

# Practice What You Preach

## Global Human Rights Leadership Begins at Home

By **John Shattuck** and **Kathryn Sikkink**

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Voting in Washington, D.C., November 2008

Larry Downing / Reuters



**T**he international standing of the United States has taken a serious hit over the past four years. Former U.S. President Donald Trump's strident "America first" foreign



embracing authoritarians and alienating democratic allies. At home, he launched an assault on the electoral process, encouraged a failed insurrection at the U.S. Capitol, and systematically undermined civil rights protections, leaving his successor to grapple with multiple, overlapping human rights crises. As if that were not enough, a host of other problems await, from the pandemic to increasing competition with China and the overall decline of American power.

Some pundits have argued that faced with this five-alarm fire, President Joe Biden cannot afford to focus on human rights at the expense of more pressing domestic and global matters. In fact, the reverse is true. U.S. soft power and national security have always rested in part on the country's commitment to human rights and democracy. If Washington wants to recover lost ground, it cannot afford to ignore this crucial dimension of American power.

Restoring that commitment, history has shown, will require improvements not just to U.S. foreign policy but also to the country's domestic record on human rights. During the Cold War, racial segregation in the United States outraged leaders from newly decolonized countries and stained the United States' global image. But the civil rights movement and the enactment of landmark legislation against discrimination later enhanced U.S. credibility in the eyes of the world. In the 1980s, a Russian dissident lawyer and an Argentine human rights activist separately told us that each had been infuriated by the Vietnam War and the Watergate crisis, only to have their admiration for the United States rekindled as they watched the American political and judicial systems respond to the Nixon administration's abuses of power and violations of civil liberties.

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seeks to advance abroad, as well as a national security interest in doing so, particularly when geopolitical competition between China and the United States is likely to focus increasingly on competing values, not just economic and military issues. Tackling systemic racism at home, therefore, is not only the right policy ethically; it would also give Washington more authority to speak out against genocide and human rights abuses faced by racial and religious minorities abroad, such as the Uyghurs in China and the Rohingya in Myanmar.

To regain the soft power it has squandered, the United States must first address its own human rights crisis. That means dealing with racialized police violence, unequal opportunity, voter suppression, and the disproportionate impact of the pandemic on minority and disadvantaged communities. Doing so would allow the Biden administration to develop an international human rights agenda that parallels and draws credibility from its program to advance human rights at home. If the United States can practice what it preaches, it will have a renewed opportunity to advance the cause of human rights globally, to the benefit of its interests and in line with its values.

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## **THE HOME FRONT**

As citizens of a democratic nation of unprecedented racial, ethnic, religious, and cultural diversity, Americans are bound together not by a common ancestry but by a shared belief in human rights and freedom. Despite deep partisan differences, they tend to take an expansive view of human rights and what it takes to protect them. A 2020 Harvard University survey, led by one of us, John Shattuck, revealed that eight out of ten Americans think that voting, racial equality, equal opportunity, freedom of speech, and privacy are all “essential American rights.” The same goes for health care, education, employment, and clean air and water. But only 20 percent of Americans believe these rights are very secure today—and a majority agree that neither the government nor citizens themselves are doing a good job upholding them. It would be unrealistic to expect that the Biden administration can undo that perception straight away, as a polarized political environment will make structural change difficult to



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Moving forward on racial justice should be a top priority. The survey found that six out of ten Americans agree that “structural racism makes it difficult to get ahead,” and a similar percentage believe that “Black people and some other racial minorities are targets of racism in policing.” To change this, the new administration must broaden federal civil rights laws and apply them aggressively. It should reinstate the “disparate impact” standard, which requires government officials and private companies to prove that their policies and practices do not have racially discriminatory effects. Through an executive order, Biden could also require public and private recipients of federal funds to demonstrate how they will prevent discrimination and guarantee equal access as a condition for receiving that money.

The criminal justice system is rife with racial discrimination at every step, from policing and arrests to bail, sentencing, and incarceration. The United States currently imprisons over two million people—who make up a shocking 22 percent of the global prison population—and 60 percent are people of color. The number one goal in this area must therefore be to reduce mass incarceration. Federal support should go to state and local government programs that emphasize crime prevention, mediation, racial fairness, and police accountability instead of aggressive, military-style policing. Biden reportedly plans to halt federal transfers of military-grade weaponry to local police departments. But his administration should push for sentencing reform, too, and move to eliminate mandatory minimum sentences for marijuana and other drug-possession offenses. It should also expand the First Step Act, a federal law enacted in 2018 with bipartisan support that takes modest steps toward sentencing and prison reform.

**Confronting National Guard members in Minneapolis, Minnesota, May 2020**

Carlos Barria / Reuters

Other forms of discrimination should not be left out of the picture. Last year, the Supreme Court ruled that discrimination on the basis of sexual orientation or gender identity is prohibited under the Civil Rights Act of 1964. The Biden administration, in an encouraging move, has already issued an executive order prohibiting any such discrimination by the executive branch and the military and has clarified that laws prohibiting gender discrimination also protect those who identify as LGBTQ.

Even in the absence of outright discrimination, many Americans feel the sting of unequal opportunity and treatment. The disparate impact of the pandemic on racial minorities and disadvantaged populations, for instance, is well documented. As the Biden administration works to control the pandemic and stabilize the economy, it should establish a new social contract to guarantee equal opportunity. An immediately achievable reform agenda would include increased federal support for afterschool and preschool programs, teacher training, and scholarships for low-income students. It would also include health insurance guarantees for frontline health-care workers and other groups disproportionately affected by the



protection of vulnerable communities from environmental hazards.

Any human rights push in today's United States would be incomplete without voting reform. Trump's spurious attacks on the results of the 2020 presidential election were unanimously rejected as unfounded by more than 80 federal and state judges, many of them appointed or elected by Republicans, and no evidence of voter fraud was found. In the wake of these dangerous attacks, the Biden administration and Congress should take steps to expand and secure voting rights while fighting state-level efforts to restrict voting access.

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## **U.S. power has always rested in part on the country's commitment to human rights and democracy.**

That effort should start with universal registration. Voting is both a right and a responsibility of citizens in a democracy, but unlike most other democracies, the United States does not automatically register its citizens to vote. Nineteen states now have automatic registration; Congress should require the remaining 31 to adopt the same approach. Forty states had implemented early voting and 34 allowed voting by mail before last year's election, which saw record turnout across party lines. This, too, should be the norm across all 50 states. A particularly large category of citizens currently denied the right to vote are the 5.2 million Americans with felony convictions living in states that disenfranchise people with such records. Legislation to restore their voting rights should be modeled after the laws in the 19 states where people with felony convictions are allowed to vote after they have completed their sentences.

Reforms should also target voter suppression. The Voting Rights Act should be strengthened so that state and local jurisdictions with a record of racial discrimination cannot change their voting rules without prior federal approval. Voter roll purges to remove the deceased or those who have moved must not be used to eliminate eligible voters. To that end, federal legislation



Congress should also prohibit partisan gerrymandering, with nonpartisan or bipartisan commissions taking on the task of drawing legislative district lines.

Finally, the Biden administration should return to an immigration policy that is centered on human rights. International and domestic law obligate the United States to protect the rights and safety of refugees, and the Supreme Court has ruled that migrants seeking to remain in the country have a right to due process under the U.S. Constitution. In sharp contrast to the Trump administration's extreme anti-immigrant policies and practices (which violated both international and domestic refugee law), a majority of Americans in the Harvard survey agreed that "immigrants facing persecution or violence in their home countries have a right to seek asylum in the US" and that "new immigrants are good for the US."

Many of Trump's restrictive immigration policies were promulgated by executive order and can be rescinded the same way—a process that Biden has already begun. An early Biden executive order ended the forced separation of migrant children from their families. Biden also reversed Trump's ban on immigration from primarily Muslim countries and halted construction of the border wall, among other steps. Meanwhile, the Biden administration is proposing legislation to overhaul the U.S. immigration system, develop a pathway to citizenship for millions of qualifying immigrants, and address the root causes of immigration from Central America—although doing all of this while managing the current surge of migrants at the border will be challenging.

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## **DAMAGE CONTROL**

Attention to human rights reform at home will boost the United States' international standing, allowing Washington to once again make human rights a central element both in its bilateral relationships and within multilateral institutions and alliances. As on the home front, a rights-centered foreign policy should start by reversing actions that turned the United States from a guardian of human rights into a violator in the eyes of the rest of the world.





was particularly damaging. So was his continued, unquestioning support of Saudi Crown Prince Mohammed bin Salman after the murder, ordered by the crown prince himself, of the journalist Jamal Khashoggi, not to mention his backing of Saudi Arabia's military intervention in the brutal civil war in Yemen. In undoing this disastrous legacy, Biden should place special emphasis on the rights of women and LGBTQ people. He has already rescinded the "global gag rule," which blocked U.S. funding for nongovernmental organizations that provide abortion counseling or referrals.

This is not to suggest that Biden should do the opposite of everything his predecessor did. In a few areas, aspects of Trump's policies are worth preserving, minus his counterproductive unilateralism. Venezuela is one such case. The Trump administration spoke out against the destruction of democracy and violations of human rights under the regime of Nicolás Maduro, but by throwing reckless threats of military intervention into the mix, Trump polarized the discussion and alienated would-be democratic allies in Latin America. The Trump administration was also right to characterize China's severe repression of its Uyghur population as genocide. U.S. Secretary of State Antony Blinken seems intent on continuing that policy but has made clear that, unlike his predecessors, he will work to bring allies onboard. Similarly, the State Department should maintain the Trump-issued sanctions against military leaders in Myanmar for their massive human rights violations, including genocide, against the Rohingya Muslim minority—and it should work with allies to add new sanctions in response to the killing of more than a hundred civilian protesters since February, when the country's military overthrew its democratically elected government.

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**The Biden administration should be wary of using human rights as a justification for military intervention.**

Beyond these individual policies, Biden has an opportunity to recover and renew the broader framework on which U.S. human rights advocacy rests. That framework—built through legislation and through administrative efforts in the State Department—sustained heavy





practices, sanctions against states and individuals, and annual human rights reports meant to inform U.S. foreign policy. Yet the most important resource the administration has at its disposal is its career diplomats. The Trump administration hollowed out and politicized the State Department. That approach, according to a 2020 report by the former U.S. ambassadors Nicholas Burns, Marc Grossman, and Marcie Ries, has left American diplomats “without the support, funding, training, and leadership they need to represent the American people effectively overseas and in Washington, D.C.” The first step toward restoring U.S. diplomatic credibility is therefore to reestablish the primacy of the U.S. Foreign Service and its career diplomats.

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Some human rights policy will involve high-profile symbolic moves rather than practical measures. Invitations to foreign leaders to meet with Biden in the Oval Office will send signals about U.S. human rights priorities. Likewise, Biden’s plan to host a “global summit for democracy” during his first year in office will have much symbolic weight, so the guest list needs to be planned carefully to exclude officials from what are sometimes called “semi-democracies” or “partly free” countries. Elected leaders who have hollowed out their democracies from within, such as Orban and Erdogan, should not be invited. Their seats should go instead to leaders from the many lesser-known democratic success stories around the world, such as Chile, Costa Rica, and Uruguay in Latin America; South Korea and Taiwan in Asia; Botswana, Ghana, Namibia, and Senegal in Africa; Estonia, Latvia, and Lithuania in Europe; and some small island states in the Pacific.

A new push for human rights may not produce immediate results. The current crop of authoritarians, many of them now well entrenched, is unlikely to be threatened in the short term by a change in U.S. policy. Promoting human rights is a long game, in which the weight of words and facts accumulates over time. To play that game effectively, the State Department needs to use its annual human rights reports to compile comprehensive and objective data and analysis, not to politicize issues (as the Trump administration did, for example, by omitting discussions of violence and discrimination against LGBTQ people, organizations,



human rights commitments and practices are among the main sources of U.S. soft power. When one part of the administration speaks out for human rights while others give mixed signals on repression, foreign leaders grow cynical and indifferent. From the president on down, it must be clear that genuine concern for human rights and democracy is a top priority.

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### **PHYSICIAN, HEAL THYSELF**

The Biden administration should be wary of using human rights as a justification for military intervention. No human rights treaty recommends, much less requires, that countries engage in military intervention to enforce human rights abroad. In fact, war is the factor that correlates most closely with human rights violations, and the use of force is risky as a tool to advance human rights. Besides, some past interventions—above all in Iraq—have caused Americans to sour on promoting democracy and human rights through the barrel of a gun.

Instead, the United States should work to gain back lost trust by rededicating itself to the development of international human rights law. Given the current composition of the U.S. Senate, it is unlikely that the United States will soon ratify the international human rights treaties that it has already signed, such as the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons With Disabilities. Nevertheless, the Biden administration should endorse their ratification and try to build bipartisan support for them by appealing to U.S. international credibility and national security. Early Senate ratification of the Rome Statute of the International Criminal Court is even less likely, but the Biden administration must rescind Trump's executive order authorizing sanctions against officials of the court, an order that is currently impeding their work.

At the UN, the United States should rejoin the Human Rights Council, the UN's main forum for political discussions on human rights. Although the council's current members



other authoritarian powers that fill the void when the United States is out of the room.

The United States should also reengage with the Inter-American Human Rights System, especially the Inter-American Commission on Human Rights, which works with the Organization of American States. The commission could play an important role in addressing the repression that is a root cause of emigration from Central America and Venezuela. In recent years, however, it has come under attack from left- and right-wing governments alike: Nicaragua and Venezuela have sought to weaken the commission because they reject its criticisms of their human rights records, and the U.S. government cut its funding after nine Republican senators falsely claimed that the commission promoted the legalization of abortion. As a group of former U.S. commissioners to the IACHR argued afterward, cutting funding was “ill-advised as a matter of both law and our bipartisan national commitment to democracy and human rights.”

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**This is not the first time the United States has had to overcome domestic crises to boost its national security and international standing.**

Finally, restoring trust and credibility requires addressing the United States’ own most glaring abuses of international human rights. Two moves that would combine symbolic significance and practicality could initiate this restoration. The first is closing the U.S. military prison at Guantánamo Bay, where 40 prisoners accused of terrorism remain, exacting a high reputational and continuing financial cost. Washington cannot speak with a straight face about political prisoners anywhere in the world as long as it continues to hold these men in indefinite detention—and in many cases without trial—after nearly two decades. Prisoners at Guantánamo who have been charged with crimes should be transferred to federal courts, which have a solid record of handling such cases. And those whose crimes cannot be proved should be released.

Second, the United States must establish some accountability for the CIA’s use of torture during the “war on terror.” Washington has long been concerned about the risk of U.S.



for these crimes, since the ICC does not prosecute cases for which there has been accountability at the national level. This approach would be far more consistent with American values and law than imposing sanctions on ICC officials for doing their jobs. Before the George W. Bush administration, the United States had long accepted the prohibition on torture and cruel and unusual punishment in both domestic law and its international law commitments. Washington helped draft the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified it, and implemented it through a federal statute that makes torture a felony with a penalty of up to 20 years in prison, or even the death penalty if the torture results in the victim's death. Evidence of such U.S. crimes under the Convention Against Torture and U.S. law has been exhaustively documented in reports by the Senate Intelligence Committee and the Department of Defense, which have identified cases of tortured detainees who died of unnatural causes while in U.S. custody.

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The CIA's rendition, detention, and interrogation program did serious harm not only to U.S. credibility on human rights but also to the human rights records of countries that actively collaborated with the United States. A research article co-authored by one of us, Kathryn Sikkink, and Averell Schmidt found that many of the 40 countries that hosted secret U.S. prisons and helped the CIA abduct and interrogate individuals later saw an increase in core human rights violations relative to countries not involved in the program. Despite this disastrous impact, the United States to this day has not permitted a full, independent investigation of its use of torture, and no high-level officials have been held accountable. If Washington is to set an example for the world, this accountability gap needs to be closed. As a first step, the Biden administration should immediately declassify and release the full report by the Senate Intelligence Committee, which contains much more detail than the unclassified summary.

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Early signals from Washington are positive. A cascade of executive orders and legislative proposals on COVID-19 relief, health-care reform, racial equity, equal opportunity, women's rights, criminal justice reform, and immigration reform indicates that addressing the human rights crisis at home will be one of the new administration's top priorities as it works to end the pandemic and rebuild the economy. The massive \$1.9 trillion COVID relief package enacted in March is a major step toward promoting equal opportunity and fair treatment in the United States.

The breadth of the work that still lies ahead may seem overwhelming, and the challenges too numerous. But this is not the first time the United States has had to overcome domestic crises to boost its national security and international standing. More often than not, it has emerged victorious. In fact, the country's human rights history reveals a pattern of deep crisis followed by ambitious reform—from the abolition of slavery and the enfranchisement of Black men after the Civil War to the introduction of voting rights for women after World War I, the expansion of economic rights on the heels of the Great Depression, and the legislative push for racial equality sparked by the civil rights movement. If Americans today can bridge their political differences through a shared belief in their rights and responsibilities, they can bring about yet another period of transformation, in which the United States reimagines human rights as the values that define and secure its place in the world. 🌍

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Assistant Secretary of State for Democracy, Human Rights, and Labor.

KATHRYN SIKKINK is Ryan Family Professor of Human Rights Policy at the Harvard Kennedy School.

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