

TEN CRITICAL HUMAN RIGHTS

CHALLENGES

FOR THE NEXT AMERICAN PRESIDENT



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Ten Critical Human Rights Challenges for the Next American President

The upcoming presidential election and inauguration of the next administration is a critical moment to review and update U.S. policy on human rights. Among the challenges the United States faces in the coming years are human rights abuses committed by governments and other actors across the globe that flout internationally accepted principles and undermine U.S. values and interests.

The next administration, whether a second Obama administration or a Romney administration, will need to address a range of international issues. We believe that human rights merit particular attention. The promotion of human rights is both an expression of the universal values that Americans share with people throughout the world and an integral component of the pursuit of American interests abroad. The next administration's record on foreign policy will depend to a significant degree on its ability to effectively protect and advance human rights.

U.S. leadership is critical to effectively address international human rights issues. International responses to gross violations and systematic abuses of human rights around the world tend to have the greatest impact when the United States plays a prominent role or is otherwise actively engaged in promoting a rights-based response. Multilateral human rights institutions similarly make the greatest progress in drawing attention to abuses and maintaining human rights standards when the United States exercises leadership.

Human rights affect almost every aspect of U.S. engagement abroad. Governments that abuse human rights make unstable and unreliable partners across the range of U.S. interests, from business to arms control to counter-terrorism. By strengthening the protection of human rights, the United States not only promotes its own values but also advances its strategic interests.

The next administration should articulate clear priorities and implement credible policies on human rights, address human rights in its relations with all foreign governments that commit significant violations, and select senior officials who have the expertise and authority to carry out effective human rights policy, while ensuring that America's own policies and practices are consistent with the universal values it promotes around the world. The National Security Advisor should have sufficient authority to ensure consistent implementation of human rights policy across U.S. government departments and agencies, and a key criterion in the selection of the Secretary of State should be the candidate's commitment to human rights.

While there are many human rights challenges that will confront the next administration, some are so severe, consequential, or open to U.S. influence that they merit the next administration's attention. In this paper, we highlight ten issues for the next administration to address. If the U.S. response to these issues is inadequate, they may come to harm U.S. interests and credibility abroad. If, however, the next administration crafts and executes robust policies to overcome these human rights challenges, it can make a distinct contribution in promoting U.S. values and interests internationally.

We recommend that the next presidential administration give priority in pursuing the following policies:

1. Prioritize U.S. leadership on international norms and universality of human rights
2. Act to prevent genocide and mass atrocities and ensure accountability
3. Pursue policies that protect people from the threat of terrorism while respecting human rights both at home and abroad
4. Oppose the coordinated global assault on civil society, including the murder, criminalization, and vilification of human rights defenders

5. Proactively address the democracy and human rights opportunities and challenges presented by the Arab Uprisings
6. Ensure that corporations avoid contributing to human rights violations in their operations and through their supply chains
7. Bolster accountability and access to justice for survivors of sexual and gender-based violence
8. Review the United States' relationships and alliances with governments that violate human rights
9. Support international justice and accountability for human rights violators present in the United States
10. Support policies both at home and abroad and norms that respect the rights of and equal treatment for refugees/migrants/immigrants

The presidential campaigns have to date addressed some human rights issues and benefitted from the insights of individual human rights experts, but leading human rights organizations have yet to weigh in to the debate surrounding the presidential campaigns in a substantial way. This policy paper is a collective effort by leading U.S.-based human rights organizations and experts to contribute to the debate and to the human rights policies of the next administration as it prepares to take office.

This paper is a product of Freedom House, the Connect US Fund, and the Human Rights Working Group, a Washington, D.C.-based forum for human rights organizations and expert individuals to share practices, discuss policy challenges, and coordinate advocacy strategies. The policy paper takes into account the priorities of 22 human rights organizations that contributed in some way to its content. However, not every group has a position on all of the issues in this paper, and individual organizations and experts have additional views that are not included in this paper but are nonetheless important positions on critical issues. The analyses and recommendations presented here reflect the views of human rights organizations and experts on particular issues within their organizational mandates and expertise.

Participants in the Human Rights Working Group voted on the top ten issues to highlight in this paper. They were guided by three factors: (1) the severity of the human rights violations, (2) the extent of the harm or threat caused by these violations, and (3) the ability of the United States to influence the situation.

The absence of an issue in this paper does not suggest a lack of importance. In fact, many issues, including LGBT rights, Internet freedom, and general women's rights, are not covered in this paper because they are current priorities of the United States, which has led efforts to address them worldwide. We anticipate and strongly recommend that work in these areas continue to be a priority for the next administration.

Each of the top ten issues in this paper is covered in one page. Background to frame each issue is followed by a summary of the U.S. record to date on the issue and then by key recommendations.

The top ten issues presented in this paper merit discussion during the presidential debates this fall. We look forward to a sustained conversation on these issues with both candidates and ultimately with the next president.

Prioritize U.S. leadership on international norms and universality of human rights

International organizations are most effective in protecting and promoting human rights when the United States plays a leadership role and lives up to its own human rights commitments. Despite their imperfections, the United Nations, Organization of American States, Organization for Security and Cooperation in Europe, World Bank, and other multilateral institutions provide a greater level of legitimacy and influence than U.S. bilateral efforts alone. U.S. support, both practical and financial, for multilateral institutions is critical for the United States to shape international human rights norms as well as improve the overall functioning of the institutions themselves. Moreover, by withdrawing from these institutions or restricting funding, the United States forfeits its leadership in these bodies and undermines its ability to advance its own interests.

An illustration of how the United States can positively shape the policies of such bodies is demonstrated clearly by its membership in the UN Human Rights Council (HRC). Prior to U.S. membership in the Council in September 2009, very little progress was made on calling attention to the human rights situations in all but the most egregious cases, most often countries such as North Korea and Somalia that have few allies. However, U.S. leadership has been one of the key factors in many of the achievements of the HRC, including launching international investigations into abuses in Libya, Syria, Côte d'Ivoire, Iran, Belarus, Honduras, Guinea, and Eritrea, as well as in pushing engagement of the HRC on dealing with wartime abuses in Sri Lanka. Moreover, the United States was instrumental in the creation of a special rapporteur on freedom of association and peaceful assembly; in the support of the South African initiative for the adoption of the first resolution on the protection of LGBT rights; and in the defeat of the annual "Defamation of Religions" resolution, an attempt by Islamic states to create an international norm criminalizing blasphemy.

The credibility of U.S. engagement on human rights internationally is also directly related to the United States' own human rights record. The United States will be in the strongest position to promote human rights abroad if it improves the domestic implementation of its human rights obligations.

The next administration should make it a priority to fully fund its multilateral commitments and to emphasize the following issues:

- Lead efforts in international institutions to protect human rights, expose human rights abuses, and resist attempts by authoritarian governments to undermine human rights mechanisms.
- Maintain current active engagement and funding levels for multilateral institutions, including the United Nations, the Inter-American Commission on Human Rights, and international financial institutions, as well as work with the U.S. Congress to maintain funding for UNESCO.
- Ratify important international human rights treaties, including the Convention on the Elimination of Discrimination Against Women; the Convention on the Rights of the Child; the Convention Against Corruption; the Convention against Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.
- Improve the implementation of the United States' existing human rights obligations, strengthen the interagency implementation process, and increase federal engagement to ensure implementation of human rights obligations at the state and local levels.

Act to prevent genocide and mass atrocities and ensure accountability

The past decade has witnessed repeated examples of mass atrocities from Darfur to eastern Congo and today in Syria. These premeditated crimes claim the lives of thousands, in some cases millions, destroying not just the social fabric of those affected societies and communities but the wider political and economic integrity of the regions as well.

Taking steps to prevent genocide and other mass atrocities lies at the heart of America's ability to lead in the world. The United States cannot be seen as a responsible and effective leader if it fails to act in the face of the worst crimes. Helping to end these crimes, which fuel instability and have long-lasting political and economic consequences, is essential to combating group-targeted violence, protecting civilians, and upholding universal values. As such, it is also wholly consistent with advancing U.S. national interests.

The fight to eradicate mass atrocities has been long and slow, with too many failures along the way. But atrocities-prevention efforts endure, and the NGO community in the United States, in cooperation with policy makers and concerned citizens, has made great strides in the past few years. The release of Presidential Study Directive 10 in August 2011 affirmed that the prevention of "mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States." The creation of the Atrocities Prevention Board (APB) in April 2012 was a significant step forward in achieving this commitment. For the first time in history, the U.S. government committed resources and high-level personnel to developing a "whole of government" approach to responding to and preventing mass atrocities and genocide.

As the threat of genocide and other mass atrocities will continue to challenge U.S. leaders and the international community, a shared commitment must continue regardless of which candidate or party takes office in 2012. The next administration should advance U.S. efforts to prevent and respond to mass atrocities by:

- Building and sustaining political will. The next administration should reaffirm that prevention of genocide and other mass atrocities is in the national security interest of the United States. It should work to engage champions on both sides of the aisle to craft policies together that would increase civilian capacity on the ground to monitor and address atrocities; strengthen diplomatic, early warning, and conflict-prevention and mitigation capacities; and support strengthened international conflict-prevention, peacekeeping, and peace-building capacities.
- Matching resources to rhetoric. Atrocity prevention requires a whole-of-government mechanism with the authority to address coordination and capacity deficits in U.S. government atrocity-prevention efforts. The next administration should support the APB and provide it with the necessary resources to effectively respond to and prevent instances of mass atrocities and genocide. Resource priorities include training on a wide array of issues, such as conflict prevention and civilian protection, as well as creating and resourcing a modern and expeditionary foreign service.
- Internationalizing atrocity prevention efforts. A strong normative framework and capable international institutions are critical components of a U.S. strategy to prevent mass atrocities. This includes the United States continuing to cooperate with multilateral accountability structures such as the International Criminal Court (ICC) and working with partners to craft a global network dedicated to the prevention of genocide and other mass atrocities.

Pursue policies that protect people from the threat of terrorism while respecting human rights both at home and abroad

After the 9/11 terrorist attacks, the United States implemented new counter-terrorism policies, some of which have undermined key human rights norms, including the prohibitions on arbitrary detention; enforced disappearance; and torture and cruel, inhuman, and degrading treatment. Though some important steps have been taken to ensure compliance with these and other applicable human rights norms, other problematic counter-terrorism policies continue. In particular, many individuals suspected of involvement with terrorism have been indefinitely detained without charge or trial, or killed in lethal targeting with little public explanation of how applicable international law is being enforced. There is a need to review and reform problematic policies on the detention and lethal targeting of terrorism suspects and on the incidental killing of civilian bystanders in targeting operations. There also remains substantial ambiguity around the U.S. government's decision-making process related to detainee transfers.

To further align U.S. counter-terrorism policy with applicable international human rights obligations, the next administration should:

- End indefinite detention without charge or trial.
- With respect to lethal targeting and rendition, reevaluate and publicly clarify the criteria and the basis for targeting and transfer decisions, the process by which such decisions are made, and the mechanisms in place to ensure compliance with international law and the protection of civilians.

Oppose the coordinated global assault on civil society, including the murder, criminalization, and vilification of human rights defenders

A free and robust civil society sector and media are absolutely crucial components of any democracy. These groups act as watchdogs, provide training and assistance to activists on the ground, and supply knowledge that might otherwise be inaccessible. Many repressive countries recognize the important role these institutions play and have taken actions to stifle, repress, and inhibit civil society and the media. Often these actions are not extrajudicial, but are rather the result of laws enacted with the express purpose of restricting civil society activities. According to research by the International Center for Not-for-Profit Law, more than 50 laws restricting civil society have been proposed or enacted around the world in the past five years alone.

Legal mechanisms designed to inhibit civil society activities are being used in Ethiopia, Venezuela, Egypt, Belarus, and dozens of other countries. Countries including Mexico, Argentina, Colombia, Peru, Ethiopia, and others are using criminal codes, especially terrorism laws, to prevent or crack down on social protest and commentary. Russian civil society activists have long faced harassment, arrest, and even the threat of death. Prime Minister Vladimir Putin recently warned demonstrators, “Go [and protest] without permission, and you will be hit in the head with batons.”

The most notable case of recent civil society restrictions is in Egypt, where government officials have launched investigations into hundreds of domestic NGOs and other international groups and charged 43 NGO workers with receiving foreign funds illegally and operating without a license. In December 2011 four American groups—the National Democratic Institute, the International Republican Institute, Freedom House, and the International Center for Journalists—had their offices raided and shut down as part of the investigation, which remains ongoing. This is a high-profile example of a common occurrence around the world whereby governments use registration requirements and funding restrictions to control civil society and employ negative media campaigns designed to vilify NGOs and their work.

The U.S. government actively supports independent civil society organizations around the world by direct funding and relationships on the ground, participation in international bodies such as the UN Committee on NGOs, and other initiatives. Additionally, government officials often speak out against proposed laws or initiatives that could negatively impact civil society. In Krakow, Poland, in 2010, Secretary Clinton addressed these issues, pledged U.S. support for civil society worldwide, and announced the creation of a collaborative fund designed to support embattled NGOs around the world. This fund is now sponsored by 14 governments and is designed to act as a warning signal and advocacy tool when actions are taken that hamper civil society in any country around the world.

However, all of these efforts are not enough when civil society continues to face repression. To fully support civil society around the world, the next administration should:

- Implement a policy of ongoing engagement with civil society and independent media from the President to the Secretary of State, on down to embassies and missions.
- Actively and publicly oppose efforts by other governments, especially U.S. allies, to restrict or control civil society activities, and speak out in support of human rights defenders when they come under threat.
- Support robust foreign-assistance funding to civil society and media organizations around the world regardless of their registration status.
- Work to ensure that resources such as the Embattled NGO Assistance Fund are active and responsive.
- Create and implement guidelines for embassies and missions to engage with and support human rights defenders and civil society organizations.

Proactively address the democracy and human rights opportunities and challenges presented by the Arab Uprisings

The Arab Uprisings of 2011 began a historic opening of political systems in a region where authoritarian rule was deeply entrenched and had seemed almost immutable. While dictators fell in Tunisia, Egypt, Libya, and Yemen, almost all of the remaining authoritarian regimes in the region responded either with intensified repression or increased government spending, or a combination of the two. The prospects for democracy and human rights in the Arab World are uncertain. Only Tunisia has made significant progress in its path toward democracy. In Egypt, the armed forces have retained a significant share of power since the inauguration of an elected president, and a constitutional court has dissolved the popularly elected parliament. Uncertainties surround the constitution-writing process, and protections for human rights are not firmly in place. Libya and Yemen, though now free of their dictatorial leaders, continue to face significant instability. Elsewhere in the region, Morocco has introduced modest reforms and Jordan has made some cosmetic changes, while other authoritarian regimes have resisted popular demands for political reform. Bahrain's government, with assistance from neighboring Persian Gulf states, has carried out a violent crackdown on a popular democratic uprising, and Syria's regime responded to widespread calls for change with horrific brutality, including sniper fire at peaceful demonstrators, indiscriminate shelling of civilian areas, and execution-style killings including of women and children. The ongoing mass atrocities in Syria have claimed the lives of at least 13,500 civilians so far, according to the Violations Documentation Center, a network of activists.

The U.S. government declared a commitment to support transitions to democracy and political reform in the Arab World as a "top priority." In some countries, such as Tunisia, Libya, and Syria, it has clearly done so. But when dealing with authoritarian regimes that have been U.S. allies, it has been inconsistent and used insufficient leverage to encourage change. The United States has urged a full transition to civilian rule in Egypt, yet continues to provide Egypt's military with \$1.3 billion in aid while staff of U.S. NGOs are being prosecuted and Egyptian civil society groups remain under investigation. Particularly toward Arab monarchies, the Obama administration has exerted limited pressure for reform. It has largely tolerated the violent crackdown in Bahrain and resumed arms sales to the country, while saying nothing about Saudi Arabia's total suppression of dissent.

To address the opportunities presented by the Arab Spring, the next administration should:

- Provide sufficient political support, technical assistance, and foreign aid to ensure successful transitions to democratic, human-rights-respecting governments in Tunisia, Egypt, Libya, and Yemen.
- Condition military aid to Bahrain on progress toward political reform.
- Use U.S. political and diplomatic leverage to persuade Egypt's military to transfer full power to an elected civilian government and respect human rights.
- Support the recovery of assets acquired through corruption by authoritarian leaders and their families.
- Restructure bilateral assistance in the region by reducing the emphasis on military aid and providing greater support for democracy, including for civil society and independent media.
- Maintain broad diplomatic engagement across the political spectrum and civil society, including women's organizations, to actively encourage pluralism and accountable governance in the region.
- Step up diplomatic and economic pressure on Syria's Assad regime to cease atrocities and promote a transition to a government that respects human rights.

Ensure that corporations avoid contributing to human rights violations in their operations and through their supply chains

Governments have an obligation to protect human rights, including holding companies accountable for violations of human rights through their operations and supply chains. Business has an incentive to contribute to a strong rule of law and prevent the worst human rights abuses, thereby facilitating a more predictable business environment and earning respect among consumers and shareholders. Governments should encourage and heighten those positive incentives by building and enforcing strong legal protections to ensure that human rights are factored into business decision-making and guarantee that those impacted by a company's operations and supply chains have means of redress.

The United States has led the international community in promoting corporate accountability. In 1977, the United States passed the Foreign Corrupt Practices Act (FCPA), the first anti-bribery statute, to stop companies from making corrupt payments to foreign officials and to sustain public confidence in the integrity of business. The Alien Tort Statute (ATS), a law dating from the late 1700s, has been used for the last four decades in U.S. courts to hear human rights cases brought by foreign citizens for conduct committed extraterritorially. The United States has also used its regulatory authority to address human rights harms committed outside the country by mandating transparency and disclosure mechanisms. Sections 1502 and 1504 of the Dodd-Frank Act, the conflict minerals and natural resource disclosure provisions, seek to promote transparency around supply chains and combat corruption to help ensure that resources contribute to development instead of fueling conflict and human rights abuses.

To ensure that corporations are not contributing to human rights violations, the next administration should:

- Ensure that the FCPA is enforced robustly and is not amended to erode the core intent of the law.
- Encourage all U.S. companies to recognize their human rights responsibilities by undertaking human rights “due diligence.”
- Immediately release final rules for Sections 1502 and 1504 of the Dodd-Frank Act and implement the law in line with congressional intent.
- Support the ATS, which allows aliens to use U.S. courts to seek justice against corporations and other actors for human rights violations, including its extra-territorial applicability, and ensure that it is not undermined.
- Require all companies to publicly disclose their beneficial owners in order to prevent corrupt government and military officials, narcotics and arms traffickers, and other cross-border criminal actors from hiding their identities behind American shell companies and moving illicit funds into the financial system.
- Require companies to identify and disclose efforts to prevent child labor, adult forced labor, and human trafficking in their supply chains; implement the Guidelines for Eliminating Child and Forced Labor in Agricultural Supply Chains.
- Increase accountability and oversight of the labor recruitment practices of U.S. government contractors and subcontractors in order to stop human trafficking.
- Implement the UN Guiding Principles on Business and Human Rights in the United States through dialogue, partnerships, and regulations that recognize the state's duty to protect human rights and reinforce corporations' responsibility to respect human rights.
- Encourage an open Internet, in part by ensuring that Internet and telecommunications companies undertake due diligence to ensure that their operations are not facilitating violations of freedom of expression and the right to privacy.
- Curtail the collaboration of U.S. companies in foreign government suppression of Internet freedom, including the export of censorship and surveillance technologies to countries that restrict digital media.

Bolster accountability and access to services and justice for survivors of sexual and gender-based violence

Sexual and gender-based violence is a worldwide scourge that exists in myriad forms--in rape and other sexual assault, human trafficking, female genital mutilation, acid attacks, so-called "honor killings," forced marriage, and domestic violence. The harms from sexual and gender-based violence are serious and complex and include physical and mental trauma, disease, and a breakdown of stable social structures.

Social stigma and underreporting of such incidents make robust statistics hard to come by, but many civil society and human rights groups have reported increases in these crimes, in particular during and after armed conflict and civil strife. Events in Bosnia, Rwanda, Darfur, eastern Democratic Republic of Congo, and Burma in the last 20 years have indicated a correlation between rape and conflict, with rape often intentionally used as a weapon of war. Too often, individuals who commit these crimes are never held accountable for their actions.

The crisis of sexual and gender-based violence in conflict is acute in many areas, such as Uganda, Sudan, and Kenya. The International Criminal Court (ICC) is one important institution through which some perpetrators may be held accountable for their crimes, but rampant sexual and gender-based violence requires a deeper and more thorough response. This should include not only accountability for perpetrators, but prevention, access to medical and psychological services, and an effort to make sure victims are not further stigmatized, or worse yet, punished (as in the case of rape victims stoned for alleged adultery, as in Pakistan or Saudi Arabia).

Institutional reforms are also necessary to prevent and respond to the threat of sexual violence. These should include increased access to reproductive and other health services and education; improved laws that end discriminatory practices; better training for medical professionals, first responders, and law enforcement officials; increased involvement of women in political processes; and better access to justice for victims of violence.

The United States supports programs that expand access to justice for survivors of sexual and gender-based violence, and the State Department Office of Global Women's Issues has prioritized the prevention of and increased accountability for these crimes. The State Department Office to Monitor and Combat Trafficking in Persons documents the global incidence of such crimes and supports programs aimed at preventing trafficking and holding perpetrators accountable.

The next administration should:

- Focus on accountability for sexual and gender-based violence in bilateral relations, with due attention to sexual violence in conflict and sex trafficking.
- Expand support for international programs that increase access to health care, educational opportunities, and judicial institutions for girls and women, with a particular emphasis on supporting local civil society groups and credible authorities.
- Continue to engage with the ICC and support other international, regional, and local efforts to hold perpetrators accountable for crimes of sexual and gender-based violence, and to re-empower rather than blame or stigmatize victims.
- Enforce a zero-tolerance policy for involvement in human trafficking and other crimes of sexual and gender-based violence on the part of those working for the U.S. government and military as employees or contractors.
- Increase the numbers of T and U visas, which are given to individuals who have been victims of trafficking, sexual and domestic violence, and other crimes.
- Deny visas and asylum to perpetrators of sexual violence and trafficking, consistent with international refugee protection law.

Review the United States' relationships and alliances with governments that violate human rights

Over time, the idea has become entrenched that human rights and democracy on the one hand and security and economic interests on the other cannot be achieved simultaneously. Policies toward major authoritarian regimes implicitly discount abuses and avoid imposing consequences for them, such as “constructive engagement” with China and the “reset” with Russia. Washington policymakers often underestimate the political and moral capital America has, or refuse to use it. While the United States should be realistic about its ability to affect political events in other countries, the historical record, and the aspirations of people living under repressive regimes, support American efforts based on the values and goals of freedom and liberty

History shows that American influence and power can assist democratic transitions from dictatorship to democracy. In the Philippines, Chile, Taiwan, and South Korea, U.S. pressure on authoritarian allies made a difference at crucial moments. In the case of the Soviet Union and the successful transitions of Central, Eastern European, and Baltic countries, opposition to totalitarian ideology and support for dissidents were vital elements in the end of the Soviet bloc. The Arab Uprisings provided a clear reminder that even entrenched authoritarian regimes are vulnerable to popular demands for change and cannot provide stability while ignoring the democratic aspirations of their people.

Despite the recognition that the United States' largely uncritical partnerships with repressive regimes in the Middle East undermined long-term U.S. interests, old mistakes are being repeated around the world. The United States has largely neglected human rights as it collaborated on counter-terrorism with Ethiopia, Saudi Arabia, and other authoritarian partners, and resumed aid to the repressive government of Uzbekistan in return for supply routes for the war in Afghanistan. In other areas, the United States may mistakenly perceive progress on mutual interests where there is none (China re: North Korea) or reward behavior that is in the other country's own best interest (e.g. Egypt's peace with Israel, Russia's need for stability in Afghanistan), while ignoring human rights concerns. The nature of each case, including America's interests and the geostrategic situation, may be unique, but in each country the United States needs to accumulate and employ leverage in pursuit of democracy and human rights.

The next administration should:

- Formally review U.S. relations with authoritarian regimes with which it seeks cooperation and identify opportunities to support democracy and human rights activists and reformist regime officials.
- Require inter-agency coordination on democracy and human rights objectives, e.g., the U.S.-China Strategic and Economic Dialogue, and pursue these objectives with an all-of-government approach.
- Understand and encourage the role that Congress and domestic constituencies play in supporting democracy and human rights abroad.
- Direct U.S. diplomats and visiting U.S. officials at all levels to engage with democracy activists and civil society, monitor demonstrations and political trials, and proactively conduct public diplomacy to communicate directly with people living under authoritarian rule.
- Review past policies and current programs, including, e.g., security training and visitors programs, to exploit opportunities to advance respect for universal values on religious tolerance, anti-corruption and rule of law, and political and individual rights;
- Introduce targeted visa bans and asset freezes, such as the Magnitsky bill, on foreign government officials, as well as their family members and close associates who are implicated in human rights abuses or in corruption.

Support international justice and accountability for human rights violators present in the United States

Justice for serious crimes committed in violation of international law—genocide, crimes against humanity, war crimes, and torture—is crucial to enable redress for victims. It is also crucial to mitigate impunity that can fuel future abuses and to foster rights-respecting societies based on the rule of law.

The U.S. government has in recent years taken important steps to advance justice for serious crimes by backing international and hybrid war crimes tribunals, supporting country-specific investigations by the International Criminal Court (ICC) and establishing the Department of Justice’s Human Rights and Special Prosecutions Section. With the continued commission of horrific crimes around the world, U.S. leadership on international justice is more important than ever. The United States has often been in the lead on pressing for accountability, but greater consistency is needed. Inconsistent support for justice undermines U.S. credibility and effectiveness in ensuring perpetrators of serious crimes are held to account.

The International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) have benefitted from strong U.S. bipartisan support. While these courts are wrapping up their core operations, essential work remains. For example, prosecutions of members of the Rwandan Patriotic Forces have yet to take place at the ICTR. In addition, residual mechanisms have been created to address critical issues after these courts close their doors, but they will need support to function properly. The establishment of the ICC was a substantial step in human rights accountability, and in recent years the U.S. government has advanced a cooperative relationship with the court. Further support will enable the United States to advance justice for victims of crimes and maximize the possibility of deterring future crimes.

Until recently, torture was the only serious crime that could be prosecuted in the United States when committed abroad and when the alleged perpetrator and the victim are not U.S. citizens. The 110th Congress made genocide and child soldier recruitment prosecutable offenses. Yet key loopholes remain in the federal war crimes law, and no law on crimes against humanity exists. The U.S. government recently established the Department of Justice’s Human Rights and Special Prosecutions Section, which brings together expertise to prosecute cases of human rights violators in the United States. At the same time, cases are very limited. There has only been one case to date involving torture committed abroad, which was against the son of former Liberian president Charles Taylor.

Whenever feasible and fair, prosecutions by national courts of the countries where international crimes are committed are the best way to ensure that justice has local resonance. Support to countries that seek to pursue such prosecutions in a manner consistent with international fair-trial standards can make a vital contribution to making such cases possible.

The next administration should:

- Consistently insist on justice as part of its response where serious crimes are committed, including alleged wrongdoing by U.S. citizens.
- Provide continued backing to the ICTR, ICTY, and SCSL.
- With regard to the ICC, share information and evidence, press for arrest of suspects, and support appropriate Security Council resolutions, such as those referring cases to the court.
- Close legal loopholes in the federal war-crimes law and press for crimes against humanity committed abroad to be a federal crime so human rights violators in the United States can be held to account.
- Assess obstacles to increased prosecutions of human rights violators in the United States and increase resources and coordination among relevant government agencies as needed.
- Fund and politically back credible, fair efforts to try international crimes before national courts.

Support policies at home and abroad that respect the rights of asylum seekers, refugees, migrants, and immigrants

Despite its leadership in protecting refugees around the world and its history as a nation of immigrants, the United States has failed, in a number of ways, to protect the human rights of refugees and migrants. The United States detained nearly 400,000 asylum seekers and immigrants last year, often without individual assessments or prompt court review of detention, using jails and jail-like facilities that are inappropriately penal, as confirmed by the bipartisan U.S. Commission on International Religious Freedom, the Inter-American Commission on Human Rights, and the UN Special Rapporteur on the Human Rights of Migrants. The United States interdicts asylum seekers and migrants from Haiti, Cuba, and elsewhere without adequate safeguards to ensure protection from return to persecution, torture, trafficking, or other human rights abuses – constituting a violation of their human rights and setting a poor example for other states. United States also lacks an effective system for expediting resettlement of at-risk refugees; security processing delays left many stranded, and resettlement numbers dipped sharply this year. The lack of legal status and a path to citizenship for many immigrants in the United States leaves them vulnerable to exploitation, violence, family separation, and other human rights violations.

The United States has long played a leading role in protecting refugees around the world, resettling more refugees – in partnership with faith-based and other organizations and communities across the country – than any other country and supporting global efforts to address the plight of persecuted and displaced persons. There is a long history of bipartisan support for the protection of refugees in the United States, which should be maintained and strengthened. The United States has also taken steps to address some of the significant risks facing particularly vulnerable migrants around the world, playing a key role in responding to the plight of migrants and refugees who were trapped, targeted for violence, or fleeing Libya last year.

The next administration should:

- Continue its strong global leadership in protecting refugees and displaced persons; improve capacity to expedite resettlement for refugees facing imminent risk of harm; and enhance efforts to protect vulnerable migrants, including children, victims of trafficking, and others who are at risk of violence, exploitation, and other serious human rights abuses.
- Improve access to asylum and other U.S. protections: eliminate the one-year asylum filing deadline; increase access to counsel, including government-furnished counsel; reform maritime interdiction to provide individual interviews (in the migrant’s language) to identify and address protection needs; and revise flawed immigration laws/legal interpretations that mislabel refugees as terrorists.
- Reform the U.S. immigration detention system (and encourage other countries) to reform expedited removal and other laws/ policies, to require individualized detention assessments; increase access to mental and other health care and family; prohibit solitary confinement; end detention of children; and cease use of jails and jail-like facilities, only utilizing facilities with non-penal conditions.
- Stop fostering racial profiling through immigration enforcement by terminating all 287(g) agreements and the Secure Communities program; reforming the Justice Department Guidance on Use of Race by Law Enforcement to eliminate the “border integrity” exception to the ban on racial profiling; instituting a robust racial profiling complaint and investigation procedure; and declining to initiate removal proceedings against individuals shown to have been subjected to racial profiling.
- End the mass incarceration of border crossers, including termination of Operation Streamline, which has led Latinos to become, for the first time, a majority of federal felons convicted in the last year of available data.
- Ensure accountability for human rights abuses by the Border Patrol and at points of entry.

- Improve access to justice in immigration proceedings by increasing the number of immigration judges to shorten case processing times; increasing access to counsel, including for the mentally ill, children, asylum seekers, and other vulnerable groups; and making the Legal Orientation Program universal.
- Reform U.S. immigration laws and policies to protect the human rights of the undocumented.



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