Democratic control, the Foreign Relations Committee again recommended ratification in 2002, but the Bush administration opposed the treaty, and no floor vote was held.

In her confirmation hearing, U.N. Ambassador Rice said the administration considered the women's rights treaty "a priority." The treaty was included in May on a list of those recommended for action, but no action has been taken. Conservative groups continue to denounce the treaty. "It's the Equal Rights Amendment on steroids," says Wendy Wright, head of Concerned Women for America. Among other provisions, opponents complain of one that calls for nations to work to eliminate "stereotyped roles for men and women."²⁰

The Reagan and George H. W. Bush administrations played a part in negotiating the children's rights pact but never signed it because of concern about its impact on U.S. law. The Clinton administration signed the treaty in 1995, but did not seek Senate ratification. The George W. Bush administration actively opposed the treaty.

Obama voiced concern during his campaign about the U.S. failure, along with Somalia, to approve the treaty. In a classroom session with schoolchildren in New York City in June, Rice said officials are actively discussing "when and how it might be possible to join." Again, no concrete action has been taken.

Conservative groups strongly oppose the pact. Stephen Groves, a fellow at the Heritage Foundation, a conservative think tank in Washington, says the treaty would give a U.N. body "a say over how children in American should be raised, educated or disciplined."²¹

The Obama administration's receptiveness to multilateral rights accords is viewed as a positive by human rights groups, but Human Rights Watch's Washington director Mali-

nowski says political considerations still shape the ratification strategies. "They're rightly starting with the ones on which there's the most consensus," he says. Johns Hopkins fellow Muravchik questions the value of the charters. "I wouldn't say they are empty exercises, but their importance is quite secondary," he says.

On a more contentious issue, Human Rights Watch is urging the administration to move away from Bush's strong opposition to the ICC and instead "develop a constructive relationship" with the tribunal. Without joining the court, the group says the United States can lend assistance to investigations and prosecutions. It also wants the administration to oppose provisions passed by Congress in 2002 that, among other things, prohibited U.S. participation in peacekeeping missions unless U.S. service members were granted immunity from possible war crime prosecutions before the tribunal. So far, the administration has backed the ICC's prosecution of Sudan's President Bashir but has not outlined a general policy toward the court. ■

OUTLOOK

Waiting for Results

When President Obama arrives in Beijing in mid-November, he will be seeking to enlist China's help in dealing with some of the United States' most pressing issues, including nuclear proliferation, climate change and the global economic slowdown. Despite a newly published report by the joint Congressional-Executive Commission criticizing China for increased repression in some areas, however, U.S. experts expect human rights to be low on the agenda for Obama's visit.

"Elevating human rights . . . is not going to serve U.S. interests at this point," says Elizabeth Economy, director of Asia studies for the Council on Foreign Relations, a New York-based think tank.

The administration's critics, particularly partisan conservatives, accuse Obama of an across-the-board downgrading of human rights. Administration officials, however, depict the president as fully committed to promoting human rights abroad.

"The president's policy on these issues is clear," State Department legal adviser Koh told reporters at a Sept. 29 briefing in Geneva during a U.N. Human Rights Council session. "He promotes human rights through engagement. He promotes human rights through diplomacy. He promotes human rights through efforts to find common ground. And he's prepared to do this in both bilateral and multilateral settings."

Some experts see logic in the administration's apparent preference for engagement over confrontation but still warn about the risks of a perceived weakening of U.S. opposition to abusive practices. Obama "believes that solving foreign policy problems requires engaging with America's adversaries and ending the lecturing (and hectoring) tone of his predecessor," writes James Goldgeier, a senior fellow with the Council on Foreign Relations and a professor of political science and international affairs at George Washington University.

The strategy "might seem to make sense," Goldgeier continues. "Unfortunately, it sends a signal to repressive regimes that no one is going to call them to account for their human rights violations. And those fighting for freedom in their home countries may soon worry that the United States is no longer their champion."²²

Johns Hopkins professor Mandelbaum is less convinced that the administration has merely shifted tactics on human rights issues without re-

ducing their priority as a foreign policy goal. “No administration wants to say that it is downgrading human rights, so of course that’s what they would say,” Mandelbaum remarks. “Maybe they’ll turn out to be correct.”

Some of the administration’s tactical choices are evidently open to debate, such as the decision to defer Obama’s meeting with the Dalai Lama until after the China trip. Economy calls it a mistake. “The Dalai Lama is a global leader,” she says. “Deciding to meet with him is unrelated to the China issue.”

But Douglas Paal, a China expert at the Carnegie Endowment for International Peace who was on the National Security Council staff under Presidents Reagan and George H. W. Bush, calls the decision “a reasonable choice.” “Tibet is at the head of China’s core interests,” he says. “Taking note of that, the administration doesn’t want to have a debate about meeting with the Dalai Lama.”

In a detailed report published on Oct. 16, the Congressional-Executive Commission on China finds increased repression in Tibet and the predominantly Uighur Xinjiang province along with increased harassment of human rights lawyers and advocates throughout the country. On Tibet, the report recommends that the United States urge China to open a dialogue with the Dalai Lama. It also calls on the government to increase aid to non-

governmental organizations (NGOs) for programs to aid Tibetans.²³

In other sections, the report similarly urges a mix of government-to-government pressure along with concrete steps by the U.S. government and NGOs. The commission, created in 2000, includes nine senators, nine House members and five executive branch appointees. The Obama administration’s seats on the commission are vacant; the administration has been slow in filling many executive branch slots.

With a full plate of major international crises and a challenging domestic agenda, the Obama administration is understandably hard-pressed to find time and resources to devote to human rights issues that — as in Sudan — present difficult and complex policy choices. Clinton, however, took time in August for a weeklong trip to Africa that included meetings with rape victims and visiting a refugee camp in the war-torn Democratic Republic of the Congo.²⁴ And in a visit to Russia in October, the secretary of state used a speech to university students to urge Moscow to open the political system. As *The New York Times*’ reporter noted, “Mrs. Clinton spoke far more forcefully about human rights and the rule of law than she did on a trip to China earlier this year.”²⁵

With U.S. influence on other nations’ internal policies necessarily lim-

ited, the likely impact of Clinton’s Africa tour or Moscow speech is easily doubted. Human rights groups, however, believe the United States has made a difference in the past. Now, they are waiting with some impatience and skepticism to see whether the Obama administration will devote enough time, attention and resources to make a difference again.

“I keep hearing from the administration an interest in focusing on results,” says Human Rights First Executive Director Massamino. “That’s how I think they ought to be judged.” ■

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About the Author



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FOR MORE INFORMATION

Council on Foreign Relations, 58 East 68th St., New York, NY 10065; (212) 434-9400; www.cfr.org. Nonprofit organization that operates a think tank, sponsors task forces, and publishes *Foreign Affairs*, a leading journal of global politics.

Council for Global Equality, 1220 L St., N.W., Suite 100-450, Washington, DC 20005-4018; (202) 719-0511; www.globalequality.org. Brings together international human rights activists, foreign policy experts, LGBT leaders, philanthropists and corporate officials to encourage a strong American voice on human rights concerns impacting LGBT communities worldwide.

Freedom House, 1301 Connecticut Ave., N.W., 6th Floor, Washington, DC 20036; (202) 296-5101; www.freedomhouse.org. Works to advance the worldwide expansion of political and economic freedom through international programs and publications, including annual country reports.

Heritage Foundation, 214 Massachusetts Ave., N.E., Washington, DC 20002; (202) 546-4400; www.heritage.org. Public policy research institute promoting conservative positions on free enterprise, limited government and a strong national defense.

Human Rights First, 333 Seventh Ave., 13th Floor, New York, NY 10001-5108; (212) 845-5200; www.humanrightsfirst.org. Nonprofit international human rights organization promoting laws and policies that advance universal rights and freedoms.

Human Rights Watch, 350 Fifth Ave., 34th floor, New York, NY 10118-3299; (212)-290-4700; www.hrw.org. Leading independent organization dedicated to defending human rights around the world through objective investigations of abuses and strategic, targeted advocacy.

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The Next Step:

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