6 Human rights and foreign policy in comparative perspective

While intergovernmental agencies and private transnational groups dealing with human rights proliferate, one central key to progressive developments remains states and their foreign policies.[1] As we have already seen, IGOs, from the UN through the OAS to the Organization for Security and Cooperation in Europe, have extensive human rights programs. Independent international officials for these organizations generate some influence. But it is usually state members of these IGOs that take the most important decisions, and it is primarily states that are the targets of reform efforts. Likewise, as we will see in Chapter 7, NGOs such as Amnesty International, Human Rights Watch, and Physicians for Human Rights, among others, are highly active in human rights matters and generate some influence. But, still, it is states that approve treaties and their monitoring mechanisms, states that sometimes manipulate foreign assistance in relation to rights, states that (may or may not) arrest war criminals – either singly or via international organizations such as NATO. NGOs mainly pressure *states* to do the right thing.

This chapter looks at human rights and state foreign policy in comparative perspective. It begins with a short discussion of three prominent mechanisms states can and do – at least sometimes – employ to influence another government's human rights policies: diplomatic, economic, and

[1] The views in this chapter are my own, but I gratefully acknowledge the contributions of others who worked on a research project on this subject funded by the United Nations University: Peter Baehr (Netherlands), Sally Morphet (United Kingdom), Chiyuki Aoi and Yozo Yokota (Japan), Gabor Kardos (Central Europe), Sergei Chugrov (Russia), Sanjoy Banerjee (India), Cristina Eguizabal (Latin America), Tiyanjana Maluwa (South Africa), and Zachary Karabell (Iran). Jack Donnelly also participated in this project and wrote the final chapter in D. Forsythe, ed., *Human Rights and Comparative Foreign Policy* (Tokyo: United Nations University Press, 2000). An earlier version of this chapter was published in the *International Journal* (Canada), 53, 1 (Winter 1997–1998), 113–132. I am grateful to the editors for their helpful suggestions.

An introduction can be found in Peter R. Baehr, "Foreign Policy," in David P. Forsythe, ed., *Encyclopedia of Human Rights* (New York: Oxford University Press, 2009), vol. II, 237–247.

military means. Different approaches may be taken in different situations, as states usually calculate the instruments available, the expected effect of the action taken, anticipated reactions – and above all the costs to themselves of trying to advance human rights abroad.[2] This is followed by a focus on the United States, the most important actor in international relations early in the twenty-first century. I show that the USA has a particular slant to its foreign policy on rights, and that Washington is often more prone to preach to others than to take international rights standards very seriously in its own policies. Clearly, the USA is highly selective when and how it pushes for rights abroad. The chapter then provides a comparative analysis of human rights in the foreign policies of some other states that either are liberal democracies or aspire to be so. I show that most differ from the US approach in one way or another, due to a varying combination of history and political culture, geo-political position, and perceived national interests.

While the structure of international relations, and in particular the modified nation-state system and its security dilemmas, pushes states to emphasize factors other than human rights in foreign policy, agency still matters. It matters that Donald Trump was elected to replace Barack Obama, or that Obama replaced George W. Bush, or that Vladimir Putin replaced Boris Yeltsin, and so on. There is still room to maneuver in favor of human rights or to undercut them. Foreign policy leaders still matter, even if various structures (or contextual factors) also matter, whether they might be national public opinion or influence of for-profit corporations.

Policy instruments

In the past, states have often proven reluctant to speak out on human rights violations by others, fearing interruption of "business as usual" – not only on business but also on other important matters like security cooperation. As indicated in Chapter 4, it is very clear that states do not like to sue each other about human rights in the International Court of Justice, and the number of cases on human rights is very small. As shown in Chapter 5, even within the Council of Europe, neighboring states with numerous common concerns do not often sue each other in the European Court of Human Rights, the overwhelming number of cases being triggered by private rather than state complaint. The same pattern

[2] Peter R. Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 3rd edn. (New York: Palgrave Macmillan, 2004), 69.

is evident with regard to the InterAmerican Court of Human Rights. Nevertheless, many states do address human rights issues in other states short of judicial proceedings. Sometimes this public diplomacy on human rights is primarily to embarrass enemies, as was true of East–West debates in the UN General Assembly during the Cold War. And sometimes taking a public position on human rights abroad is designed for domestic consumption, as was true of Henry Kissinger's public comments about the importance of human rights in South America – even as he was committing the USA to quiet support for repressive regimes. But sometimes states are genuinely interested in advancing rights abroad; and then they seriously think about ends and means.

Diplomatic means

There are a number of ways a state may utilize diplomacy to try to influence the policies of states violating human rights. The traditional, classical method has been that of "quiet" diplomacy, that is, to hold a confidential discussion behind closed doors and away from public view. Emissaries may meet with foreign officials to discuss a particular human rights situation or to request a halt to certain actions. This is sometimes a useful way to bring objections and matters of concern to the offending party without risk of widespread controversy or public outcry. Sometimes a target government will prove flexible if it can avoid the public appearance of caving in to foreign pressure. Quiet diplomacy is of course hard to track and evaluate, precisely because it may be some years before outsiders know what has transpired.

From time to time private diplomacy for human rights is then followed by public statements, as when President George W. Bush met with Russian president Vladimir Putin in early 2005. President Bush, having devoted his second inaugural address to the theme of freedom, could hardly not raise the subject of Russian policies at home and abroad that touched on human rights. And by all accounts there was some private attention to human rights in places like Chechnya and the Ukraine during this presidential summit.

But when the dialogue moves to the public arena, states undertaking a human rights discourse frequently meet "blowback" or negative reactions. State leaders who are subjected to public criticism often become defensive and inflexible in the name of national pride, state sovereignty, or because they have domestic elements who are "hardliners" about resisting foreign pressure. When in the 1970s the US Congress passed the Jackson–Vanik Amendment publicly requiring greater emigration (freedom of movement) from Romania, the Soviet Union, and other

European communist countries, the numbers of those allowed out actually dropped in the short term, as the target governments did not want to be seen caving in to US public pressure.

On the other hand, sometimes some public pressure can be productive, and the human rights NGOs that engage in the "naming and shaming" game can cite a number of situations in which public pressure brought some progressive gains over time. European state pressure on Turkey to improve its human rights record, in the context of the debate over Turkey's admission to the European Union, clearly had some beneficial effect – at least for a time.

Other essentially diplomatic steps can be undertaken, such as cancellation or postponement of ministerial visits or recall of ambassadors. This is likely to draw attention to the issue at hand, particularly when done by prominent states. In early February 2005, in the wake of the assassination of a former Lebanese prime minister, the United States recalled its ambassador to Syria, believing that state bore at least some measure of responsibility. The USA used the opportunity to criticize Syria for its lax border-control policies, its anti-democratic domestic practices, and what it felt was an unnecessary Syrian military presence in Lebanon. While Syria condemned the assassination and denied involvement, greater international attention was being paid to its policies, including human rights policies.[3] We mentioned previously that Western states pushed for the UN Security Council to create an international criminal tribunal in response to this assassination, even if the court represented an example of judicial romanticism and political theatre. Such moves did highlight the killing that had taken place.

The large number of intergovernmental agencies dealing with human rights means that member states are confronted almost daily about taking a diplomatic position on some human rights question. This is certainly true in the sprawling UN system, but also true in more limited IGOs like the OSCE, Council of Europe, and OAS. Even in the Commonwealth of Nations, formerly the British Commonwealth, there are occasions for voting on human rights issues pertaining, for example, to governmental violation of rights in Zimbabwe.[4] Former British colonies in Asia, a region with no human rights intergovernmental organization, are

[3] See Steve R. Weissman, "Bush Considers Syria 'Out of Step' with Democracy," *International Herald Tribune*, February 19, 2005, www.theguardian.com/world/2005/feb/21/eu.usa1.

[4] See further Rhoda Howard-Hassmann, "Zimbabwe," in *Encyclopedia of Human Rights*, vol. V, 399–406; and see her longer analysis in "Mugabe's Zimbabwe, 2000–2009: Massive Human Rights Violations and the Failure to Protect," *Human Rights Quarterly*, 32, 4 (November 2010), 898–920.

compelled to address human rights issues through the Commonwealth. Canada, for example, suspended funding to the Commonwealth to protest the role of Sri Lanka in the organization; Ottawa believed Sri Lanka was not responding properly to charges of war crimes during its internal armed conflict with the Tamil Tigers.

Often less influential, though undeniably symbolic, are various cultural or sports-related embargoes enacted by states. For example, many states refused to participate in sporting events with South Africa under white minority rule to protest the country's policy of apartheid. These actions were generally supported by apartheid's victims and often found favor with public opinion in criticizing states – in part because one could take a stand for human rights without paying much price in national blood or treasure. While these sports and cultural boycotts did not by themselves lead to the end of apartheid, such policies made their contribution to the broader effort to delegitimize repressive minority rule. Given white South Africa's love of sports such as rugby and soccer (often called football outside the USA), etc., some effective pressure from sports diplomacy could not be discounted even if it could not be scientifically documented. (How is one to measure the impact of John McEnroe refusing to play tennis in South Africa during apartheid?)

The diplomatic methods discussed above are used to protest or draw attention to particular human rights violations. It can be noted, too, that not all diplomatic techniques are negative in nature. States may offer ministerial visits or invite foreign diplomats or heads of state to visit in an effort to support a country's human rights policies. Governments may be invited to participate in international conferences or to join international organizations, such as the Council of Europe or the European Union, in order to influence human rights policy. Organizations like the EU do note the domestic human rights policies of member states. One of the reasons for expanding NATO membership was to integrate militarily certain former authoritarian states into an alliance for constitutional democracies. The Commonwealth readmitted several states to membership after the end of military rule and return to electoral democracy.

While diplomatic means may or may not be effective by themselves, they can be linked to other steps.

Economic means

Governments are often reluctant to undertake economic sanctions against another state – whether for human rights or other reasons – as they may hurt themselves. One of the reasons Switzerland did not join the United Nations until 2004 was that the economic sanctions it had

imposed on Mussolini's Italy as voted by the League of Nations damaged the Swiss economy as well as proving highly unpopular in Italian-speaking Switzerland. One of the reasons that the USA violated mandatory trade sanctions on the breakaway white minority government of Ian Smith in Rhodesia, now Zimbabwe, was the damage otherwise done to American businesses, particularly Union Carbide. Economic sanctions mostly cut both ways.

States, however, do sometimes suspend full trade, and also development aid or other types of foreign assistance. This may be done for lack of other appealing options – e.g., diplomacy alone has proven ineffective but military action is not desired. But this type of sanctioning can have unintended or unwanted effects.[5] Former UN Secretary-General Boutros Boutros-Ghali expressed this concern succinctly: "[Economic sanctions] raise the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders whose behavior is unlikely to be affected by the plight of their subjects."[6] Indeed, virulent debate ensued during the 1990s regarding sanctions imposed on the people of Iraq, as authorized by the UN Security Council. Supporters of the sanctions pointed to their efficacy in making life difficult for Saddam Hussein's abusive regime, while critics stressed their destructive effects on the people of Iraq, notably children.[7] Eventually the UNSC voted to allow Iraq to sell some oil, using the proceeds supposedly to purchase goods necessary for the civilian population. But the Council failed to supervise the program effectively. Money was siphoned off to the Hussein regime, and other problems manifested themselves.[8] The sanctions were generally ineffective in compelling more moderate policies from Saddam's brutal regime. We now know, however, that Saddam altered his policies on weapons of mass destruction. It is not clear whether this change stemmed from the UN-mandated weapons inspections system, as compared to economic and military pressures, or some combination of the three.[9]

[5] Boutros Boutros-Ghali, quoted in Baehr and Castermans-Holleman, *The Role of Human Rights*, 74.

[6] Ibid.

[7] David P. Forsythe, *The Humanitarians: The International Committee of the Red Cross* (Cambridge: Cambridge University Press, 2005). The private ICRC was the first to raise the alarm, followed by UN agencies such as UNICEF and WHO.

[8] While much commentary focused on "UN" failures and corruption, the main difficulty was that western states turned a blind eye to such things as black market trade and profiteering, since western allies Jordan and Turkey were the main beneficiaries. Jean Krasno and James S. Sutterlin, *The United Nations and Iraq: Defanging the Viper* (New York: Praeger, 2003).

Most general economic sanctions undoubtedly do not decisively affect the elite in the short term, because the rulers and associated social circles are well positioned to avoid inconvenience. Such sanctions have never brought down a repressive regime, and the overall success rate of general economic sanctions, according to various measures, has been estimated at about 33 percent or lower.[10] On the other hand, "smart sanctions" have been tried on occasion in an effort to affect target governments while avoiding harm to civilian populations. In Haiti, for example, after general sanctions had been tried with predictable results, smart sanctions were applied to the military elite associated with Lt.-General Raoul Cedras, that group then blocking the return of the elected president, Father Aristide. These smart sanctions, closing off elite bank accounts and freedom to travel, contributed to the departure of Cedras and his entourage – along with promises of safe passage and comfortable life in exile. Smart sanctions have been either debated or adopted regarding other situations, for example with regard to the Sudanese government because of its policies pertaining to the Darfur region in 2005. They were applied to leaders of the Kaddafi regime in Libya during 2011 – and then relaxed for some of those who defected. The West has imposed targeted sanctions on a number of individuals in Russia close to President Putin, in response to Russian policies in Ukraine.

One overview of economic sanctions and human rights concludes that: (1) multilateral rather than unilateral sanctions are to be preferred; (2) negative punishment should be combined with positive inducements; (3) even smart sanctions usually fail to produce complete compliance with demands; (4) economic sanctions that last more than two years are rarely effective; (5) economic measures should probably be combined with military threats; and (6) both ends and means should be clear.[11]

As with diplomatic means, economic steps do not have to be negative in nature. States may often provide loans or credits to governments who are willing to adopt measures conducive to human rights protection. Most liberal democracies, as well as the IGOs that they influence, manifest democracy promotion programs in order to provide economic and technical assistance to certain transitional states. The funding is used to sponsor and supervise free and fair elections, state-building (for example, the construction of vigorous parliaments and independent courts), and nation-building (for example, encouraging an active and

[10] George Lopez, "Economic Sanctions," in *Encyclopedia of Human Rights*, vol. II, 82–87.
[11] Ibid.

rights-supportive civil society). Particularly Western states were undertaking unilateral and multilateral democracy promotion and other rights-protective policies costing hundreds of millions of dollars in foreign assistance.

Military means

Finally, there is a range of military steps available at least to those states with effective military establishments. The most dramatic measure is that of coercive military action. When undertaken without UN Security Council approval, such action is highly controversial, as seen by NATO's bombing of Serbia in 1999 to try to stop violent persecution and forced displacement of the ethnic Albanians constituting a majority of the Kosovars.

There is certainly the longstanding problem that states may claim to be engaged in "humanitarian intervention" whereas in reality they have other primary motives. The US-initiated war in Iraq from 2003, though it may have produced some positive long-term consequences for human rights there, along with many human rights problems, should not be defined as a humanitarian intervention. True, by 2005 the George W. Bush Administration's main justification for the war was advancing democracy. But the foundations for the war were steeped in the rhetoric of national security. At the time of the US invasion Washington argued that Iraq had ties to terrorist groups such as Al Qaeda, that it possessed illegal weapons of mass destruction, and that the Hussein regime needed to be removed because of future security problems. As Peter Baehr and Monique Castermans-Holleman note, however, "This regime had for a number of years been guilty of human rights violations, but to put an end to these violations was not [initially] mentioned as a main objective of military action."[12]

There have been numerous cases of "mixed motives" regarding the use of force in other states without UN approval. In 1971 India used force to stop Pakistan's Punjabi-dominated elites from slaughtering Bengalis, and in the process took the opportunity to weaken rival Pakistan by creating Bangladesh. In 1979 Tanzania used force to drive out the murderous Idi Amin from Uganda, after he had made a military incursion into Tanzania, which resulted in rule by the equally dictatorial but relatively more moderate Milton Obote. Also in 1979 Vietnam used force to topple the genocidal regime of the Khmer Rouge in Cambodia, then installed

[12] Baehr and Castermans-Holleman, *The Role of Human Rights*, 80.

the pro-Vietnamese and anti-Chinese Hun Sen as leader. It is not just various western interventions over the years (by the Americans, British, and French, for example) that have made claims to humanitarian intervention so controversial.

There have not been many clear-cut cases of "humanitarian war." Most states have been reluctant to spill national blood for the protection of the rights of "others," and it is especially hard to justify such uses of force at home when loss of life by the intervening state(s) is not linked to traditional notions of security. Moreover, humanitarian intervention almost always makes the situation worse in terms of human costs in the short run. NATO's bombing of Serbia in 1999 was initially met with Belgrade's expanded persecution and displacement of Albanian Kosovars.

Less controversial, at least initially, than unauthorized state military action in the name of human rights protection is state military support for a UN Security Council resolution designed to alleviate human rights problems. As discussed in earlier chapters, this may take the form of an enforcement or peacekeeping field operation. As already noted in Chapter 3, after the Cold War these multilateral security missions almost always entailed a human rights dimension. Whether these field operations were designed to be coercive, evolved into coercion, or remained mostly a matter of armed diplomacy, states were at the center of action. It was states in the UN Security Council that authorized the deployment, states that contributed the troops, and often states that pressed for termination of mission when difficulties occurred. In 2011 member states of the UN Security Council passed Resolution 1973 authorizing states to take "all necessary measures" to protect civilians in Libya: it was then states which chose the strategy and tactics of military action that implemented this vague resolution, which as usual contained no measure of follow-on supervision by any UN body. "The UN" had acted, but it was states that controlled developments. Furthermore, it was states that were responsible to see that military personnel were trained in international humanitarian law, and states that (perhaps) prosecuted military personnel who engaged in sex trafficking or other crimes.

As with diplomatic and economic means, there was a positive side to military options. I have already mentioned one reason for expansion of NATO membership, namely to shore up transitional democracies by linking them to more established democracies. Bilaterally, states may choose to expand military assistance to reward another state for democratic and rights reform. In 2005 the USA expanded military assistance to Guatemala, partly in response to some rights-protective reforms in

that state. (At the same time the USA reduced military assistance to some states supportive of the ICC, thus using military assistance to try to undercut certain judicial developments.)

US foreign policy and human rights

To a great extent a state's foreign policy on human rights is bound up with its version of nationalism, which is to say with a nation's collective self-image, which is to say with its informal ideology. Since many nations in the past have thought well of themselves, many states' policies on human rights reflect the conviction that the state has some virtuous point to teach others. As Britain, France, Russia, and others extended their power in the nineteenth century, through formal colonialism or otherwise, they saw themselves as doing God's work in bringing a superior civilization to the inferior (and non-white) peoples of the world. As a matter of fact, this spreading of a "superior" civilization supposedly featuring freedom and the rule of law was accompanied by various atrocities.[13] When local attitudes were not very appreciative of the "benefits" of outside rule, the western response was not exactly charitable, but periodically vindictive toward the "unruly natives." In this sense we can understand why it has been written that American exceptionalism is not so exceptional: others, too, have seen themselves as exceptionally good and hence superior to others.

American exceptionalism

In the case of the United States, to understand the place of human rights in foreign policy it is initially important to understand that many in the elite and mass public view the USA as a beacon of freedom to the world. The notion of American exceptionalism is well known, but its precise application in public policy is open to various constructions.[14]

[13] See, e.g., Peter Hopkirk, *The Great Game: The Struggle for Empire in Central Asia* (New York: Kodansha International, 1990, 1992). See also Juan Cole, *Napoleon's Egypt: Invading the Middle East* (Basingstroke: Palgrave Macmillan, 2007). See further Casper W. Erichsen, "Namibia: Germany's Colonial Wars Against the Herero and Nama," in *Encyclopedia of Human Rights*, vol. IV, 17–27.

[14] See especially David P. Forsythe and Patrice C. McMahon, *American Exceptionalism Reconsidered: US Foreign Policy, Human Rights, and World Order* (New York and London: Routledge, 2016). See also Michael Ignatieff, ed., *American Exceptionalism and Human Rights* (Princeton: Princeton University Press, 2005); and Tony Smith, *America's Mission: The Worldwide Struggle for Democracy in the Twentieth Century* (Princeton: Princeton University Press, 1995).

Human rights in foreign policy is often a matter of Washington pressing others to improve personal and political freedom.[15]

Particularly for American ultra-nationalists, a powerful force in modern American politics since about 1980, human rights was equated with personal freedom as found in the US Bill of Rights appended to its constitution, and not with the broader and more complex conception found in the International Bill of Rights (as indicated, this means the Universal Declaration, and the 1966 International Covenants on Civil-Political and Socio-Economic-Cultural Rights). Particularly the Ronald Reagan and George W. Bush Administrations – whether one calls them romantic nationalists, chauvinist nationalists, providential nationalists, Jacksonian nationalists, militant American exceptionalists, crusading neo-conservatives, nativists, or some other label – certainly did not try to use internationally recognized human rights to improve US policies. Being disdainful of international law, they often preferred a strictly American conception of human rights in order to bypass many international rights standards and implementing agencies.[16] The election of Donald Trump in 2016 presaged more of this orientation.

More generally, from the early settlers in New England to the powerful Goldwater–Reagan–George W. Bush wing of the Republican Party in contemporary times, important political circles have seen the USA not as an ordinary nation but as a great experiment in personal liberty that has implications for the planet.[17] Well-known defects in American society such as ethnic cleansing of Native Americans, a history of slavery, segregation, racist immigration laws, anti-Semitism, religious and other bigotry, gender discrimination, and grinding poverty have failed to alter this dominant self-image. American exceptionalism, the belief in the exceptional freedom and goodness of the American people, is the core of the dominant American political culture.[18]

The continuing strength of American exceptionalism should not necessarily be equated with an automatic crusade for human rights in US foreign policy. The belief in American greatness, as linked to personal freedom, can lead to involvement or isolationism. Two underlying

[15] See further David P. Forsythe, "Human Rights and US Foreign Policy: Situating Obama," *Human Rights Quarterly* 33, 3 (August 2011), 767–789.

[16] See further David P. Forsythe, *The Politics of Prisoner Abuse: The US and Enemy Prisoners After 9/11* (Cambridge: Cambridge University Press, 2011), ch. 2.

[17] T. Davis and S. Lynn-Jones, "City upon a Hill," *Foreign Policy*, 66 (1987), 20–38.

[18] See further David P. Forsythe, *American Exceptionalism and Global Human Rights* (Lincoln: University of Nebraska Distinguished Lecture Series, 1999); and Forsythe, "Human Rights and US Foreign Policy: Two Levels, Two Worlds," in David Beetham, ed., *Politics and Human Rights* (Oxford: Blackwell, 1995), 111–130.

schools of thought have long competed for control of US foreign policy. The first, associated with Washington, Jefferson, and Patrick Buchanan, would perfect American society at home and thus provide international leadership mainly by indirect example. This school was clearly dominant in the Congress in the 1930s. The second, associated with Hamilton and most presidents since Woodrow Wilson, would have the USA actively involved in world affairs – on the assumption that US impact would be for the better.[19] All modern presidents have manifested an activist foreign policy, including on human rights (to varying degrees). This activist stance leaves open the question of the general nature of decisions: realist, liberal, or "neo-con."

American exceptionalism does not so much guarantee specific foreign policy initiatives as it predisposes Washington to talk about freedom and democracy and to assume it can make a difference for the better when and if it gets involved. The American public and Congress were deferential if not supportive in 1992 when President George H. W. Bush deployed military force to guarantee the secure delivery of humanitarian assistance in Somalia. But after difficulties there, especially in 1993, the American public and Congress were content not only to withdraw from Somalia but also to avoid military intervention during the genocide in Rwanda during 1994. The Vietnam syndrome, now supplemented by Somalia, and further buttressed by the long and inconclusive engagements in Afghanistan and Iraq, occasionally or inconsistently puts a brake on direct US military intervention by reminding of the complexity of deep involvement abroad. Military operations for advancement of human rights in places such as Haiti, Bosnia, and Kosovo could only be sustained because combat casualties were avoided. But the more fundamental faith in American greatness as a symbol of freedom is alive and reasonably well, as shown by President Barack Obama's views (covered below). Donald Trump got elected in 2016 under the slogan of "Make America Great Again."

Events in Serbian Kosovo, for example, can be understood against this background. The United States felt the moral obligation to oppose the 1999 repression and expulsion of ethnic Albanians, a Serbian policy that also contested NATO's hegemony and somewhat destabilized other European states, but fear of casualties caused the Clinton Administration and NATO to adopt the military strategy of high-altitude air strikes without ground troops. This approach failed to protect the Albanian Kosovars in the short term, contributed to continuing

[19] See Michael H. Hunt, *Ideology and US Foreign Policy* (New Haven: Yale University Press, 1987).

destabilizing pressures on neighboring states, and solidified Serb opinion behind the Milosevic government. But, in the long term, as noted in Chapter 5, the United States and NATO weakened Milosevic's ability to persecute the Albanian Kosovars, and weakened his power in Belgrade. In a quite remarkable if controversial military operation, Washington led NATO in using military force to protect human rights. But the USA was careful not to suffer more casualties (and civilian damage abroad) than domestic opinion would tolerate. (In fact, no NATO pilots were killed or captured during eleven weeks of bombings.) It was a delicate balancing act: to proceed militarily primarily for human rights abroad but maintain domestic support for an operation not linked to traditional security concerns. (Congress never voted yea or nay on the military venture.)[20]

US foreign policy toward Libya in 2011 fits well with themes discussed here. President Obama appealed to American exceptionalism in his televised national address on March 28, saying that, while other nations might be able to stand aside if Kaddafi threatened atrocities, the USA could not.[21] Bill Clinton's failure to stop the Rwandan genocide in 1994 was a dark cloud in Obama's White House. But Obama then noted that military action, presumably to protect Libyan civilians, was occurring under UN mandate. American exceptionalism was thus combined with multilateral approval, hence presumably doubly legitimate. Actual military operations, whether led by the USA or NATO, were conducted with considerable prudence, both to avoid casualties and to avoid public responsibility for post-conflict events and hence a possible long and costly involvement. The "real" policy was indeed regime change, with western states trying to induce defections from the Kaddafi inner circle and hence the collapse of the regime. But the only way to get a UN mandate for military intervention (even with China, Russia, Germany, India, and Brazil abstaining in the Security Council vote) was to argue that the military operation was only to protect civilians. Of course, some apparent civilians were, in reality, fighters for the rebellion, so outside involvement to protect civilians inherently worked to enhance armed opposition to the government.

In sum to this point, one finds in US foreign policy on human rights much rhetoric about American exceptionalism – about a special US role to be active on human rights and democracy. But this periodic rhetoric does not always guarantee action (recall Rwanda) nor does it mean that

[20] Ryan C. Hendrickson, *The Clinton Wars: The Constitution, Congress, and War Powers* (Nashville: Vanderbilt University Press, 2002).

[21] See https://obamawhitehouse.archives.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya.

the attentive public and elites in Washington are prepared to easily incur costs to protect the rights of others.[22] (The pattern of liberal rhetoric but realist hesitations is prevalent among liberal democracies. When Belgium suffered a few casualties in the early days of the 1994 Rwandan tragedy [about the same number as the USA suffered in Somalia in 1993], that state withdrew its remaining personnel and did not directly contest the genocide. When the Netherlands suffered one military fatality prior to the massacre at Srebrenica, Bosnia, in 1995, it withdrew its remaining personnel from a UN field operation and did not directly contest the ensuing genocide.)

More on bold rhetoric but limited measures

Even before the Libyan intervention, current public opinion on rights in US foreign policy indicated a blend of liberalism and realism – of universal concern for others and narrow self-interest. Polls showed that the general public as well as opinion leaders did indeed list "promoting and defending human rights in other countries," as well as "helping to bring a democratic form of government to other nations" as "very important" goals of US foreign policy. But in 1995 these goals were in thirteenth and fourteenth place, respectively, with only 34 percent and 25 percent of the general public listing them as very important. Eighty percent or more of the general public listed "stopping the flow of illegal drugs into the USA," "protecting the jobs of American workers," and "preventing the spread of nuclear weapons" as much more important. Analysts concluded that there was considerable American popular support for pragmatic internationalism, but not a great deal of support for moral internationalism.[23] If human rights could be linked to self-interest, or if human rights do not interfere with self-interest, one could build a political coalition for action. But if one made only moral and altruistic arguments, it was difficult to sustain a principled foreign policy centering on rights. With regard to Kosovo, American public opinion was permissive as long as significant numbers of American casualties were avoided.

[22] See further Julie A. Mertus, *Bait and Switch: Human Rights and US Foreign Policy* (New York and London: Routledge, 2004). See also Eric A. Heinze, "The Rhetoric of Genocide and US Foreign Policy: Rwanda and Darfur Compared," *Political Science Quarterly* 122, 3 (2007), 359–383. The George W. Bush Administration, having come to the conclusion of genocide in Darfur, still found reasons to avoid direct and major action in response.

[23] Ole Holsti, "Public Opinion on Human Rights in American Foreign Policy," in David P. Forsythe, ed., *The United States and Human Rights: Looking Inward and Outward* (Lincoln: University of Nebraska Press, 2000).

But in the spring of 1999 polls showed that almost two-thirds of the public were in favor of early negotiations to end the NATO air strikes.

Public opinion polls showed that in general or in the abstract, American public support for military means to advance democracy abroad was relatively low. It seemed very clear that had the George W. Bush Administration gone to the public and Congress in 2003 and asked for a mandate to use force to advance democracy in Iraq, that would have been a hard sell for the president. The actual rationale for that war was national security – Iraq's supposed links to terrorism, its presumed weapons of mass destruction, and general US security fears for the future. It was only after clarification of facts – no substantive Hussein links to Al Qaeda, no weapons of mass destruction, and hence no clear and present security danger – that the Bush Administration stressed the role of advancing democracy in Iraq. Movement toward democracy in Iraq and Saddam Hussein being on trial and executed did not save George W. Bush from very low public approval at home regarding his Iraq policy during the last few years of his presidency.

Washington is full of private groups that lobby for some version of human rights abroad.[24] This subject is treated in detail in Chapter 7. The national communications media also report on international human rights issues with some regularity. But many of the human rights NGOs often bemoaned their inability to stimulate more action, and more consistent action, for rights in US foreign policy.[25] The polls cited above indicate why. There is no grassroots movement supportive of a costly crusade for human rights abroad. While "the CNN factor" was given some credit for pushing the USA into action in both northern Iraq (the flight of Kurds) and Somalia (domestic starvation and disorder), both Rwanda in 1994 and what was then Zaire (now Democratic Congo) in 1997, showed that Washington was not always moved to action by media coverage of human rights violations and humanitarian hardship. With regard to Kosovo, media pictures of trainloads of ethnic Albanians being forced from their homes, and other reports of refugee hardships,

[24] The USA manifests no national institute of human rights, as do several European states, to serve as a transmission belt between international norms and national policies on human rights. It has a Civil Rights Commission, but that body rarely takes an international approach to its limited subject. See further Julie Mertus, *Human Rights Matters: Local Politics and National Human Rights Institutions* (Stanford: Stanford University Press, 2009). See also Thomas Pegrane, "Diffusion Across Political Systems: The Global Spread of National Human Rights Institutions," *Human Rights Quarterly*, 32, 3 (August 2010), 471–501.

[25] Aryeh Neier, "The New Double Standard," *Foreign Policy*, 105 (1996–1997), 91–102; and Ellen Dorsey, "US Foreign Policy and the Human Rights Movement," in Forsythe, ed., *The United States and Human Rights*.

probably had something to do with western support for air strikes on Serbia despite mistakes and collateral damage. But those pictures did not cause a public demand for ground troops and costly humanitarian intervention in terms of soldiers' lives.

Similar commentary could be made about "the Arab Spring" or the "Arab awakening" in early 2011. Street protests in the name of human rights and democracy (and better economic opportunity) resulted in much media coverage, with Arab (and Iranian) repressive elites trying to shut off television and social media coverage. The Obama foreign policy team selectively and inconsistently aligned the USA with democratic change in places such as Tunisia and Egypt and belatedly Yemen (but not so clearly in Bahrain or Syria). In Libya, as noted, western military opposition to Kaddafi's policies was careful in trying not to entail western casualties and prolonged responsibilities. Obama faced fractured domestic opinion: some supported limited involvement, some wanted more open pursuit of regime change, some were critical of further military operations in the wake of fighting in Afghanistan and Iraq (and budget deficits at home). As per Rwanda, American media reported on atrocities in Syria, but the domestic pressure to intervene there was slight, partially because of military involvements elsewhere.

As for Syria, after 2010, the communications media of various types regularly reported on the humanitarian disaster that emerged from the internationalized civil war (see further Chapter 9). But President Obama was determined to avoid major military intervention, as we have already noted several times. This policy choice meant injury or death to many during the fight for control of Syria.

Samantha Power, who as US Ambassador to the UN reportedly had some influence on Obama's decision to intervene in Libya, but was ineffective in advocating more UN involvement in Syria, has shown that throughout its modern history, when the USA has faced situations of genocide or near-genocide abroad, there has never been a powerful domestic push from public opinion or Congress forcing the president into a decisive involvement. Presidents have felt free to pursue mostly realist policies of narrow self-interest, rather than liberal policies of protecting the rights of others.[26] When involvements have occurred more recently largely for human rights reasons in places such as Somalia (1992), Kosovo (1999), and Libya (2011), care has been taken to try to limit US casualties and other costs, as noted. As Obama mentioned in his television address on Libya, US involvement in Iraq from 2003 had cost

[26] Samantha Power, *"A Problem From Hell": America and the Age of Genocide* (New York: Basic Books, 2002).

at least one trillion dollars and many American and Iraqi lives. Hence Obama's intervention in Libya was no crusade to be pursued regardless of cost. Moreover, the Obama team, like the British government, tried to cast the Libyan intervention sometimes in self-interested terms – that it was in the national interest to be on the side of democratic change in the Arab world.

To take one further concrete example, the matter of religious persecution abroad is instructive regarding US foreign policy and human rights – and the blending of ethical consideration with self-interest. The subject of religious freedom has a nice ring to it in American society, founded partly as it was to secure freedom from religious bigotry in Europe. In the 1990s, especially social conservatives pushed hard to elevate the subject of religious freedom in US foreign policy. But a number of pragmatic conservatives, as well as some international liberals, objected to the bills introduced in Congress. These bills called for automatic sanctions against countries engaging in, or tolerating, religious persecution. As such, these bills would have created sanctions on such US allies as Saudi Arabia, Israel, Greece, Pakistan, etc. Only when the bills were weakened so as to give the president considerable discretion in dealing with religious persecution abroad did a law finally pass. So there was more attention to religious freedom in US foreign policy, and a new office for such was created in the State Department. But there was also concern not to interfere very much with traditional US economic and strategic interests.[27] Some religious conservatives had teamed with some secular liberals to produce more attention to religious freedom and religious persecution, but traditional self-interest in economic and security matters was hardly absent.[28]

Recent administrations

There is much more to say about modern diplomatic history pertaining to the USA and human rights. Space limitations impose considerable brevity. First of all, presidents do not have a free hand on this issue; Congress asserts itself periodically. It was Congress during the early Eisenhower Administration that forced the USA to abandon a high-profile posture on internationally recognized human rights,

[27] See further Eric Schmitt, "Bill to Punish Nations Limiting Religious Beliefs Passes Senate," *New York Times*, October 10, 1998, A3.

[28] See further Allen D. Hertzke, *Freeing God's Children: The Unlikely Alliance for Global Human Rights* (New York: Rowman & Littlefield, 2004); and Felice Gaer, "Religious Freedom," in *Encyclopedia of Human Rights*, vol. IV, 323–329, where one also finds brief discussion of US foreign policy on this issue.

a conservative Congress being caught up in the hysteria of McCarthyism and seeing universal human rights as a subversive foreign influence. It was then Congress toward the end of the Nixon Administration that reintroduced human rights into the US foreign policy agenda, a Democratic Congress wanting to characterize the Nixon–Kissinger period as lacking in ethical values.[29] It was Congress, not Jimmy Carter, that first insisted on more attention to human rights abroad in the 1970s, and it was Congress, not Carter, that created a new human rights bureau in the State Department.

Second, particularly since the mid-1970s all presidents have had to fashion some sort of policy on human rights in world affairs, that subject being institutionalized at the UN and other international organizations, and Congress often being inclined to track developments – if only for partisan reasons.[30] Jimmy Carter (President 1977–1981), building on congressional developments, promised to make human rights the cornerstone of his foreign policy, a promise he largely abandoned after the Soviet invasion of Afghanistan in 1979. For his part Ronald Reagan (1981–1989) first attempted to collapse his human rights policy into his anti-communist orientation, but wound up reaching compromise with the Democrats on a bipartisan approach to democracy promotion, and on backing away from full support of anti-communist dictators such as Marcos in the Philippines and Pinochet in Chile.[31]

Giving somewhat more detailed treatment to later developments, we find that President Clinton's rhetoric on foreign policy, although spasmodically delivered, was squarely within the activist tradition of American exceptionalism. Enlarging the global democratic community was supposedly one of the basic pillars of his foreign policy. The semantic emphasis was on personal freedom and democracy. He justified US troops in Bosnia by saying Washington must lead, must hold the feet of the European allies to the fire, must make a difference for a liberal democratic peace with human rights in the Balkans. The 1995 Dayton agreement was not just about peace, but about liberal democracy and human rights. There was strong Clinton talk in support of human

[29] See further David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainesville: University Press of Florida, 1988).

[30] Once the USA became a party to treaties on human rights and humanitarian affairs, the domestic political process was altered to some extent, with various domestic groups making appeal to the treaties' provisions both in Congress and in the courts. See further Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009).

[31] A short summary can be found in Forsythe, "Human Rights and US Foreign Policy: Two Levels, Two Worlds."

rights: for universal rights at the UN Vienna Conference on Human Rights in 1993, which created the post of UN High Commissioner for Human Rights; for criminal prosecutions at The Hague in the International Criminal Tribunal for the former Yugoslavia; for containment of repressive states such as Sudan, Iraq, and Iran; for sanctions on Burma/Myanmar. As long as one did not have to pay a high national price, in blood or treasure, to advance human rights, the Clinton Administration was certainly for them – at least for the civil and political rights congruent with the American self-image. These were the rights stressed in Clinton's 1998 visit to China.

Self-interested economic and strategic concerns, however, were hardly absent from US foreign policy during the Clinton era. His first Assistant Secretary of State for human rights, John Shattuck, contemplated resigning several times in frustration over the lack of systematic commitment to human rights.[32] Not only did the Clinton Administration not intervene to stop genocide in Rwanda in 1994, after strong domestic criticism concerning loss of American life in Somalia, but also that administration delinked trading privileges from basic civil and political rights in China. Clinton's argument on that issue, not without reason, was that a strong defensive nationalism prevailed in China, and thus the only route to progress on human rights lay in economic growth and a larger middle class over time. Presumably, when that middle class had met its basic needs, it would then demand more personal and political freedoms. By 2016, that evolution had not happened, but that is not to say that it might not happen in the future.

President George W. Bush's foreign policy also stressed American exceptionalism as its guiding principle, but in a way very different from the Clinton era. Rhetoric promoting American ideals – namely freedom and liberty – was omnipresent in his speeches, especially his second inaugural address.[33] Despite the originally declared justifications for invading Iraq in 2003, which had little to do with human rights and much to do with claims to national security, the president's post-war language was replete with references to democracy and personal freedom. Whereas during his first term George W. Bush paid hardly any discernible attention to the decline of democracy in Russia, during the second term Bush himself laid great public and private stress on precisely that topic. Increasingly George W. Bush went beyond Clinton's

[32] John Shattuck, *Freedom on Fire: Human Rights Wars and America's Response* (Cambridge, MA: Harvard University Press, 2003).

[33] See georgewbush-whitehouse.archives.gov/news/releases/2005/01/images/20050120-1_p44289.

rhetorical but sporadic forays into the human rights domain. Increasingly the Republican Bush took on the political coloring of a Jimmy Carter or a Woodrow Wilson to stress the advancement of democracy, and its civil and political rights, as a central pillar of his foreign policy.

A year after the September 11 terrorist attacks, the Bush Administration had presented its National Security Strategy statement, outlining a foreign policy with much semantic attention to personal rights. "Human rights" was not a privileged phrase, but freedom and democracy were. While the first major section of the outline declared an intention to "Champion Aspirations for Human Dignity," it was also the strategy's shortest portion, other than its initial outline.[34] References to "human rights" can be found sparsely strung about the document, but even more apparent were references to "human dignity." Throughout the document, "human rights" was offered as a vague matter to be dealt with by other states, while "human dignity" was outlined in substantial detail: "the rule of law; limits on the absolute power of the state; free speech; freedom of worship; equal justice; respect for women; religious and ethnic tolerance; and respect for private property."[35] Norms such as free speech, freedom of worship, and respect for private property are all values firmly embedded in American political discourse. "Human rights" abroad inevitably gets one into the domain of international law and organization, and in general this is not what the Bush Administration wanted to emphasize. The Bush team, much more so than the Clinton team, was in favor of unilateral assertions of hard power, as many commentators recognized.

Like all administrations, Bush foreign policy gave rhetorical emphasis to a freedom agenda and democracy promotion. And there was some substance behind the words. But also like other administrations, the Bush team continued close relations with a number of autocrats, notably the long-time dictator, Hosni Mubarak, in Egypt. Thus on the one hand Bush foreign policy claimed to be using the invasion of Iraq to start falling dominoes in favor of democracy in the Middle East. On the other hand the Bush team did not pressure Mubarak and other authoritarian allies to liberalize their political systems, much less to move toward genuine democracy. That would only come from the Arab street in 2011, an indigenous and largely secular regional movement at the start that almost never mentioned developments in Iraq.

[34] See "The National Security Strategy," https://georgewbush-whitehouse.archives.gov/nsc/nss/2002/.

[35] See further Mertus, *Bait and Switch*, 59.

As for the Obama Administration, there was both continuity and change on human rights compared to the Bush II years. In the electoral campaign of 2008, human rights in foreign policy was not a leading issue, the country prioritizing concerns about economic recession. Candidate Obama did criticize the Republican Administration for sacrificing American values on the altar of national security.

As for change, President Obama undertook a high-profile stance to disassociate the USA from torture and cruel treatment of security prisoners. The Bush team, led by Vice President Richard Cheney, had gone to the "dark side" after 9/11 on grounds of national security, engaging in policies in CIA secret prisons that the International Committee of the Red Cross termed torture and inhuman treatment. At the Guantanamo prison facility on the island of Cuba, under military jurisdiction, and at other military prisons, there had also been torture and inhuman treatment, so characterized by some US military and legal officials.[36] On other issues one could also see some change, as in the Obama decision to rejoin (stand for election to) the UN Human Rights Council, boycotted by the previous Administration for its lack of even-handed policies (mainly concerning Israel). The matter of new US policies concerning the Arab Spring of 2011 has already been noted, as Obama did slowly align the USA with democratic change for a time in certain countries but not in others.

But there was much continuity as well. Some continuity was compelled by Congress despite Obama's wishes, such as in the continued operation of the Guantanamo prison for security prisoners, and the use of military commissions and administrative detention there as well. Some continuity came from the Obama team itself, as in efforts to keep courts from reviewing various prisoner claims of mistreatment. Initially the Obama Administration downplayed human rights issues in China, until NGO criticism and media coverage required increasing attention to rights there. Also regarding Russia, the Obama emphasis primarily was on securing Moscow's cooperation on a variety of issues such as Iranian nuclear weapons, not on its backsliding on human rights in Russian domestic and foreign policy. When the Obama team moved to apply targeted sanctions to certain individuals close to Putin, it was largely because of Russia's use of force to detach Crimea from Ukraine.

The fact was that across various administrations, with all being non-isolationist in foreign policy, and regardless of aspirations to being realist or liberal or some version of ultra-nationalist, the balance sheet regarding

[36] For overviews, see James P. Pfiffner, *Torture as Public Policy: Restoring US Credibility on the World Stage* (Boulder: Paradigm, 2010); and Forsythe, *Politics of Prisoner Abuse*.

human rights was normally very mixed with much inconsistency and muddling through. This was inherent in the subject, with many internationally recognized human rights, many countries and organizations on the US foreign policy agenda, many different conceptions of US interests, and much shifting domestic concern and pressure. Nixon and Bush I were not consistently realist, Clinton and Obama were not consistently liberal, and Reagan and Bush II were not consistently neo-conservative.[37] Some distinctions held up over time. For example, liberals gave greater weight to international law and organization, compared to realists and neo-cons. The latter were more unilateralists, on balance.

Obama in 2016 gave a candid interview to a journalist from *The Atlantic* magazine.[38] The President acknowledged an inconsistent, case-by-case approach to human rights in foreign policy.[39] The determining factor, he said, was cost to the USA. One had to be hard-headed in a tough world, and some action for human rights was not doable. Presumably the Syrian internationalized civil war fell into this category. In other situations, the USA could act, various costs being low. Presumably the rescue of Iraqi Yazidi from the murderous and rapacious Islamic State group fell into this category. So, in the Obama approach, the international law of human rights was implemented or not depending on US factors such as cost and domestic politics. Even so, Obama believed that on balance the USA was a force for good in the world, which fits with the idea of American exceptionalism.

Further observations

Further analysis reveals a major soft spot in the contemporary US approach to human rights, regardless of changing administrations. The USA, unlike all other developed democracies, refuses to accept cultural, economic, and social rights as real human rights. When the USA talks about its support for the Universal Declaration of Human Rights, it simply omits reference to those articles endorsing fundamental rights to adequate standards of food, clothing, shelter, health care, and social security. It has never ratified the International Covenant on Economic, Social, and Cultural Rights. Federal laws, and most internal state laws,

[37] See further Forsythe, "Situating Obama." On inconsistent US policies in Latin America, see Kathryn Sikkink, *Mixed Signals: US Human Rights Policy and Latin America* (Ithaca: Cornell University Press, for the Century Foundation, 2004).

[38] Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, March 10, 2016, www.theatlantic.com/press-releases/archive/2016/03/the-obama-doctrine-the-atlantics-exclusive-report-on-presidents-hardest-foreign-policy-decisions/473151/.

[39] See above, note 15.

do not provide for socioeconomic fundamental entitlements, as compared with optional benefits. There is no recognized right to health care, much less a recognized right to adequate food, clothing, and shelter. The USA is one of two states not to adhere to the UN Convention on the Rights of the Child. The Convention appears to make encroachments on family privacy, arguably protected by the US Constitution. The Clinton Administration did rhetorically accept the right to development at the 1998 UN Vienna Conference on Human Rights, but this posture has been of no practical consequence.

The USA continues to exclusively emphasize civil and political rights, including the civil right to private property. But even on this subject the US support for international standards is highly qualified. The Senate has added many reservations, declarations, and understandings to its 1992 consent to the International Covenant on Civil and Political Rights (as well as failing to accept the Optional Protocol that would allow individual complaints about violations). It is clear the USA continues to emphasize a narrower national law rather than a broader international law of human rights. Even some of its international partners, like the Netherlands, have criticized this US orientation. It is well known that a number of Canadians view the US version of market democracy as unnecessarily harsh, overly individualized, and lacking in a sense of community.[40] Nevertheless, a powerful segment of the American political class remains strongly opposed to the "European nanny state." The phrase "social democracy" is a pejorative term in those circles of opinion. In the Republican Party in particular, the rhetorical emphasis continued to be on personal liberty and shrinking government, even if in reality both Reagan and Bush II expanded federal programs and federal deficit spending – while the latter Administration favored government bailouts to big investment banks in the major recession of 2008. Despite the prominent role of Senator Bernie Sanders in the 2016 Presidential campaign, who was a proud democratic socialist, the USA remained much more libertarian than most other democracies. The emphasis was on a negative liberty rather than positive freedom. One needed rights to block interference from outsiders, rather than rights to develop full personhood.

There are three strong points to recent US foreign policy on rights abroad. First, as noted in Chapter 3, all US administrations after the Cold War have led – albeit inconsistently – in expanding the scope of Chapter VII of the UN Charter, involving matters on which the Council

[40] Rhoda E. Howard, *Human Rights and the Search for Community* (Boulder: Westview, 1995).

can take a binding decision. As a result of US policy in the UN Security Council when dealing with northern Iraq, Somalia, Bosnia, Haiti, Rwanda, Angola, and Libya in 2011, the Council has effectively decided that the security of persons inside states can constitute a threat to international peace and security, leading to authoritative protection attempts by the international community. Deployments of military force, limited combat, economic sanctions, and deeply intrusive diplomacy have all occurred in recent years in relation to human rights issues under Chapter VII. International law still provides no doctrine of humanitarian intervention, although from 2005 one has the vague endorsement of R2P, as already noted, but the concept of international peace and security has been expanded to substitute for this lack.

The USA has led in shrinking the domain of exclusive domestic jurisdiction, and in expanding the realm of authoritative decisions by the Council – at least for others but not for itself. This is a somewhat promising trend, at least in theory, for the international protection of human rights. In terms of sequence, UNSC decisions as they evolved after the Cold War in the 1990s laid the foundation for the adoption of R2P in 2005 – the responsibility to protect by outsiders, if a state proved unwilling or unable to protect the rights of its citizens. This was the diplomatic (and legal) background for events during 2011 in places like Libya and Ivory Coast where outside parties did indeed take forceful action to advance human rights concerns under UN mandate.

Second, also noted in Chapter 3, the USA has also led in expanding the notion of peacekeeping so as to provide complex or second-generation peacekeeping with human rights dimensions. In places like Namibia, El Salvador, Cambodia, Guatemala, Bosnia, and Sudan, *inter alia*, the USA has encouraged UN and other field missions under Chapter VI of the Charter not simply to oversee a cease-fire or other military agreement, but more broadly to try to establish and consolidate a liberal democratic peace. As might be expected, the actual record of results is mixed. There has been more success in Namibia and El Salvador than in Cambodia and Bosnia. Nevertheless, Washington has been a leader in these developments particularly where the local protagonists show signs of good-faith efforts to reach and implement international agreements.[41] The trend continued in 2005, with the US encouraging a UN security operation in Sudan, long wracked by violence and instability and atrocities in the Darfur region, once it became clear

[41] See further David P. Forsythe, "Human Rights and International Security: United Nations Field Operations Redux," in M. Castermans, et al., eds., *The Role of the Nation State in the 21st Century* (Dordrecht: Kluwer, 1998), 265–276.

that the African Union would not be able to decisively improve the situation. There was also a small UN security operation in the Democratic Republic of the Congo. The USA was supportive of a UN security operation in South Sudan when civilians were seriously endangered by factional violence in that new and impoverished state. The same was generally true in Democratic Congo and some other conflict situations.

Third, as noted in Chapter 4, the USA led in the resurrection of the idea of international criminal courts, dormant since the 1940s at Nuremberg and Tokyo. True, as we saw in an earlier chapter, when the US-led Security Council created the 1993 *ad hoc* court for former Yugoslavia and the 1995 *ad hoc* court for Rwanda, it was searching for action that would not entail costly military intervention. The two courts were as much the product of escape from responsibility as of commitment to legal justice for gross violations of human rights such as grave breaches of the laws of war, crimes against humanity, and genocide. Be that as it may, the USA has contributed more money and personnel to particularly the Yugoslav court than any other state.

US support for an independent and authoritative standing UN criminal court, however, is an entirely different matter. Whereas President Clinton had signed the Rome Statute to keep the USA engaged in various negotiations about the ICC, President George W. Bush's opposition to the new court was so strong that he took the unprecedented step of "unsigning" that legal document. The Bush II Administration, like the Reagan Administration before it, was very clear in its hostility to many international agreements, including human rights agreements. For the most part it was highly skeptical of supranational authority and international adjudication. Only on trade matters, centered on the WTO, did US governments allow an international organization to authoritatively review US policies. In 2005, however, the US did allow the UN Security Council to pass a resolution allowing the ICC prosecutor to conduct investigations of individual criminal responsibility by Sudanese leaders for atrocities in the Darfur region. Rather then vetoing that resolution the USA abstained. This action suggested that Washington might tolerate the ICC as long as US nationals were exempted from its jurisdiction. The Obama Administration followed up this shift in Bush II policies by continuing quiet cooperation with the ICC as long as there was no likelihood of Americans being defendants in that court. These and other developments caused the Obama team to back away from using the pressure of military assistance agreements to undermine the ICC.

Overall, and consistent with the analysis above, US foreign policy on human rights after the Cold War reflects a number of contradictions.

The USA rhetorically supports universal human rights with great enthusiasm, but reserves to itself the practice of national particularism (elevation of national over international law, no socioeconomic rights, rejection of the treaty on rights of the child which is virtually unanimously endorsed, relative lack of legal protections for minors and the developmentally challenged in the criminal justice system, harsh prison conditions for common criminals, much injustice for security prisoners after 9/11, etc.).[42] Washington endorses development according to liberal democracy, but has extensive economic relations with numerous authoritarian states, from China to Kuwait, from Saudi Arabia to Ethiopia. The USA led in creating new *ad hoc* international criminal tribunals to respond to gross violations of human rights in certain states, but opposes the ICC having jurisdiction over Americans. Washington led in expanding the notions of enforcement action under Chapter VII of the Charter and of complex peacekeeping under Chapter VI, but blocked any significant UN deployments of force to protect persons in Rwanda. It then engaged in prolonged intervention in Yugoslavia on behalf of Kosovar Albanians and in Libya in 2011. US leaders spoke out against torture, even while engaging in abuse of prisoners that on occasion was tantamount to torture, and even while turning prisoners over to countries that had a long history of torture. Whether other states have compiled a better or more consistent record in their foreign policy on rights abroad is an interesting question. If we think of international relations after 1991 as a Pax Americana with the USA as the hegemonic power, the fate of human rights around the world was not all that good; but if the USA declined and the BRICs replaced it as the dominant power center, the human rights record would probably be worse.[43]

Other states

Virtually all other liberal democracies and polities that strive to be liberal democracies display increasingly active policies on international human rights.[44] Like the USA, they take various initiatives on human rights

[42] See further Amnesty International, *United States of America: Rights for All* (London: Amnesty International Publications, 1998); and David P. Forsythe, "Human Rights Policy: Change and Continuity," in Randall B. Ripley and James M. Lindsay, eds., *US Foreign Policy After the Cold War* (Pittsburgh: University of Pittsburgh Press, 1997), 257–282.

[43] See Forsythe and McMahon, *American Exceptionalism Reconsidered*. BRICs refer to Brazil, Russia, India, and China.

[44] See further Alison Brysk, *Global Good Samaritans: Human Rights as Foreign Policy* (Oxford and New York: Oxford University Press, 2009).

abroad. Like the USA, they give a particular national slant to their policies. Like the USA, their general orientation to international human rights reflects their national political culture. Like the USA, most ascribe virtue to themselves in their orientation to internationally recognized human rights. Some, like Britain, are very similar to the USA in their rights policies abroad. Some, like Japan, are quite different. All evaluate action for human rights in foreign policy in terms of national costs and benefits. At the risk of superficiality, one can provide a brief summary of more thorough inquiries.

The Netherlands for most of the time under review liked to picture itself as highly international and cosmopolitan.[45] It was the home of Grotius, the father of international law; it was a great trading nation; it was and is a country interested in world peace, for normal trade requires peace; and now it prides itself as a country highly active on human rights. This last orientation is affected both by its Protestant missionary tradition, and in some circles by a certain guilt about its colonial record and especially its handling of claims to independence by Indonesia in the 1940s. Both historical elements push the Dutch into activism on human rights. Thus Dutch governments engage in a friendly competition with like-minded states, perhaps especially Denmark and Norway, about who is the most progressive in foreign policy. The Dutch political classes see themselves as making a special contribution through their development assistance policies, perhaps because they know that the USA has one of the lowest ratios between gross domestic product and official development assistance of any western democracy (less than one-quarter of one percent). During the Cold War, if the USA had to sacrifice some attention to human rights in order to lead on security issues, some in The Hague wanted to fill that gap.

Because of the Dutch self-image and considerable Dutch activism at the United Nations on both human rights and peacekeeping issues, the Dutch role in the Srebrenica massacre in the former Yugoslavia in July 1995 proved to be a national trauma – perhaps roughly similar to Canadian reactions to charges of human rights violations against some of their military forces in Somalia. A lightly armed Dutch contingent in UNPROFOR, supposedly guaranteeing Srebrenica as a "safe area," was

[45] See further David Gillies, *Between Principle and Practice: Human Rights in North–South Relations* (Montreal: McGill-Queen's University Press, 1996); Peter R. Baehr, "The Netherlands and the United Nations: The Future Lies in the Past," in Chadwick F. Alger, Gene M. Lyons, and John E. Trent, eds., *The United Nations System: The Policies of Member States* (Tokyo: United Nations University Press, 1995), 271–328; and Baehr, "Problems of Aid Conditionality: The Netherlands and Indonesia," *Third World Quarterly*, 18, 2 (June 1997), 363–376.

withdrawn – after which a massacre by Serbian partisans of thousands of remaining Muslim males occurred.

Also problematic, but not so traumatic, was the Dutch effort to combine development assistance with protection of human rights – especially civil and political ones. The Netherlands was inclined to assist poorer countries, and regularly was among the leading countries in amount of the gross domestic product contributed to official development assistance as a percentage of national economic productivity. But aid was not offered to some countries because of human rights problems. To other countries aid was offered but suspended for a time, for the same reason. Indonesia has posed a special case for Dutch governments, given the history involved and Jakarta's poor human rights record during times of authoritarian government. Certain Dutch statements led Indonesia in 1992 to indicate it would no longer accept foreign assistance from the Netherlands. So the aid relationship was terminated, leaving The Hague with no leverage on human rights developments in East Timor and other places controlled by Indonesia. Similar difficulties arose in relations with Suriname after a coup in that South American former colony, with the Dutch finally deciding to suspend assistance. Thus the Dutch, like the USA, have found it difficult to establish a consistent and principled policy on rights abroad, not only because of being entangled with other states via international organizations, but also because of wanting to pursue conflicting "public goods" – e.g., economic growth in poorer countries but with respect for civil and political rights.

British history, too, affects London's modern orientation to international human rights.[46] Political classes there strongly identify with civil and political rights and are proud of such early documents as the Magna Carta of 1215, the English Bill of Rights of 1689, laws on freedom of the press from 1695, etc. British leaders tend to see themselves as having generated great influence on subsequent developments for human rights in places like France and the USA, not to mention later developments in places like India. Like the USA, the UK prides itself on a strong legal culture emphasizing constitutionalism or limited government. Britain, like other colonial powers, tended to see its rule over foreign lands as benign and enlightening, rather than repressive and oppressive. Once it ended its colonial period, it became even more supportive of international human rights instruments – not having to be defensive about

[46] See further *Human Rights in Foreign Policy*, Foreign Policy Document No. 268 (London: Foreign and Commonwealth Office, July 1996); *Foreign Policy and Human Rights, Vol. 1*, House of Commons Sessions 1998–9, Foreign Affairs Committee (London: The Stationery Office, December 1998).

claims to national self-determination as a collective human right, or about the issue of individual petitions claiming rights violations in overseas territories.

Various British governments, unlike the USA, have not only accepted the full International Bill of Rights, along with European legal instruments, but also have undertaken concrete policies for specific situations – engaging in quiet diplomacy for the release of some Indonesian detainees, suspending foreign assistance to states like Chile and Uganda for human rights violations, supporting arms embargoes against South Africa and Chile, and so forth. It fought the Falklands/Malvinas war with Argentina with considerable attention to international humanitarian law. Like the USA, however, London has muted its criticism of some important states, such as Saudi Arabia which provides the British with important arms sales. On the other hand, Britain did join the USA in trying to have the UN Human Rights Commission adopt a resolution critical of China in 1997.

Some observers believe British governments are not as influenced by domestic human rights groups and media coverage as US policy, given the British tradition of parliamentary sovereignty, but not necessarily popular sovereignty and radical interpretations of individual rights. Britain still does not have a written constitution or practice judicial review of parliamentary acts. On the other hand it has found its rights policies at home and abroad increasingly affected by its membership of the Council of Europe and the European Union. Britain has been far more affected by regional rights standards than the USA. These domestic and foreign factors interact to produce a foreign policy on rights somewhat similar to those of other European states – increasingly active and complicated, but inconsistent due to its variety of interests in international relations. In striking contrast to the USA, British governments support the ICC, even though Britain has sent its troops abroad in places like Iraq and Sierra Leone.

Britain, along with France, pushed hard for the use of force in Libya in 2011 to head off attacks on civilians by the Kaddafi regime. As usual European states found it impossible to present to the world a unified foreign and security policy, with Germany in particular unable to support the UN Security Council resolution providing a legal basis for attacks on Kaddafi's assets. Nevertheless the David Cameron coalition government in London framed the issue as a matter not just of humanitarianism but also of national interests – to be on the right side of history with new Arab governments and to deter further repression by other Arab trading partners, arguments which seemed to have had some effect on the Obama Administration.

However, as already noted, among the factors affecting Brexit in 2016 was the view in parts of England (not so much in the rest of Britain) that not just the European Union but also the Council of Europe and its human rights court had intruded too deeply into domestic affairs. Regional attention to the rights of migrant workers and refugees had contributed to the controlling view that the UK should leave the EU. Similar antagonistic views toward EU and CE human rights decisions were evident in parts of the Netherlands and most other European countries. This was part of the "New Nationalism" of nativist nature that was pushing back against many forms of international governance.

Japan, by contrast, readily admits that the concept of human rights was not indigenous but was introduced from the West in the nineteenth century.[47] Obviously in a country with a history of imperial and military government, and with an era of atrocities during World War II, the notion of human rights did not take firm hold until the modern constitution was imposed during a time of military defeat and foreign occupation. Even so, and despite the existence of some indigenous "liberal" groups, Japan has still struggled at home with issues of equality or fairness for women, other races, and various ethnic and national groups. Given this history, it is not so surprising that Japan during the Cold War was a liberal democracy aligned with the other western liberal democracies, but was more passive than active on international human rights issues. In 1992, long after the US Congress put human rights back on the foreign policy agenda in Washington in the mid-1970s, Japan issued a white paper saying that human rights and democracy could be factors that affected foreign assistance and investment. But in general, and certainly in dealings with Peru which had a president of Japanese descent, human rights considerations did not appear to be a major factor in Japanese foreign policy.

As Japan has sought to show the world that it deserves a permanent seat in the UN Security Council, that it is more than an appendage of the USA, and that it has put its darker past behind it, Tokyo has become more active on rights issues abroad. Japan played a leading role, a far larger role than Washington, in trying to produce a liberal democratic peace with human rights in Cambodia. But it remains much less active in general on rights abroad than most other western-style liberal

[47] See further John Peek, "Japan, the United Nations, and Human Rights," *Asian Survey*, 32, 3 (March 1992); Seiichiro Takagi, "Japan's Policy Towards China After Tiananmen," in James T. H. Tang, ed., *Human Rights and International Relations in the Asia Pacific* (London: Pinter, 1995); and Yasuhiro Ueki, "Japan's New Diplomacy: Sources of Passivism and Activism," in Gerard Curtis, ed., *Japan's Foreign Policy After the Cold War: Coping with Change* (New York: M. E. Sharpe, 1997).

democracies. Tokyo has not pressed the human rights issue in its economic relations with other Asian states in particular, although it did suspend economic dealings for a time with China after the Tiananmen Square massacre of 1989. Tokyo has been more reluctant than Washington to press the rights issues in Myanmar (Burma). Given the history of Japanese relations with the Asian mainland during the 1930s and 1940s, it would be quite difficult for Japan to play a leading role on rights matters. This history reinforces those public officials who would like to concentrate primarily on Japanese economic interests. Likewise, Japan has not been one of the members of the World Bank that seeks to link loans with human rights performance, including democratic governance. Japan has, however, mostly voted with the western group at the UN on various rights matters in such bodies as the General Assembly and the Human Rights Commission and Council.

With regards to Japan's official development assistance (ODA) program, recent years have seen telling trends in Japanese policy making. While human rights have not been inextricably linked to foreign assistance, they are far from absent. In 2003, Japan reformed its ODA charter, citing domestic and international debate over its development policies and practices. The reformed document declares that its bedrock objective is "to contribute to the peace and development of the international community, and thereby to help ensure Japan's own security and prosperity." It even goes so far as to list paying "adequate attention to . . . the situation regarding the protection of basic human rights and freedoms" as one of four ODA principles of implementation, albeit behind such principles as environmental conservation and attention to military expenditures and WMD.[48] Later, in March 2005, Japan announced its Initiative on Gender Development, a new push to integrate gender concerns with other ODA considerations.[49]

Japan pressed North Korea on nuclear proliferation, but also on its human rights record, particularly with regard to its involvement in the abduction of up to fifteen Japanese nationals during the 1970s and 1980s. Japan threatened to withdraw food aid, and even considered sanctions against Kim Jong Il's regime.[50] It brought the issue to the United Nations Commission on Human Rights, helping to draft a resolution that dealt with North Korea's abduction of foreign nationals,

[48] See "Overview: Circumstances Surrounding Japan's Official Development Assistance (ODA) and Revision of the ODA Charter," www.mofa.go.jp/policy/other/bluebook/2004/chap3-d.pdf.

[49] See www.mofa.go.jp/policy/oda/category/wid/gad.html.

[50] See David Pilling and Jung a Song, "Tokyo Seeks Facts about Abducted Japanese," *Financial Times* (London), November 9, 2004, Asia edn.: Asia-Pacific, 2.

among other human rights concerns.[51] But even as Japan sought to induce change in one of the world's most brutal regimes, it was forced to face its own tarnished past. While Tokyo was pressing Pyongyang to come clean on abductions, South Korea was demanding Japan follow Germany's example and apologize more completely for its wartime atrocities.[52]

Like most democracies, Japan has manifested a resurgent ultra-nationalist or nativist movement little inclined to emphasize international human rights. Rather, this far-right movement has tended to try to explain away past national atrocities and glorify past eras of power and expansion. This global resurgence of narrow – even chauvinistic – nationalism is not the monopoly of democracies, as developments show in some former communist states.

States like Hungary and Russia, to choose two almost at random, are now also active on international human rights issues – but not necessarily in a positive sense.[53] Hungary after 1991 wanted to be like any other European state on these issues, although its relationship to ethnic Hungarians abroad generates clear differences. The Russian Federation is much more critical about the place of human rights in foreign policy, although it too is propelled to considerable extent by concern for the protection of compatriots abroad. Both of these states stress minority rights in foreign policy much more than Washington.

Hungary presents an interesting situation in terms of foreign policy and human rights. Its history is mostly one of authoritarian rule, whether as part of the Austro-Hungarian empire or Soviet-imposed communism. Yet certain liberal tendencies were present, such as considerable respect for private property and a certain affinity for legal rules. Many politically active Hungarians considered themselves to be liberal and a part of the West. Considerable resistance to Leninist or Stalinist repression was much in evidence in the 1956 uprising, as was also the case at different times in what was then the German Democratic Republic, Poland, and

[51] For an overview of this long-running issue, see Michael Astor, "Japan Seeks to Keep Pressure on N. Korea over Abductions," *Associated Press*, December 2, 2016, http://bigstory.ap.org/article/64585c8de41542de9af4af1b9adf7c2c/japan-seeks-keep-pressure-nkorea-over-abductions; and www.mofa.go.jp/policy/other/bluebook/2004/chap3-c.pdf.

[52] Richard Lloyd Parry, "Seoul Searching for Japanese War Apology," *The Australian*, March 3, 2005, All-Around Country edn.: World 8.

[53] See further Bruce D. Porter and Carol R. Saivets, "The Once and Future Empire: Russia and the 'Near Abroad,'" *Washington Quarterly*, 17, 3 (1994), 75–76; Alexei Arbatov, "Russian Foreign Policy Thinking in Transition," in Vladimir Baranovsky, ed., *Russia and Europe: The Emerging Security Agenda* (Oxford: Oxford University Press, 1997); and Istvan Pogany, ed., *Human Rights in Eastern Europe* (Aldershot: Edward Elgar, 1995).

what is now the Czech Republic. Many in these areas would have chosen western-style liberalism had free choice been allowed. It was thus not very surprising that when the Soviet Union allowed Eastern Europe to go its own way in the late 1980s, Hungary embraced international human rights. This orientation came about not only because of a need to prove that it belonged in the Council of Europe, and perhaps the European Union and NATO, but also because of genuine domestic preferences.

Hungary has given special attention to minority rights in its foreign policy after the Cold War, given the number of ethnic Hungarians who reside in Romania, Slovakia, and Ukraine. Even while still officially communist, Hungary criticized its fellow communist neighbor, Romania, for its treatment of the Hungarian minority. Hungary thus broke the unwritten rule that European communist regimes did not criticize each other on human rights issues. Since adopting liberal democracy, Budapest has continued to make the relationship with ethnic Hungarians abroad the centerpiece of its foreign policy. This has led to periodic friction with especially Romania, which fears too much local autonomy, if not separatism, for the sizable Hungarian minority. Budapest has found more satisfactory relations on this issue with Ukraine and Slovakia. On other human rights issues Hungary generally behaved for a time as any other European state, voting with the western group at the UN and accepting regional human rights obligations through the Council of Europe.

With the election of Viktor Orban in 2010, however, one saw a new attack on many liberal values and an open defense of certain illiberal values. Nationalism and religion were emphasized, refugee flows and European regional authorities were criticized. German Chancellor Merkel and her early welcoming policy toward Muslim refugees were denigrated. Nice things were said about autocrats like Putin in Russia and Erdogan in Turkey. This orientation played well in the less-urban and less-educated parts of the nation. Thus the Hungarian voters put in power the equivalent of Donald Trump in the USA or Marine le Pen in France. A type of illiberal democracy manifested itself. Foreign policy was largely devoted to narrow self-interests and promotion of national identity and prestige.

Russia presents a fascinating study of human rights and foreign policy. Whether as Russia or the Soviet Union, this area has long manifested a conflicted political culture. The dominant aspect was and is authoritarian, illiberal, Slavic, and suspicious of the West. The tradition of legal rights, especially individual rights, was very weak – especially in the *mir* as a rural, organic community in which law and individualism were insignificant. But at least from the time of Peter the Great there was a weaker,

more liberal aspect to Russian culture. These liberal tendencies were encouraged in the Gorbachev and Yeltsin eras, yet one does not change the dominant culture by simply issuing legal documents and making proclamations. Russian policies, for example, directed toward suppression of a separatist movement in Chechnya were clearly brutal. Russia under Putin has undermined an independent media. The legislature and the courts do not provide any meaningful checks and balances on him. Critics have been jailed, their property confiscated, and sometimes killed.

There is a part of the Russian political class that longs for the Stalinist days of order and superpower status, and believes that human rights equates with pornography, criminality, and foreign religious sects. Putin is now part of this faction. There is another part of the political class that is more sympathetic to human rights,[54] but believes the West has not treated the new Russia with proper sensitivity and respect. In the view of this circle, Russia struggles to determine whether it should follow the US lead on certain human rights issues, align with a different European position, or strike out on its own. Like Hungary, Russia has given special attention to minority rights in foreign policy. Given the large number of ethnic Russians and Russian speakers in its "near abroad," and given its own problems with separatist movements, Russian foreign policy has been highly active on ethno-territorial-linguistic disputes in many former areas of Soviet control.

Like Orban in Hungary, Putin now stresses religion (the Orthodox Russian Church) and national achievements (whether under the Tzars or communism). He sees Western democracies and their international organizations as inimical to Russia. He does not hesitate to align with reactionary foreign elements (Assad in Syria or Russian-speaking separatists in eastern Ukraine). Despite repressive policies at home and abroad, he sees himself and Russia as providing a moral third way in world affairs between the decadent West and an emerging Asia led by China.

Interestingly, Putin was not especially anti-USA or anti-West circa 1991 – despite having been a routine agent in the Soviet secret security force. For a time, he was on the staff of the elected mayor of Saint Petersburg (formerly Petrograd), and worked to arrange foreign investment from Western nations. He was elevated to high office by the elected Boris Yeltsin who regarded him as (a) dependable and (b) not likely to

[54] See further Anatoly L. Adamishin and Richard Schifter, *Human Rights, Perestroika, and the End of the Cold War* (Washington: United States Institute of Peace, 2009). This book is the joint effort of two diplomats, the first in Moscow and the second in Washington, who negotiated human rights issues toward the end of the USSR.

probe into possible corruption by Yeltsin's family and associates. But with NATO expanding its membership eastward and engaging in regime change in Libya, and with the USA backing anti-Russian leaders in Georgia and Ukraine, Putin clearly shifted to a more antagonistic view of the West and its human rights rhetoric.

One could look at any number of other states and their foreign policies on human rights, from India to South Africa, from Canada to Costa Rica. Most such inquiries prove intriguing. France, origin of the 1789 Declaration on the Rights of Man and the state most like the USA in seeing itself as a universal model for human rights, presents a long history of support for corrupt and authoritarian rulers in Africa, not to mention a policy of torture and summary execution during the Algerian war of 1954–1962. Costa Rica, with some similarity to the USA, sees itself made up of an exceptionally good and peaceful people who therefore have a special and progressive role to play particularly in hemispheric affairs. However, the moralizing of Oscar Arias, like that of Jimmy Carter, was not always well received by other Latin American heads of state.

India, the most populous democracy, has become much more defensive and low-key about international human rights matters.[55] This is so despite the fact that India was one of the first states to challenge apartheid in South Africa, India having many nationals there. In part Indian skepticism about international action stems from an awareness of certain domestic problems – including brutal treatment of terror suspects involved in the disputed region of Kashmir. Also, the collapse of the Soviet Union, its major strategic partner, reduced its standing in international relations. Its foray into Sri Lankan ethnic struggles under Rajiv Gandhi, by way of an Indian "peacekeeping" force which itself engaged in atrocities, proved disastrous, both personally and politically speaking, contributing to the current Indian low profile.

In general, India now tends to favor the principle of state sovereignty when in conflict with international action for human rights, believing that the US-led Security Council has intervened too much in the affairs of the governments of the global south. The election of a clearly nationalistic government in 1998 intensified these trends. In 2011 it was still the case that India, given its colonial experience, was very sensitive about the USA or any other state engaging in public criticism of its human rights record. Some analysts were not at all surprised that India abstained on the UN Security Council vote regarding use of force in Libya in 2011.

[55] See further R. Suresh, *Foreign Policy and Human Rights: An Indian Perspective* (Guragon: Madhav Books, 2009).

The election of Narendra Modi in 2014 did not lead to any change in the downgrading of human rights in Indian foreign policy. Rather, Modi himself had been denied a visa to enter the USA because of his role in Hindu pogroms against Muslims. He was associated with a Hindu chauvinistic political movement that sought to center Indian national identity on Hinduism, which predictably was rejected by Muslims and secularists, among other non-Hindus. He emphasized economic reform and growth rather than highlighting attempts to deal with the myriad human rights problems in India. India remained a vibrant democracy with fundamental civil and political rights, but paradoxically that did not mean an absence of pressing human rights problems of varying natures.[56]

Governments in South Africa emerging from all-race elections have identified strongly with international human rights, and – along with El Salvador – have pioneered official "truth commissions" to reveal the facts of past repression but without criminal prosecution for political crime. The Mandela government, however, was heavily involved in fairly disastrous gun-running in the Great Lakes region of Africa, and also defied UN sanctions on dictatorial Libya in order to repay Libyan support for the anti-apartheid movement. The Thabo Mbeki government that followed Mandela was certainly not at the forefront of the struggle against HIV/AIDS, even though that affliction was debilitating many African nations. The Mbeki team also was reluctant to press hard for decisive change in neighboring Zimbabwe where an aging Robert Mugabe was running the country into the ground with major human rights abuses over considerable time. It seems South African policy was based on fear of increased refugee flows into the country if Mugabe fell. Then the Jacob Zuma government seemed wildly inconsistent in its international human rights policies.

Canadian foreign policy has been generally progressive on rights abroad.[57] It is well known that Ottawa has long prided itself on its record especially in UN peacekeeping – including second-generation or complex peacekeeping that includes human rights dimensions. Canada, for example, joined the USA in practical efforts to bring liberal democracy to Haiti, no easy task given the history and impoverishment of that country. Canada has also been a leader in regard to a ban on anti-personnel landmines, and the creation of a UN criminal court. Limitations of space, however, compel us to move on.

[56] For a concise overview, see www.hrw.org/world-report/2016/country-chapters/india.

[57] The standard work in this area is Robert O. Mathews and R. C. Pratt, eds., *Human Rights and Canadian Foreign Policy* (Montreal: McGill-Queen's Press, 1988).

Conclusions

During the era of the League of Nations, this chapter could not have been written. The League Covenant did not mention universal human rights, and states did not often address human rights in their foreign policies. There was some international humanitarian law for armed conflicts, and states did sometimes display humanitarian policies dealing with refugees, the nature of rule in colonies (via the League Mandates Commission), and other social subjects. But as late as 1944 human rights remained essentially a national rather than international matter (with the exception of the minority treaties for some Central European states in the interwar years, and international law governing aliens).

Increasingly all states, whatever their political character, have to deal with internationally recognized human rights. International relations or world politics is not what it once was. Much of international law codifies liberal principles of human rights. But in addressing human rights, states bring with them their national history, character, self-image, and nationalism. These national traits cause states to be more or less active on human rights issues, more or less confident and assertive, more or less defensive. This history, plus their contemporary situation and how they define their interests, causes states to take different slants or emphases on rights in foreign policy. When addressing human rights, the USA, for example, consistent with its national tradition, does not focus on socio-economic rights but rather on personal freedom. The Netherlands tries especially hard to link development assistance with rights behavior, and has a special focus on Indonesia. The Hungarians and Russians tend to emphasize minority rights for their ethnic and/or linguistic compatriots abroad, even as they play fast and loose with many human rights at home. And so on.

It is significant that even states without a strong rights tradition or legal culture have been propelled to direct more attention to rights in foreign policy. This is true, for example, for both Japan and Russia. Even Iran, if it wishes to be accepted as a full or normal member of the international community, has found that it needs to respond to international criticism by addressing defects in Iranian society, even if it does so under the cover of a discussion of religious law rather than the secular law of international human rights.

Without downplaying the importance of international organizations, private non-profit groups, and even multinational corporations, it is still state foreign policy that plays a very large role in the promotion and protection of international human rights. So with regard to universal human rights and state foreign policy, it is both true and false to say: *la plus ça change, la plus c'est la même chose* (the more things change, the more they remain the same). True, because despite the fact that we have change in favor of human rights norms in international relations, we still have to deal with nationalism and national interests. False, because we do have real changes in foreign policy concerning human rights; there is much more attention to international human rights in 2017 compared with the foreign policies of 1897, 1907, or 1937.

Case study: French foreign policy, Ivory Coast, and human rights

Ivory Coast is a West African state of about 22 million persons that is rich in natural resources such as cocoa, coffee, and palm oil. It was a French colony from the 1890s until independence in 1960. For the first thirty years of independence the country was ruled by the strongman Felix Houphouet-Boigny, in close cooperation with France. The latter maintained a military base in the country, the nation being the hub of economic and political activity for French-speaking West Africa. Some analysts thought independence in 1960 brought little change in substance, such was the continuing influence of France.

The retirement and then death in 1993 of Houphouet-Boigny was followed by movement toward multiparty democracy, interspersed by coups and autocratic rule. As in other places, in Ivory Coast political parties and political leaders were frequently associated with particular ethnic and sectarian groups. By the late 1990s, as political leaders developed identity politics in order to mobilize voters and attract donor support, the country could be superficially seen as politically split between the largely Islamic north (perhaps 35–40 percent of the population) and the largely Christian south (of approximately the same percentage of the population), with other local beliefs covering the rest of the people. There were perhaps sixty ethnic groups in the country. Some analysts believe that sectarian divisions do not run deep and that a strong element of economic pragmatism and political opportunism are strong factors in public life.

In the widespread political violence that erupted in 2002 in the wake of disputed elections and various politico-legal maneuvers, France beefed up its military forces in the country in order to act as a stabilizing force. These French forces acted in tandem with first the troops, largely Nigerian, from ECOWAS (Economic Community of West African States), and then later from the United Nations. As of 2004 the UN field operation was given a Chapter VII mandate under the UN Charter, meaning that it was not just a peacekeeping force engaging in armed

diplomacy, but rather was authorized to take enforcement action pursuant to a variety of goals pertaining to human rights as well as security. French troops acted as a rapid reaction force, taking on the more difficult military missions that the UN forces had difficulty handling alone.

A period of uneasy but relative calm from about 2003 was undermined by a disputed election in late 2010. The then President, Laurent Gbagbo, whose political base was largely in the south, refused to leave office after international election monitors agreed that his opponent, Alassane Ouattara, a Muslim from the north, had won the 2010 election. With remarkable international consensus running against Gbagbo, various public and private intermediaries tried to resolve the dispute. They appealed to the principle of R2P, the responsibility to protect, arguing that, if a national government was unable or unwilling to protect the human rights of the nation, outside parties had a duty to become involved.

Despite all the international activity, during early 2011 Ivory Coast was once again caught up in widespread violence. Both the forces loyal to Gbagbo and those supporting Ouattara were reported to have committed atrocities. There were many more political deaths in 2011 than had been the case in 2002.

In this violent context French military forces teamed with the UN forces to bring intense military pressure on Gbagbo, hunkered down in the presidential residence in Abidjan. The French government of Nicolas Sarkozy (teaming with Nigeria) had successfully pushed the UN Security Council to adopt a mandate (SC Resolution 1975) authorizing states and UN units to utilize "all necessary measures" to protect civilians in Ivory Coast. This was similar to French policy in Liberia at approximately the same time, in which French (and British) leadership resulted in Security Council approval for a limited if unclear military action in Libya. In both Libya and Ivory Coast, a UN enforcement mandate was worded in humanitarian terms but was applied for political purposes – namely to affect the central government. In both cases Russia and some other states protested how France and others interpreted UNSC resolutions. In the case of Ivory Coast, the combined effect of actions by UN and French troops, and militias loyal to Ouattara, led to the capture of Gbagbo and the tenuous control of the state apparatus by the Ouattara movement.

This case demonstrates above all the difficulty of establishing firm generalizations and expectations about western democratic foreign policy and democracy abroad. France's important role in supporting the duly elected Ouattara was at variance with its past support for many autocratic factions in Africa including the genocidal militant Hutus in Rwanda. The Sarkozy team continued to defer to autocrats in half a dozen African

states even after its forceful role in Ivory Coast. But this inconsistency was not significantly different from the United Kingdom or the United States, *inter alia*, who continued close relations with (and arms sales to) Saudi Arabia and other autocratic regimes, even as they supported democratic change in Egypt and Tunisia. Local pressures for democratic change varied, as did media coverage of those pressures, as did state conception of its national interests. Consequently these factors, plus others such as historical relations, caused all states' foreign policy to be inconsistent but often important regarding democracy promotion.

Discussion questions

- Is there a theoretical or otherwise systematic reason why different states come up with different emphases and interpretations of international human rights standards? Even among liberal democratic states of the OECD, such as the United States, Britain, the Netherlands, and Japan, there are major differences in their approaches to international human rights: why is this?
- In general, are states paying more or less attention to human rights through foreign policy? Why? What does it mean for human rights that a "new nationalism" is spreading around the world?
- Why is it that democracies like India and the United Kingdom take very different approaches to questions of international human rights?
- Why is it that countries like France and the United States, which have a long national history of attention to human rights, repeatedly find it so difficult to apply international standards to themselves – even though the West has had great influence on the evolution of international human rights, both regional and global?
- Which non-Western states have a relatively good record on human rights in foreign policy, and why?
- Is human rights in foreign policy primarily a matter of the executive branch, or do legislatures (and public opinion, with interest groups) play an important role?

SUGGESTIONS FOR FURTHER READING

Bachr, Peter, and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy* (New York: Palgrave Macmillan, 2004). Thorough text examining the various aspects of the role human rights plays in state foreign policy, with particular attention to US and Dutch foreign policy.

Brysk, Alison, *Global Good Samaritans: Human Rights as Foreign Policy* (Oxford and New York: Oxford University Press, 2009). A very good study of the

foreign policies of Sweden, Canada, Costa Rica, the Netherlands, Japan, and South Africa on the subject of human rights.

Carothers, Thomas, *Assessing Democracy: The Case of Romania* (Washington: Carnegie Endowment, 1996). Shows how difficult it is to evaluate US foreign policy and democracy assistance, even in one country.

Curtis, Gerard, ed., *Japan's Foreign Policy After the Cold War: Coping with Change* (New York: M. E. Sharpe, 1997). Shows the changing nature of Japanese foreign policy, with some attention to human rights.

Egeland, Jan, *Impotent Large State – Potent Small State: Potentialities and Limitations of Human Rights Objectives in the Foreign Policies of the United States* (Oslo: Norwegian University Press, 1988). Argues that during the Cold War Norway had more room to maneuver for human rights in foreign policy than the United States, mainly because of US security obligations.

Forsythe, David, *The Politics of Prisoner Abuse: The US and Enemy Prisoners After 9/11* (Cambridge: Cambridge University Press, 2011). An overview of the policy by the George W. Bush Administration to gain intelligence by abuse of prisoners, and how the policy spun out of control because of poor design and weak oversight. Also covers the similarities and differences by the Obama Administration on this subject.

Forsythe, David, and Patrice McMahon, *American Exceptionalism Reconsidered: US Foreign Policy, Human Rights, and World Order* (New York and London: Routledge, 2016). A critique of a central concept in much US foreign policy decision making, with attention to both elite decisions and public opinion. Compares the US record to that of the BRICs.

Gillies, David, *Between Principle and Practice: Human Rights in North–South Relations* (Montreal: McGill-Queen's University Press, 1996). A good comparative study of the role of human rights in foreign policy among several developed countries, when dealing with certain less developed countries. Shows how difficult it is to construct a principled foreign policy when trying to blend human rights and support for development.

Goldberg, Jeffrey, "The Obama Doctrine," *The Atlantic* (April 2016), www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/. A candid interview with the President, who defends a case-by-case approach to international problems, along with selective attention to human rights.

Hunt, Michael H., *Ideology and US Foreign Policy* (New Haven: Yale University Press, 1987). Argues that while the United States sees itself as an exceptionally good nation, it has done a great deal of harm in the world through its racism and commitment to the *status quo*. Argues for a reduced US role in the world, even at the cost of less attention to liberal causes like international human rights.

Kissinger, Henry, *Diplomacy* (New York: Simon & Schuster, 1994). As in his other modern works, Kissinger is critical of liberal views of foreign policy and international relations, which he calls Wilsonianism, and argues that the United States must beware of liberal crusades that go beyond American power and wisdom. He is suspicious of the validity of universal standards pertaining to democracy and human rights, believing them to have evolved in special western circumstances. But he says pure realism is not sustainable in American foreign policy.

Mathews, Robert O., and R. C. Pratt, eds., *Human Rights and Canadian Foreign Policy* (Montreal: McGill-Queen's Press, 1988). The definitive work for its time.

McGovern, Mike, *Making War in Cote d'Ivoire* (London: Hurst Publishing, 2010). An extremely well-researched study by a former member of the International Crisis Group dealing with Ivory Coast.

Mertus, Julie, *Bait and Switch: Human Rights and US Foreign Policy* (New York: Routledge, 2004). Based on interviews with numerous current and former US officials, the author finds that international human rights norms predispose Washington to talk about human rights, while human rights considerations remain frequently absent from US foreign policy.

Power, Samantha, *"A Problem From Hell": America and the Age of Genocide* (New York: Basic Books, 2002). Examines the United States' response to genocide throughout the twentieth century, concluding that America's record has been consistently poor.

Renouard, Joe, *Human Rights in American Foreign Policy: From the 1960s to the Soviet Collapse* (Philadelphia: University of Pennsylvania Press, 2016). An accurate and detailed history of the subject. More narrative than creatively conceptual.

Sikkink, Kathryn, *Mixed Signals: U.S. Human Rights Policy and Latin America* (New York: Century Foundation, 2004). A scholarly overview of US human rights policy in most of the Western Hemisphere, stressing the mixed record emanating from Washington. Much rights talk is not always followed by consistent influence on behalf of that rhetoric.

Vogelgesang, Sandy, *American Dream, Global Nightmare: The Dilemma of US Human Rights Policy* (New York: Norton, 1980). One of the first studies of human rights and US foreign policy suggests the difficulty of establishing a foreign policy that is both principled and consistent.

Zakaria, Fareed, "The Rise of Illiberal Democracy," *Foreign Affairs*, 76, 6 (November–December 1997), 22–43. An important article noting the difference between liberal and illiberal democracy. Certain genuinely elected governments then engage in tyranny by, *inter alia*, persecuting minorities. Liberal democracies by contrast are characterized not just by free and fair elections, but by rule of law, independent courts, and limits on majority rule.