

CHAPTER 5

PROSPECT FUTURE OF THE UNITED STATES HUMAN RIGHTS

At a moment, the prospect role of the United States over the human rights promotion or violation is expected to transform into a preferable direction as the government power has been transferred from Republican Party (Bush administration) to Democrat Party (Obama administration) whose foreign policy especially on human rights treatments are quite different. While the Bush administration's campaign on "war on terror" was prioritized after September 11 terrorist attack, the Obama administration promised a gentler foreign policy to deal with terrorist suspects. However, a new government's foreign policy is created ideally and there is no guarantee whether policy goals will be achieved. The United States' new human rights protection policy is expected to improve the global situation.

Human rights progress depends on the human spirit, and this inescapable truth has never been more apparent than it is today. The challenges of twenty-first century require all, especially the United States, to summon the full range of human talents to move the nation and world forward. Guaranteeing the rights of every man, women and child to participate fully in society and to live up to his or her God-given potential is an ideal that has animated all nations since their founding.¹ The truth is that if the United States' route to upholding human rights is discredited by any means, American interests will consequently be put in peril. If the United States reserves the option to torture prisoners, denying them habeas corpus, sending them into black site prisons—they will be charged with hypocrisy. No country can claim protection for its own citizens overseas if it fails to respect international norms in its homeland. The failure of the United States to protect human rights oversea reflects its failure in its homeland. The United States can neither offer effective objection to human rights

¹ U.S. Department of State: Diplomacy in Action, Bureau of Democracy, Human Rights, and Labor, "The State Department's 2008 Country Reports on Human Rights Practices," February 25, 2009, <http://www.state.gov/g/drl/rls/hrrpt/2008/frontmatter/118984.htm>.

violations of other countries it guilty of those same violations itself, nor can it be effective by shunning opinions of international allies. No matter how powerful a country is, successful global improvement of human rights always depends on the dialogue and cooperation with the international community. Unilateral sanctions imposed upon a country to protect human rights abuses will inevitably fail if they lack the support of others.²

It had been argued that, the Obama administration is “doing exactly the right thing” in putting the country back on track.³ And at the very least, the president’s actions and gestures at home and abroad will help to rebuild the only true currency of leadership – confidence and trust. This will allow the United States to face today’s threats, mostly global in scope, with the support of its allies.

As mentioned earlier, the prospect future of the United States on the protection on human rights is expected to be positive because of many policies of the Obama administration. The world must wait to see whether or not the policies promised to be put into action are achievable. So far, the policies that Obama administration has passed have provided the United States with a respect from the international society. At the *Washington Post*’s “White House Watch” blog, the “Obama Doctrine” had been mentioned. One of the core “principles” of this doctrine was his belief that “the United States represents a set of universal values and ideals — the idea of democratic practices, the idea of freedom of speech and religion, the idea of a civil society where people are free to pursue their dreams and not be imposed upon constantly by their government.” He specifically pledged to make “issues of political prisoners, freedom of speech, freedom of religion, and democracy” a key focus of the United States. Therefore, the United States foreign policy is overall aimed to advance the values which empower people to speak, think, worship and assemble

² William F. Schulz, “The Future of Human Rights: Restoring America’s Leadership” (working paper, Better World Campaign, Washington DC), <http://www.betterworldcampaign.org/assets/pdf/humanright-schulz-final.pdf>.

³ Human Rights First, “Re-establishing U.S. Leadership on Human Rights and National Security,” (the Freedom Forum at the Newseum, Washington DC, United States, April 21, 2009).

freely, to lead their work and family lives with dignity, and to know that dreams of a brighter future are within their reach.⁴

Now, the promotion of human rights is essential to the United States foreign policy. According to the commitment of the new Secretary of State, Clinton aims to continue to focus her own energies on human rights. She is looking for changes that actually improve the lives of the greatest numbers of people. The United States will pursue greater respect for human rights as it engages other nations and peoples around the world with respect. The United States strives to overcome tyranny and subjugation that weakens the human spirit, limits human possibility, and undermines human progress. It will make this a global effort that reaches beyond governments alone. Moreover, The United States government will continue to hear and reply forthrightly to concerns about its own practices. It will continue to submit reports to international bodies in accordance with the obligations under various human rights treaties to which it is a party. These are the brief policies on human rights the new administration aims to achieve for the years to come. What has it already put into action?

In the past, President Bush refused to cooperate with the United Nations Human Rights Council or UNHRC, and even held back the share of United States dues to the United Nations that went toward it. Barack Obama, on the other hand, feels it is vital to work with the organization from the inside.⁵ The administration revived U.S. observer status at a meeting of the UN Human Rights Council in March 2009 and announced it was making itself a candidate for election to the council for the first time. Susan Rice, the United States ambassador to the United Nations had told the Politico that, "*We have a record of abject failure from having stayed out. We've been out for the duration, and it has not gotten better. It's arguably gotten worse.*" "*We are much better placed to be fighting for the principles we believe in ... by leading and lending our voice from within.*"⁶ With that claim, Secretary of State

⁴ Eoghan, "More on Clinton and the Mysterious Democracy Activist," *Projects on Middle East Democracy*, May 27, 2009, <http://pomed.org/blog/category/deplomacy/page/2/>.

⁵ Jonah Goldberg, "Obama's bailout for the despots," Opinion section, *Los Angeles Times*, April 7, 2009.

⁶ Goldberg, "Obama's bailout for the despots."

Hillary Clinton and Susan Rice later announced on 31 March 2009 that the U.S. will seek election to one of the 47 seats on the UN Human Rights Council.⁷ In announcing the decision, Secretary Clinton affirmed that “human rights are an essential element of American global foreign policy,” perhaps intending to signal her commitment to critics who have accused her of downplaying human rights concerns. The Obama administration and many human rights organizations have argued that the UN Human Rights Council, which replaced the Human Rights Commission in 2006, has done too little to stop human rights violations. But as Ambassador Rice said, “we believe that working from within, we can make the council a more effective forum to promote and protect human rights.” As the claim to play more of a role in protecting human rights through an international organization by seeking a seat in the council and working from within. Whether the presence of the United States will significantly change the outcomes of the UN Human Rights Council’s votes remains to be seen.⁸

United States laws, policies, and practices have evolved considerably in recent years, and will continue to do so. For example, on January 22, 2009, President Obama signed three executive orders to close the detention facilities at Guantanamo and review the United States government policies on detention and interrogation.⁹ Another thing that shows the honesty and sincerity of the new administration over the treatment of human rights protection of the United States is the revelation of secret documents of the Bush administration about how the Bush administration severely violated the human rights in war against terror operations, which also infringed the United States Constitution itself. The intention of Obama to reveal these documents is to clean up all the mess that the Bush administration made. The war on terror contributed more disadvantages than advantages to the United States and to the rest of the world. However, no matter how good the new policies sound, many challenges await the administration in setting forth a human rights agenda. Currently the United

⁷ Eoghan, “U.S. Will Seek Seat on UN Human Rights Council,” *Project on Middle East Democracy* March 31, 2009, <http://pomed.org/blog/2009/03/us-will-seek-seat-on-un-human-rights-council.html/>.

⁸ Ibid.

⁹ “The State Department’s 2008 Country Reports on Human Rights Practices.”

States provides a banquet of thought-provoking ideas about how to restore America's international standing as a defender of human dignity and political rights.

**A. Resolutions to restore the United States' leadership as a
champion on human rights**

According to the above analysis, it means that the United States advocacy of human rights is a mere cover for an imperialist agenda. Those policies have undermined the notion that spreading human rights and democracy around the globe are viable goals of the United States foreign policy. They have weakened international institutions upon which human rights depend.¹⁰

“Human rights are the essence of everything.” These basic rights lie at the very heart of American democracy and values. But values have to be more than words--the U.S. must define what it means by these values and then work vigorously to uphold them in the same manner it would expect of others. The United States should not turn a blind eye to its own human rights problem.

There are several distinct steps that a new President can take. Foremost among them will be to conform the United States' own practices to international human rights norms. Only when no gap remains between domestic practices and international standards can the U.S. begin to reclaim the mantle of human rights leadership and disarm the arguments of human rights violators around the world who have cited the United States as a model for their own repressive policies. However, how it addresses the human rights issues cannot be considered independent of many of the other topics, for example, the promotion of democracy, or the pursuit of women's health, or the fight against poverty. All of these have implications for human rights policy.¹¹ To re-establish the United States' credibility as a champion of human rights, considerable step of actions are needed to be achieved.

First, it will need to adopt a more sophisticated, less ham-handed approach to the promotion of democracy around the globe. It ought to go without

¹⁰ William F. Schulz, *The Future of Human Rights: U.S. Policy for a New Era* (Philadelphia: University of Pennsylvania Press, 2009), <http://www.upenn.edu/pennpress/book/14463.html>.

¹¹ Schulz, “Restoring America's Leadership”.

saying that human rights are served by an increase in the number of stable democracies in the world. But the key word is "stable," since we know that newly formed, unstable democratic states lacking robust civil societies and strong democratic institutions are especially prone to be breeding grounds for all sorts of mischief, not least the production of terrorists. The tragedy of the Iraq War will only be compounded if the lesson drawn from it is that, because force-feeding democracy proved so destructive, the only alternative is quiescence. Not every nation is ready to leap into full-blown democracy on a moment's notice. But indeed, as worldwide surveys have found, more than 90 percent of Muslims endorse democracy as the best form of government.¹² Therefore, what is required of America is neither perfectionism nor passivity, but what is required of it is *patience*.¹³

Second and the most important step is that it will need to conform its own practices to international standards on fundamental human rights issues. The United States will never reclaim its reputation for human rights leadership as long as its own policies on such issues as due process for prisoners taken into custody in the course of the war on terror remain at such radical odds with international law and practice. There is considerable room for debate as to how cases of terror suspects should be adjudicated, especially when highly classified intelligence is involved; for example, the United States should establish special national security courts or integrate such defendants into the regular criminal justice system—but what is beyond doubt is that the current system in which suspects are cast into legal netherworlds of secret detentions and coercive interrogations cannot continue. And in a broader sense, the United States would do well in the eyes of the world to be less defensive about its own domestic practices that may fall short of international standards.¹⁴

A new administration must see human rights in far broader terms, as an integral part of our national security strategy and coextensive with a commitment to global development. This means not only that the United States must become comfortable with including social and economic rights in its human rights agenda. It means that human rights advocates, both inside the government and out, must

¹² Schulz, *U.S. Policy for a New Era*.

¹³ *Ibid.*

¹⁴ *Ibid.*

construe such things as population control and climate change, foreign aid and protection against AIDS, as significant elements of our human rights business. And it means that both the government and its counterparts in the NGO community must think in new ways about human rights. They must reach out to nontraditional partners in the military or in business whose decisions and actions have profound implications for human rights. They must understand such issues as the development of non-lethal force or military rules of engagement to have profound human rights implications. They must eschew old debates such as whether economic development alone is sufficient to guarantee improvements in civil and political rights in favor of more sophisticated analyses of the relation between growth and liberty.¹⁵

Third, it will need to find a variety of ways to signal renewed support for the international system. Ratifying one or more international human rights treaties would help do that. Perhaps the Convention on the Rights of the Child, which all countries except the United States and Somalia have ratified, would be a place to start now that the U.S. Supreme Court has removed one of the major objections to the treaty by declaring the execution of juveniles unconstitutional. Or revisiting U.S. concerns about the International Criminal Court with an eye toward eventually ratifying the Rome statutes or at least suspending the penalties we have leveraged against those countries that have refused to immunize Americans from prosecution by the court.

Fourth, it will need to codify the positive obligations of the United States under the newly doctrine of the "responsibility to protect." In 2005 the UN General Assembly endorsed the worldwide responsibility to protect civilian populations at risk from mass atrocities. That does not imply that the United States will have to be the proverbial "world's policeman," committing its troops willy-nilly to the far corners of the globe. But it does mean that the United States will need to take mass atrocities seriously, adopting an early warning system for populations in danger, shoring up weak and failing states, providing leadership and support for intervention, even when it itself stays far away from battle. The American people can distinguish between unwise military posturing and morally justified humanitarian interventions.

¹⁵ Schulz, *U.S. Policy for a New Era*.

Fifth, the United States should not employ military force for alleged humanitarian reasons without the explicit approval of the Security Council. The challenge for U.S. foreign policy in the twenty-first century is to improve the international regime of human rights without undermining the UN charter's prohibition on the unilateral use of force. The most important step toward this goal would be for the United States to eschew military force for alleged humanitarian reasons without the explicit approval of the UN Security Council. The failure to obtain such approval prior to the war against Yugoslavia and prior to the current and continuous bombing of Iraq seriously weakens the key international restraint against the use of force as embodied in the UN charter.¹⁶

If the real purpose of U.S. humanitarian military intervention is to protect human rights, then America ought to employ peaceful and more principled methods for protecting those rights before resorting to military action. The U.S., which dominates the UN Security Council, should end its political selectivity and begin to work for a more principled human rights stance within the United Nations itself.¹⁷

Sixth, even though the Obama administration promises to close the Guantanamo Bay, the government must also make sure that all occupants be released or transferred to an American military or criminal justice system for prosecution. It should also renounce the use of torture unequivocally; discard the practice of extraordinary rendition; commit to close and never re-open so-called secret "black site" prisons; and restore habeas corpus rights to all detainees.

Finally, the United States policy in the areas of World Bank, the World Trade Organization (WTO), and multilateral trade agreements also play important roles in promoting human rights. The United States policy should be formulated through a human rights lens as well. These included, the U.S. should use its vote and its influence at the World Bank to insure that a commitment to workers' rights is included in contracts under the auspices of the Bank or its affiliate, the International Finance Corporation. The next U.S. administration should make integration of core

¹⁶ Jules Lobel and Michael Ratner, "Humanitarian Military Intervention," *Journal of Foreign Policy in Focus* 5, no.1 (January 2000): 1-2, <http://www.fpip.org/briefs/vol5/v5n01hmi.html>.

¹⁷ Ibid.

workers' rights into trade agreements a top priority, refusing, for example, to agree to new WTO trade concessions absent incorporation of workers' rights into WTO rules. Similarly, all future U.S. free trade agreements should require that the labor laws of partner countries conform to the core labor rights in the International Labor Organization Declaration.¹⁸

All of this will go far toward restoring the U.S.'s reputation for human rights leadership and signaling a renewed commitment to the international community. That in turn will bolster human rights themselves and the bedrock upon which they are based.

¹⁸ Schulz, *U.S. Policy for a New Era*.