

# Democracy and Human Rights in U.S. Foreign Policy: Evolution, Tools, and Considerations for Congress

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**Michael A. Weber**  
Specialist in Foreign Affairs

# Democracy and Human Rights in U.S. Foreign Policy: Evolution, Tools, and Considerations for Congress

U.S. law declares the promotion and protection of democracy, human rights, and fundamental freedoms to be “principal” and “fundamental” goals of U.S. foreign policy. Congress has debated matters of democracy and human rights in the conduct of U.S. foreign policy, often as a source of pressure on the executive branch to place greater and more consistent emphasis on these issues. Beginning in the 1970s in particular, Congress initiated and led a gradual process through which issues of democracy and human rights gained greater prominence in the U.S. foreign policy agenda. At the same time, U.S. policymakers have often pursued efforts to defend and promote democracy and human rights overseas selectively and in some tension with competing foreign policy priorities.

Many democracy experts view the mid-1970s as the starting point of a global expansion of democracy (some of them calling it democracy’s “third wave”) that further accelerated with the disintegration and ultimate collapse of the Soviet Union in 1991. Optimism among some U.S. policymakers in the early post-Cold War period over the capacity of the United States to engender more humane and democratic governance overseas has since eroded to some degree, however. This erosion has occurred in the face of competing strategic imperatives, difficulties the U.S. government has faced in its attempts to foster rights-respecting and democratic political systems following U.S. military invasions in Afghanistan and Iraq, and expanding general challenges to democracy and human rights around the globe. Among these challenges are those related to some governments’ restrictions on civil society and media, incremental forms of “democratic backsliding,” technological developments, and the international influence of authoritarian governments.

Congressional action has resulted in a growing and evolving array of statutory provisions and associated policy tools that the U.S. government can use to address matters related to democracy and human rights in foreign contexts. These tools include democracy assistance programs; executive branch reporting requirements; U.S. engagement through international institutions and initiatives; restrictions on foreign assistance and arms sales; targeted sanctions; and import restrictions and export controls, among others. As Congress conducts oversight, appropriates resources, and considers additional authorities for promoting democracy or human rights globally, it may consider the following issues:

- **U.S. Interests and Tensions with Other Objectives.** Proponents of efforts to promote democracy and human rights overseas argue that such efforts serve long-term U.S. interests. These efforts may at times be in tension with other U.S. foreign policy goals. In the current period of intensified competition with the governments of China and Russia, a U.S. emphasis on democracy and human rights may support the pursuit of some U.S. objectives while also contributing to the complexity of other policy questions facing U.S. policymakers.
- **Impact and Effectiveness.** Evaluating the impact of U.S. democracy and human rights efforts is difficult. In general, experts view governance-related developments as protracted, uncertain, and nonlinear processes, with often considerable constraints on the ability of the United States (or other foreign actors) to influence them. Additionally, U.S. efforts may face more challenges in the current period than in the early post-Cold War years.
- **Criticisms and Questions About U.S. Credibility.** Some critics assert that U.S. democracy and human rights promotion constitutes an imposition of American values on other societies and “interference” in foreign governments’ internal affairs. Other criticisms include that the U.S. government holds the governments of strategic partners to different democracy and human rights standards than it does adversarial governments, and that the United States lacks credibility given its own domestic democracy and human rights challenges and its actions abroad that have negatively affected democracy and human rights.

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## Introduction

U.S. law states that the promotion and protection of democracy and human rights are “principal” and “fundamental” goals of U.S. foreign policy.<sup>1</sup> Congress, having enacted such goals, has shaped the manner and degree to which U.S. government policy strives to achieve them in practice. Since the 1970s in particular, congressional action has resulted in a growing and evolving array of statutory provisions and associated policy tools to address matters related to democracy and human rights in foreign contexts. Congress authorizes, appropriates resources for, and oversees, the use of these tools.

This report summarizes the origins and evolution of U.S. policy in this area, with a focus on the role of Congress. It also describes key policy tools; highlights selected global challenges that may affect current U.S. efforts; and analyzes selected policy matters Congress may consider. In addition, the report highlights CRS resources on topics addressed in this report.

## Scope of This Report: The Relationship Between Democracy and Human Rights

This report focuses on U.S. foreign policy developments and policy tools that relate to democracy and human rights.<sup>2</sup> The report’s grouping together of democracy and human rights reflects that Congress often approaches these issues in tandem. Democracy and human rights are distinct yet interrelated, overlapping concepts. Among the human rights articulated in the United Nations Universal Declaration of Human Rights, for instance, is Article 21, which provides that “the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”<sup>3</sup> At the same time, many conceptions of democracy include not only basic elements of electoral political competition and participation, but also protections for individual rights and freedoms, such as freedoms of expression, assembly, and association.<sup>4</sup>

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<sup>1</sup> Foreign Assistance Act of 1961, Section 502B(a)(1) (22 U.S.C. §2304(a)(1)); Advance Democratic Values, Address Nondemocratic Countries, and Enhance [ADVANCE] Democracy Act of 2007, Section 2103 (22 U.S.C. §8202).

<sup>2</sup> U.S. foreign policy efforts have emphasized issues such as combating gross violations of the integrity of the person (e.g., extrajudicial killings and torture) and fostering respect for civil and political rights, as reflected in the United Nations Universal Declaration of Human Rights and international human rights treaties. Former Representative Donald Fraser, reflecting on passage of foundational human rights legislation in the 1970s, stated that “it seemed clear that we could not force the executive branch to support human rights all over the world irrespective of what rights were involved; there are simply too many rights enumerated in these various documents. There is not a single country in the world that is not violating some human rights standard. In many countries, many standards are being violated. We thought emphasis should be placed on those standards which have the widest acceptances, or put conversely, where the violations of these standards would evoke widespread condemnation—human rights violations such as torture and summary execution.” Donald M. Fraser, “Human Rights and U.S. Foreign Policy: Some Basic Questions Regarding Principles and Practice,” *International Studies Quarterly*, vol. 23, no. 2 (June 1979), pp. 174-185.

<sup>3</sup> U.N. General Assembly Resolution 217 A, “Universal Declaration U.N. Universal Declaration of Human Rights Human Rights,” December 10, 1948.

<sup>4</sup> In foreign policy matters, U.S. law generally implicitly aligns with broad conceptions of democracy. See, for example, 22 U.S.C. §8203.

## Evolution of U.S. Policy

For over a century, some U.S. policymakers have maintained that the defense of fundamental freedoms around the world should be a goal of U.S. foreign policy. Supporters of this view have generally justified their arguments on the basis of U.S. national security interests and/or by asserting a moral obligation on the part of the United States.<sup>5</sup> From the national security perspective, an overarching theme has been a perceived relationship between peace and world order and the existence of partnerships among rights-respecting democracies. In one of the early articulations of this sentiment in U.S. political rhetoric, President Woodrow Wilson in 1917 advocated for U.S. entry into World War I in part by arguing that “a steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants.”<sup>6</sup>

It was not until the aftermath of the atrocities of World War II, that national governments came to more formally accept democracy- and human rights-related matters as issues of international concern. The 1945 United Nations (UN) Charter—while expressly not authorizing the United Nations “to intervene in matters which are essentially within the domestic jurisdiction of any state”—declared that the organization would promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>7</sup> Further, the UN Charter pledged its members to take “joint and separate action” in cooperation with the United Nations for the achievement of such purpose.<sup>8</sup> Three years later, the UN General Assembly adopted the nonbinding Universal Declaration of Human Rights (UDHR), the preamble of which declares that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”<sup>9</sup> The UDHR, which articulates a range of human rights—including civil and political rights, economic, social and cultural rights, and rights against certain forms of ill-treatment—was followed by an array of binding international human rights treaties.<sup>10</sup>

<sup>5</sup> See, for example, remarks by Senator Claude Swanson, Senator Henry Cabot Lodge, and others in Senate Debate, *Congressional Record*, vol. 55, part 1 (April 4, 1917), pp. 186-251. Some scholars have argued that an inclination within U.S. foreign policy for “values promotion” derives from fundamental aspects of American political culture. See Walter Russell Mead, “The Paradox of American Democracy Promotion,” *The American Interest*, April 9, 2015. Mead wrote, “If one really believes that all people are created equal, and are endowed by their Creator with inalienable rights, it becomes very hard to believe that by ‘all people’ we mean merely ‘all citizens of the United States of America.’ There is a sense in which the legitimacy of American domestic institutions rests on a set of assumptions about what world society should be like, how all human beings should live.”

<sup>6</sup> According to President Wilson, the United States would fight “for democracy, for the right of those who submit to authority to have a voice in their own Governments, for the rights and liberties of small nations, for a universal dominion of right by such a concert of free peoples as shall bring peace and safety to all nations and make the world itself at last free.” Wilson also famously stated in the same address that “the world must be made safe for democracy.” National Archives, “President Wilson’s Declaration of War Message to Congress,” April 2, 1917.

<sup>7</sup> Article 2 and Article 55 of the United Nations Charter, accessible at <https://www.un.org/en/about-us/un-charter/full-text>. The United Nations Charter is the founding document of the United Nations and is an international treaty ratified by the United States.

<sup>8</sup> Article 56 of the United Nations Charter.

<sup>9</sup> U.N. General Assembly Resolution 217 A, “Universal Declaration U.N. Universal Declaration of Human Rights,” December 10, 1948.

<sup>10</sup> See also CRS In Focus IF10861, *Global Human Rights: Multilateral Bodies & U.S. Participation*. According to Eleanor Roosevelt, who chaired the multi-nation drafting committee for the UDHR, it was “most important that the Declaration be accepted by all member nations, not because they will immediately live up to all of its provisions, but because they ought to support the standards toward which the nations must henceforward aim. Since the objectives have been clearly stated, men of good will everywhere will strive to attain them with more energy and, I trust, with better hope of success.” Eleanor Roosevelt, “The Promise of Human Rights,” *Foreign Affairs*, April 1948.

Efforts of the United States and its allies to construct a postwar international order were “based, in part, on the assumption that no order would be sustainable if not built on a foundation of democracies with shared values.”<sup>11</sup> However, the U.S. commitment to defend human rights and democratic governance overseas was not an institutionalized feature of U.S. foreign policy, and was pursued selectively and in some tension with competing foreign policy priorities. This included the U.S. government’s overriding priority during the Cold War (1947-1991) to combat the influence of the Soviet Union and the spread of communism. In some cases, the United States robustly supported democratization, such as in post-war Germany and Japan. In others, U.S. policy actively buttressed strategically important but repressive authoritarian allies and partners, or in some instances sought the subversion or overthrow of elected governments that some U.S. officials deemed to be antithetical to U.S. interests, including in Guatemala, Iran, the Republic of the Congo, and Chile.<sup>12</sup> In part for these reasons, U.S. democracy promotion was viewed with suspicion by people in many parts of the world.<sup>13</sup>

**Congressional Action Beginning in the 1970s.** Over the years, Congress debated matters of democracy and human rights in the conduct of U.S. foreign policy, often as a source of pressure on the executive branch to place greater and more consistent emphasis on these issues. Beginning in the 1970s in particular, Congress initiated and led efforts through which democracy and human rights gradually gained greater prominence in the U.S. foreign policy agenda. Historical accounts note that congressional action was preceded by, or occurred against the backdrop of, a variety of potentially salient factors, such as the U.S. civil rights movement; perceptions of global democratic decline accompanied by numerous military coups around the world; increasing transnational information flows and nongovernmental activism; Cold War politics and ideological divisions; public concern over issues such as the United States’ military involvement in Vietnam and U.S. support for authoritarian governments; and broader conflicts between Congress and the executive branch.<sup>14</sup>

A series of 1973 House Foreign Affairs Committee subcommittee hearings on human rights examined efforts by international and nongovernmental organizations to protect human rights; U.S. policy toward rights-violating governments; and human rights conditions in foreign countries, including Bangladesh, Chile, and Northern Ireland, among other topics.<sup>15</sup> A subsequent March 1974 report by the subcommittee contended that neglect of human rights in U.S. foreign policy had “led the United States into embracing governments which practice torture and unabashedly violate almost every human rights guarantee pronounced by the world community.”<sup>16</sup> According to the report:

<sup>11</sup> Michael J. Mazarr et al., *Understanding the Current International Order*, RAND Corporation, October 2016.

<sup>12</sup> Some U.S. efforts were undertaken covertly and subsequently investigated by Congress. Most notably, see relevant reports of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee) at <https://www.intelligence.senate.gov/resources/intelligence-related-commissions>.

<sup>13</sup> See, for example, Thomas Carothers, “Does Democracy Promotion Have a Future?” in *Democracy and Development*, ed. Bernard Berendsen (Amsterdam: KIT Publishers, 2008).

<sup>14</sup> See Sarah B. Snyder, “‘A Call for U.S. Leadership’: Congressional Activism on Human Rights,” *Diplomatic History*, vol. 37, no. 2 (April 2013), pp. 372-397; Barbara Keys, “Congress, Kissinger, and the Origins of Human Rights Diplomacy,” *Diplomatic History*, vol. 34, no. 5 (November 2010), pp. 823-851; Joe Renouard, *Human Rights in American Foreign Policy: From the 1960s to the Soviet Collapse* (Philadelphia: University of Pennsylvania Press, 2015); Sarah B. Snyder, *From Selma to Moscow: How Human Rights Activists Transformed U.S. Foreign Policy* (New York: Columbia University Press, 2018).

<sup>15</sup> Sarah B. Snyder, “‘A Call for U.S. Leadership’: Congressional Activism on Human Rights,” *Diplomatic History*, vol. 37, no. 2 (April 2013), pp. 372-397.

<sup>16</sup> U.S. Congress, House Foreign Affairs Committee, Subcommittee on International Organizations and Movements, (continued...)



[H]uman rights should not be the only factor, or even always the major factor, in foreign policy decision-making. But a higher priority is urgently needed.... Respect for human rights in other countries is a rightful concern of Americans not because of any assumed mission on our part to impose our own standards on others; rather, it is that not only have many other countries used our Bill of Rights as a model for their constitutions, but international standards have been established by the U.N. Charter and other treaties which obligate governments to uphold most of the same rights which are basic in our own system. Furthermore, an increasingly interdependent world means that disregard for human rights in one country can have repercussions in others.... Thus, consideration for human rights in foreign policy is both morally imperative and practically necessary.<sup>17</sup>

The subcommittee made numerous policy recommendations, including the creation of dedicated offices in the State Department tasked with focusing on these issues.<sup>18</sup> A few months later, the State Department's Policy Planning Staff examined what, if anything, the U.S. government should be doing about human rights violations overseas, as well as how the United States should deal with authoritarian governments.<sup>19</sup> The State Department began to take some action, including appointing new human rights personnel. However, some historical accounts contend that resistance by some senior officials in the executive branch to placing greater emphasis on human rights in foreign policy—and to a greater congressional role in foreign policy generally—spurred Congress to take more, and stronger, legislative action.<sup>20</sup>

By the end of the 1970s, Congress had taken a series of legislative actions to institutionalize human rights as a U.S. foreign policy concern.<sup>21</sup> This included enactment of Section 116 and, separately, Section 502B, of the Foreign Assistance Act of 1961 (P.L. 87-195, as amended). These provisions aimed to deny development and security assistance to foreign governments responsible for “gross violations of internationally recognized human rights,” and required what became the

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*Human Rights in the World Community: A Call for U.S. Leadership*, 93<sup>rd</sup> Cong., 2<sup>nd</sup> sess., March 27, 1974 (Washington, DC: GPO, 1974).

<sup>17</sup> Ibid. Representative Lawrence H. Fountain registered opposing views on a number of grounds and criticized the report for “presum[ing] to have the answer for the prevention of nearly every form of human rights violation in the world today.”

<sup>18</sup> According to one historical account, “At the time, the State Department considered human rights at best a marginal concern, particularly in bilateral diplomacy.... the State Department had only one person assigned full time to human rights issues” and, other than that officer and an officer in the Office of Legal Affairs, “no one else was charged with monitoring or implementing human rights concerns.” Barbara Keys, “Congress, Kissinger, and the Origins of Human Rights Diplomacy,” *Diplomatic History*, vol. 34, no. 5 (November 2010), pp. 823-851.

<sup>19</sup> These questions, according to a summary of the study, had become more acute at that time for a number of reasons, including events in four countries with which the U.S. government had been “popularly identified”: “the abrogation of parliamentary institutions and restrictions of civil liberties in Chile and the Philippines, the tightening of authoritarian rule in Korea and the course of events in the last seven years in Greece [following an April 1967 military coup].” Further, the study noted that “the charge that the U.S. Government is insensitive to human rights issues ... almost surely hinders development of a domestic ‘consensus’ on some aspects of foreign policy,” with developments having caused Congress in particular to support “a stronger US official posture on human rights.” The study suggested “a more systematic way of thinking, planning and speaking about human rights issues” and offered four broad options “ranging from a passive policy to a major new initiative.” U.S. Department of State Office of the Historian, “Summary of Paper on Policies on Human Rights and Authoritarian Regimes,” *Foreign Relations of the United States, 1969-1976, Volume E-3*, October 1974.

<sup>20</sup> Barbara Keys, “Congress, Kissinger, and the Origins of Human Rights Diplomacy,” *Diplomatic History*, vol. 34, no. 5 (November 2010), pp. 823-851; Sarah B. Snyder, “‘A Call for U.S. Leadership’: Congressional Activism on Human Rights,” *Diplomatic History*, vol. 37, no. 2 (April 2013), pp. 372-397; Joe Renouard, *Human Rights in American Foreign Policy: From the 1960s to the Soviet Collapse* (Philadelphia: University of Pennsylvania Press, 2015).

<sup>21</sup> Sarah B. Snyder, “‘A Call for U.S. Leadership’: Congressional Activism on Human Rights,” *Diplomatic History*, vol. 37, no. 2 (April 2013), pp. 372-397.

State Department's annual *Country Reports on Human Rights Practices* (see "Reporting Requirements").<sup>22</sup> Section 502B, as amended, declares that

The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.<sup>23</sup>

Legislation in the 1970s also solidified human rights within the State Department's bureaucracy by authorizing a senior official to lead a dedicated human rights bureau—the precursor to the Department's current Bureau of Democracy, Human Rights, and Labor (DRL).<sup>24</sup> Additionally, in response to restrictive emigration policies in the Soviet Union, Congress enacted Section 402 (popularly cited as the Jackson-Vanik amendment) of the Trade Act of 1974 (P.L. 93-618, as amended), denying permanent normal trade relations (PNTR) status to any nonmarket economy of a government that denies its citizens freedom to emigrate.<sup>25</sup> Related to human rights in the Soviet Union and Eastern Europe, Congress took strong interest in the August 1975 Final Act of the Conference on Security and Co-Operation in Europe (commonly referred to as the Helsinki Final Act or the Helsinki Accords), including by establishing the independent Commission on Security and Cooperation in Europe to monitor compliance with the agreement's provisions, particularly those regarding humanitarian- and human rights-related matters.<sup>26</sup> Congress also passed legislation aimed at addressing human rights situations in numerous specific countries in Asia, Africa, Europe, and Latin America, including limiting or restricting foreign assistance on the basis of human rights concerns.<sup>27</sup>

In the executive branch, the Jimmy Carter Administration (1977-1981) emphasized human rights—broadly conceived to include rights to integrity of the person, civil and political rights, and some economic rights—as a major foreign policy concern, although the United States continued to support certain authoritarian governments viewed as strategically important.<sup>28</sup> The successor Ronald Reagan Administration (1981-1989) focused on promoting democracy and

<sup>22</sup> See 22 U.S.C. §2151n and 22 U.S.C. §2304, respectively.

<sup>23</sup> 22 U.S.C. §2304(a).

<sup>24</sup> See Section 1(c)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. §2651a(c)(2)). The DRL Assistant Secretary position originated in the State Department as the Coordinator for Humanitarian Affairs (1975) and evolved in title, rank, and responsibilities/scope as a result of subsequent legislation—see P.L. 94-329 (1976) and P.L. 95-105 (1977). In 1994, what had been the Assistant Secretary of State for Human Rights and Humanitarian Affairs was renamed the Assistant Secretary of State for Democracy, Human Rights, and Labor (P.L. 103-236).

<sup>25</sup> See 19 U.S.C. §2432. See also CRS In Focus IF12556, *The Jackson-Vanik Amendment and Permanent Normal Trade Relations*.

<sup>26</sup> P.L. 94-304, as amended; 22 U.S.C. §§3001 et seq. The Commission on Security and Cooperation in Europe is also commonly known as the U.S. Helsinki Commission. See also <https://history.state.gov/milestones/1969-1976/helsinki>; <https://www.csce.gov/>.

<sup>27</sup> U.S. Congress, House Committee on International Relations, Subcommittee on International Organizations, CRS report on *Human Rights in the International Community and in U.S. Foreign Policy, 1945-76*, 95<sup>th</sup> Cong., 1<sup>st</sup> sess., July 24, 1977; U.S. Congress, Senate Committee on Foreign Relations, CRS report on *Human Rights and U.S. Foreign Assistance: Experiences and Issues in Policy Implementation (1977-1978)*, 96<sup>th</sup> Cong., 1<sup>st</sup> sess., November 1979.

<sup>28</sup> John Dumbrell, "Jimmy Carter," in *US Foreign Policy and Democracy Promotion*. In his inaugural address, President Carter argued that "because we are free we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clearcut preference for these societies which share with us an abiding respect for individual human rights." Jimmy Carter Presidential Library, "Inaugural Address of President Jimmy Carter," January 20, 1977.



political freedoms, particularly in Communist states.<sup>29</sup> In the 1980s, Congress and the Reagan Administration established foundational elements of modern democracy assistance.<sup>30</sup> A key element was the creation of the National Endowment for Democracy (NED), a private entity that was specifically authorized by Congress in 1983 to receive federal funds to support democracy overseas.<sup>31</sup> NED's creation represented a novel approach of providing grants to local civil society organizations to support bottom-up democracy and human rights movements abroad.<sup>32</sup>

**Post-Cold War Era.** Many democracy experts view the mid-1970s as the starting point of a new global expansion of democracy (referred to by some experts as democracy's "third wave") that further accelerated with the disintegration and ultimate collapse of the Soviet Union in 1991.<sup>33</sup> The end of the Soviet Union left the United States without a major strategic or ideological competitor, bringing forth new optimism among some U.S. policymakers about the capacity of the United States to shape global developments and engender more humane and democratic governance overseas. With the overriding strategic logic of the Cold War receding, democracy and human rights issues began to assume a more central place on the U.S. foreign policy agenda.

U.S. democracy and human rights efforts broadened and became more universal in geographic focus in this period. Some U.S. policymakers initially devoted particular attention to supporting democratic transitions in Eastern Europe and the emerging states of the former Soviet Union. Congress enacted legislation that in part authorized, and laid out the broader policy framework for, assistance to these countries through the Support for East European Democracy (SEED) Act of 1989 (P.L. 101-179, concerning Poland and Hungary) and the Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act of 1992 (P.L. 102-511).<sup>34</sup> U.S. presidential strategic documents, beginning with the Bill Clinton Administration's national security strategies (NSS),<sup>35</sup> featured democracy promotion as an overarching strategic priority, and the State Department and U.S. Agency for International Development (USAID) began to more robustly and systematically pursue democracy assistance efforts.<sup>36</sup> Beyond efforts

<sup>29</sup> Henry R. Nau, "Ronald Reagan," in *US Foreign Policy and Democracy Promotion*.

<sup>30</sup> In a 1982 address before the parliament of the United Kingdom, President Reagan called for fostering "the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means." National Endowment for Democracy, "Text of President Ronald Reagan's Westminster Address," <https://www.ned.org/promoting-democracy-and-peace/>.

<sup>31</sup> Title V of P.L. 98-164; 22 U.S.C. §§4411 et seq.

<sup>32</sup> Unlike covert Cold War efforts to support foreign groups undertaken by the Central Intelligence Agency that became publicly known in the 1960s, NED's support was overt and did not involve military aid. David Lowe, "Idea to Reality: NED at 30," National Endowment for Democracy, <https://www.ned.org/about/history/>.

<sup>33</sup> See Samuel P. Huntington, "Democracy's Third Wave," *Journal of Democracy*, vol. 2, no. 2 (Spring 1991), pp. 12-34; Larry Diamond, "Democracy's Third Wave Today," *Current History*, vol. 110, issue 739 (November 2011), pp. 299-307.

<sup>34</sup> See also the FRIENDSHIP Act (P.L. 103-199), the purpose of which was "to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and the Russian Federation, Ukraine, and the other independent states of the former Soviet Union." (Section 101; 22 U.S.C. §5801 note).

<sup>35</sup> According to the 1994 NSS, "the more that democracy and political and economic liberalization take hold in the world, particularly in countries of geostrategic importance to us, the safer our nation is likely to be and the more our people are likely to prosper.... All of America's strategic interests—from promoting prosperity at home to checking global threats abroad before they threaten our territory—are served by enlarging the community of democratic and free-market nations." The White House, *A National Security Strategy of Engagement and Enlargement*, July 1994.

<sup>36</sup> Michael McFaul, *Advancing Democracy Abroad: Why We Should and How We Can* (Lanham, MD: Rowman & Littlefield, 2010). According to one expert, "it came to a point by the end of the 1990s that if you travelled to a country attempting a democratic transition, every single sector in that country's political or public life was in some way touched by democracy assistance. You could not visit the judiciary, the legislature, the local governments, the civil society (continued...)"

in Europe and Eurasia, the United States in these years sought to support democratic transitions in a number of countries in Africa, Asia, and Latin America. U.S. policymakers also sought in some instances to use the aforementioned Trade Act of 1974 to link trade matters with human rights conditions, including notably with regard to the People's Republic of China (PRC, or China).<sup>37</sup>

In the years that followed, Congress further institutionalized and refined issues of human rights and democracy in U.S. foreign policy and fostered the development of an array of policy tools (see "Selected Policy Tools and the Congressional Role"). This included laws that

- imposed additional and more targeted restrictions on assistance on the basis of human rights (e.g., the "Leahy Laws" restricting assistance to foreign security force units on the basis of human rights);<sup>38</sup>
- appropriated funding for democracy assistance programs administered by USAID, the State Department, and NED;<sup>39</sup>
- created new foreign assistance, reporting, bureaucratic structures, and authorities related to specific issues of concern (e.g., through the International Religious Freedom Act of 1998, the Trafficking Victims Protection Act of 2000, and the ADVANCE Democracy Act of 2007);<sup>40</sup>
- established the Millennium Challenge Corporation to provide economic assistance based on performance indicators, including those related to democracy and human rights;<sup>41</sup>
- created new commissions and other oversight mechanisms (e.g., the Congressional-Executive Commission on China and the U.S. Commission on International Religious Freedom); and
- authorized relevant targeted sanctions against individuals and entities.<sup>42</sup>

**9/11 and Contemporary Challenges.** In the wake of the September 11, 2001 terrorist attacks, democracy and human rights promotion efforts became intertwined to some degree with an overriding policy focus on combating terrorism.<sup>43</sup> Most notably, the United States launched ambitious projects that aimed to foster democracy in Afghanistan and Iraq following U.S. military

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organizations, media and so forth, without tripping over people from the other countries, trying to promote democracy." Thomas Carothers, "Does Democracy Promotion Have a Future?" in *Democracy and Development*.

<sup>37</sup> In the early 1990s, U.S. policymakers sought to leverage China's desire for "most favored nation" (MFN) trade status by linking its annual renewal to improvements in human rights conditions in China. In May 1993, consistent with some legislative proposals, President Bill Clinton formally linked China's MFN renewal with a number of human rights-related criteria. A year later, while acknowledging the continuance of serious human rights abuses in China, the Clinton Administration abandoned this linkage in favor of a general policy of engagement with China that it hoped would contribute to improved respect for human rights in the PRC and greater political freedoms for the Chinese people. China's MFN renewal process nonetheless continued to trigger annual debate in Congress over human rights conditions in China (among other issues) until Congress granted China Permanent Normal Trade Relations (PNTR) in 2000. See Executive Order 12850, "Conditions for Renewal of Most-Favored-Nation Status for the People's Republic of China in 1994," 58 *Federal Register* 31327, May 28, 1993; John M. Broder and Jim Mann, "Clinton Reverses His Policy, Renews China Trade Status," *Los Angeles Times*, May 27, 1994.

<sup>38</sup> See "Restrictions on Individual Security Force Units (The 'Leahy Laws')."

<sup>39</sup> See "Democracy Assistance."

<sup>40</sup> See "Reporting Requirements" and "Human Trafficking, Child Soldiers, and Religious Freedom-Related Restrictions."

<sup>41</sup> See CRS Report RL32427, *Millennium Challenge Corporation: Overview and Issues*.

<sup>42</sup> See "Sanctions Targeting Individuals and Entities."

<sup>43</sup> For additional discussion of the history of U.S. democracy promotion, see also "A History of U.S. Democracy Assistance" in CRS Report R44858, *Democracy Promotion: An Objective of U.S. Foreign Assistance*.

invasions. The United States also increased funding for democracy promotion assistance activities globally during these years.<sup>44</sup> Even so, short-term strategic considerations at times reportedly clashed with longer term democracy-building efforts, as the United States sought closer relations with some authoritarian governments to enhance cooperation to combat terrorism.<sup>45</sup> In Afghanistan and Iraq, the U.S. government largely failed to achieve stated objectives around fostering stable, rights-respecting and democratic political systems.<sup>46</sup> Additionally, although democracy promotion was not the primary stated impetus for the U.S. invasions of these countries, the U.S. government's military overthrow of existing regimes, and its subsequent rhetorical and policy emphasis on fostering democratic governments in their place, prompted some foreign governments and observers to associate the concept of U.S. democracy promotion with military intervention. Some democracy promotion experts and critics of U.S. policy pointed to this, along with certain U.S. practices undertaken in the context of counterterrorism (e.g., renditions and abuses of prisoners and detainees), as doing lasting damage to perceptions of U.S. values promotion efforts in foreign countries.<sup>47</sup>

These and other developments contributed to eroding optimism more broadly among some policymakers and experts over the prospects for the continued expansion of democracy and respect for human rights around the world, and over the capacity of the United States to facilitate such expansion. Some experts argued that the wave of global democratic expansion that began in the 1970s had begun to stall by the around the mid- to late-2000s, with democracy entering arguably its most challenging period since the end of the Cold War. New widespread challenges emerged, such as those related increasing restrictions on civil society groups in many countries (see "Selected Factors Affecting U.S. Efforts"). In the 2020s, based on data up to calendar year 2023, several prominent nongovernmental organizations have concluded that the aggregate level of democracy globally has declined over the course of the past decade-plus; this perceived decline is more pronounced when accounting for the relative population sizes of countries assessed to be backsliding versus those assessed to be democratizing.<sup>48</sup> At the same time, democracy is a contested concept that is inherently difficult to measure, and there is disagreement and uncertainty among experts over the extent of democratic backsliding globally.<sup>49</sup>

The present authoritarian character of the governments of Russia and China, and the threat that many observers argue they pose to human rights, democracy, and international norms and institutions upholding these values, has to some degree reinvigorated emphasis on democracy and

<sup>44</sup> Michael McFaul, *Advancing Democracy Abroad: Why We Should and How We Can*, pp. 21-22.

<sup>45</sup> Thomas Carothers, "Does Democracy Promotion Have a Future?" in *Democracy and Development*; Special Inspector General for Afghanistan Reconstruction (SIGAR), *Corruption in Conflict: Lessons from the U.S. Experience in Afghanistan*, September 2016.

<sup>46</sup> See Freedom House, "Afghanistan" and "Iraq" in *Freedom in the World 2023*, March 2023; SIGAR, *Why the Afghan Government Collapsed*, November 2022; SIGAR, *Corruption in Conflict: Lessons from the U.S. Experience in Afghanistan*, September 2016; CRS Report R45122, *Afghanistan: Background and U.S. Policy*; CRS In Focus IF10404, *Iraq*.

<sup>47</sup> See, for example, Thomas Carothers, "Does Democracy Promotion Have a Future?" in *Democracy and Development*; Mark P. Lagon, "The Whys and Hows of Promoting Democracy," *Council on Foreign Relations*, February 11, 2011; Sarah Bush, "Democracy Promotion After the Iraq War," *Foreign Policy Research Institute*, March 30, 2023.

<sup>48</sup> For example, see Varieties of Democracy Institute (V-Dem), *Democracy Report 2024: Democracy Winning and Losing at the Ballot*, March 2024; Freedom House, *Freedom in the World 2024: The Mounting Damage of Flawed Elections and Armed Conflict*, February 2024.

<sup>49</sup> See, for example, Andrew Little and Anne Meng, "Measuring Democratic Backsliding," July 18, 2023; Carl Henrik Knutsen et al., "Conceptual and Measurement Issues in Assessing Democratic Backsliding," *PS: Political Science & Politics*, vol. 57, no. 2 (April 2024), pp. 162-177; Steven Levitsky and Lucan A. Way, "Democracy's Surprising Resilience," *Journal of Democracy*, vol. 34, no. 4 (October 2023), pp. 5-20.

human rights in U.S. foreign policy as a component of, and a rationale for, political and strategic competition with these countries.<sup>50</sup> At the same time, policy orientation around such competition echoes some prior policy questions for Congress about the extent to which the United States should promote democracy and human rights overseas given competing U.S. priorities, uncertainty over the effectiveness of U.S. efforts, and questions about U.S. credibility. In general, Congress may consider whether to accept, reject, or seek to modify the executive branch's approach to human rights and democracy promotion; how to use available tools to those ends; and whether or not to create new tools.

## Selected Policy Tools and the Congressional Role

The United States employs numerous foreign policy tools intended to promote or defend democracy and human rights. Congress authorizes, appropriates resources for, and conducts oversight of the use of these tools, a selection of which are discussed below. CRS products that discuss these foreign policy tools in greater depth appear in text boxes at the end of the sections below.

### Democracy Assistance

The Foreign Assistance Act of 1961 emphasizes civil, political, and economic rights, anti-corruption and transparency, and the fostering of democratic institutions as priorities of U.S. foreign assistance.<sup>51</sup> Through annual State, Foreign Operations, and Related Programs (SFOPS) appropriations bills, Congress funds “democracy programs,” including programs that support good governance, credible elections, human rights and fundamental freedoms, independent media, and other efforts. SFOPS funding for this purpose has averaged nearly \$3 billion annually over the past several years, with USAID and the Department of State serving as the primary managers of these resources. Congress has also at times appropriated resources through supplemental appropriations bills related to acute issues or crises.<sup>52</sup> Congress may direct that certain amounts of democracy assistance funds be managed by particular U.S. government offices, be used for specific purposes (e.g., to promote internet freedom or protect civil society activists and journalists), or be devoted to programs in particular countries.<sup>53</sup>

Congress, through SFOPS, also appropriates funds to the National Endowment for Democracy (NED), a private nonprofit organization established in 1983 to promote democracy globally. Although expressly not an agency or establishment of the U.S. government, NED is funded

<sup>50</sup> According to the Biden Administration's October 2022 National Security Strategy, “the most pressing strategic challenge” to the U.S. vision of a “free, open, prosperous, and secure world” is “from powers that layer authoritarian governance with a revisionist foreign policy.” The NSS declares that “Americans will support universal human rights and stand in solidarity with those beyond our shores who seek freedom and dignity.... We will work to strengthen democracy around the world because democratic governance consistently outperforms authoritarianism in protecting human dignity, leads to more prosperous and resilient societies, creates stronger and more reliable economic and security partners for the United States, and encourages a peaceful world order.” The White House, *National Security Strategy*, October 2022.

<sup>51</sup> See pertinent language in Section 101 (22 U.S.C. §2151), 102 (22 U.S.C. §2151-1), and 116 (22 U.S.C. §2151n) of the FAA. Congress has added various additional provisions to the FAA that authorize relevant specific activities, including with regard to particular regions. The ADVANCE Democracy Act of 2007 (Title XXI of P.L. 110-53; 22 U.S.C. §§8201 et seq.) also guides some State Department activities.

<sup>52</sup> See, for example, CRS Report R47275, *Department of State, Foreign Operations, and Related Programs (SFOPS) Supplemental Funding for Ukraine: In Brief*.

<sup>53</sup> In the area of internet freedom, in addition to relevant efforts funded by the State Department and USAID, Congress also separately appropriates within SFOPS resources to the U.S. Agency for Global Media.

chiefly through annual appropriations authorized by the National Endowment for Democracy Act (Title V of P.L. 98-164; 22 U.S.C. §§4411 et seq.). NED awards grants to organizations involved in democracy promotion; a portion of these grants are provided to four affiliated “core institute” U.S. nonprofit organizations, while the rest are provided directly to local civil society organizations working in target countries.<sup>54</sup> NED’s private status allows it to operate relatively independently of U.S. government foreign policy direction, and this status as well as NED’s funding model may facilitate work in closed societies.

Appropriations acts generally specify that democracy programs, including those funded by NED, may be implemented “notwithstanding” other provisions of law, thereby generally allowing for funding programs in countries where foreign assistance is otherwise prohibited. At the same time, some provisions of permanent law impose restrictions on democracy assistance. For instance, Section 116 of the Foreign Assistance Act of 1961 (FAA), which authorizes certain assistance for purposes of promoting civil and political rights, states that “none of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.”<sup>55</sup> In countries governed by authoritarian governments, democracy assistance programs may primarily or exclusively entail training or other support to civil society groups rather than government actors.

### **Democracy Assistance in Hostile Contexts: Technical vs. Political Approaches**

A number of democracy assistance approaches and methods originated in the early post-Cold War years, when many governments were in a period of transition and seeking assistance for their own democratization goals. Today, U.S. efforts often grapple with entrenched authoritarian governments that are actively seeking to combat threats to the continuance of their authoritarian rule. The United States has thus had to adjust its democracy assistance activities to more hostile environments.<sup>56</sup>

Democracy assistance programming has faced criticism as it has evolved. Some analysts argue that the United States and other funders have continued to support some programs that feature technical approaches in contexts where the obstacles to democracy are more political in nature.<sup>57</sup> According to these critics, programs that focus on building the technical skills of new members of parliament, for example, are of questionable usefulness in non-democracies in which the parliament does not exercise genuine political power. Relatedly, some programs whose stated purpose is to promote democracy may focus more narrowly on goals such as good governance; some experts have questioned the assumption that improving governance is necessarily supportive of democratization, noting that doing so in authoritarian or semi-authoritarian contexts may enhance the domestic legitimacy of the ruling government.<sup>58</sup> Some critics contend that technical approaches may allow authoritarian leaders to support limited reforms that enhance their perceived democratic legitimacy (such as gender quotas in parliaments) among international observers, while resisting more far-reaching reforms that could threaten these leaders’ rule.<sup>59</sup> Other

<sup>54</sup> The four “core institutes” are the International Republican Institute (IRI), the National Democratic Institute (NDI), the Center for International Private Enterprise (CIPE), and the American Center for International Labor Solidarity (Solidarity Center).

<sup>55</sup> 22 U.S.C. §2151n(e).

<sup>56</sup> Nicolas Bouchet, Ken Godfrey, and Richard Youngs, “Rising Hostility to Democracy Support: Can it Be Countered?” Carnegie Endowment for International Peace, September 1, 2022.

<sup>57</sup> Lincoln A. Mitchell, *The Democracy Promotion Paradox* (Washington, DC: The Brookings Institution, 2016); Nic Cheeseman and Marie-Eve Desrosiers, “How Not To Engage with Authoritarian States,” Westminster Foundation for Democracy, February 2023.

<sup>58</sup> Sarah Sunn Bush, “Three Lessons for Democracy Assistance Effectiveness,” in *Does Democracy Matter? The United States and Global Democracy Support*, pp. 51-64; Francis Fukuyama, “States and Democracy,” *Democratization*, vol. 21, no. 7 (December 2014), pp. 1326-1340.

<sup>59</sup> Nic Cheeseman and Marie-Eve Desrosiers, “How Not To Engage with Authoritarian States,” Westminster Foundation for Democracy, February 2023; Elin Bjarnegård and Pär Zetterberg, “How Autocrats Weaponize Women’s Rights,” *Journal of Democracy*, vol. 33, no. 2 (April 2022), pp. 60-75. Citing data for example that about two-thirds of the 75 countries that have adopted gender-based quota laws for parliamentary representation are non-democracies, Bjarnegård and Zetterberg contend that authoritarian governments take advantage of “excessive eagerness to equate (continued...) ”



democracy promotion experts have noted strengths and weaknesses of both more political and more technical (or “developmental”) democracy assistance approaches, arguing that “neither approach is necessarily better than the other; the efficacy of each depends greatly on the specific country context.”<sup>60</sup>

U.S. agencies have acknowledged the importance of political factors as possible obstacles to democratic development. In non-democracies, the United States has engaged with and supported civil society and media organizations in addition to—or rather than—government actors. At the same time, politically oriented activities in authoritarian or semi-authoritarian contexts can entail challenges and limitations. Such approaches may be more difficult to put into practice, face limitations on in-country activities, engender risks and push back from foreign governments, and have greater potential to negatively affect bilateral relations.<sup>61</sup>

## Reporting Requirements

Through legislation, Congress requires the executive branch to report on democracy- and human rights-related issues overseas. Congressionally mandated reports may serve a variety of functions, including scrutinizing abuses by foreign governments both to bring them to light and to incentivize improved practices; informing U.S. policy decisions, including congressional consideration of foreign assistance budget requests; helping to ensure continued diplomatic attention on issues of human rights within the State Department and at overseas posts; and equipping nongovernmental actors with information that they may use to advocate for improved conditions. At the same time, reporting requirements may impose burdens on scarce resources, and, as with many other policy tools, have the potential to adversely affect bilateral relations with foreign governments.

Congress has mandated a number of high-profile reports that are global in scope and produced on an annual basis, most notably the following:

- the *Country Reports on Human Rights Practices*, which describe human rights conditions in foreign countries around the world and are mandated by Congress through Section 116 (22 U.S.C. §2151n) and Section 502B (22 U.S.C. §2304) of the Foreign Assistance Act of 1961 (FAA, P.L. 87-195, as amended);
- the *International Religious Freedom Report* (IRF Report), which describes religious freedom conditions in foreign countries around the world and is mandated through Section 102 (22 U.S.C. §6412) of the International Religious Freedom Act of 1998 (IRFA, P.L. 105-292, as amended); and
- the *Trafficking in Persons Report* (TIP Report), which assesses the efforts of governments around the world (including the United States) to combat human trafficking and is mandated through Section 110 (22 U.S.C. §7107) of the Trafficking Victims Protection Act (TVPA, Division A of P.L. 106-386, as amended).

Related to these report requirements, IRFA requires the President to publicly designate countries with governments determined to have engaged in or tolerated particularly severe religious

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even superficial gender-equality reforms with democracy,” allowing increases in women’s representation in political institutions to be viewed as democratic progress even if these institutions possess little power and/or the women taking legislative seats are loyal supporters of the authoritarian government.

<sup>60</sup> Thomas Carothers, “Democracy Assistance: Political vs. Developmental?” *Journal of Democracy*, vol. 20, no. 1 (January 2009), pp. 5-19.

<sup>61</sup> Nic Cheeseman and Marie-Eve Desrosiers, “How Not To Engage with Authoritarian States,” Westminster Foundation for Democracy, February 2023; Lincoln A. Mitchell, *The Democracy Promotion Paradox* (Washington, DC: The Brookings Institution, 2016); Nicolas Bouchet, Ken Godfrey, and Richard Youngs, “Rising Hostility to Democracy Support: Can it Be Countered?” Carnegie Endowment for International Peace, September 1, 2022.



freedom violations. The TVPA similarly requires the Administration to publicly rank countries based on their efforts to combat human trafficking. Foreign governments can face possible U.S. sanctions or other restrictive actions based on these reports, though the President may make exceptions or waive the restrictions, including on the basis of U.S. national interest (see “Issue-Specific Restrictions” below). Congress has modified the scope of the reports and changed the country designation categories or methodologies from time to time.<sup>62</sup>

In December 2023, Congress enacted the Combating Global Corruption Act as part of the National Defense Authorization Act (NDAA) for FY2024 (P.L. 118-31), containing a new annual reporting requirement related to foreign government efforts to combat corruption.<sup>63</sup> Separately, a provision included in the FY2024 NDAA repealed a prior annual report on U.S. efforts to promote democracy and protect human rights in non-democratic and democratic transition countries that had been mandated by the Advance Democratic Values, Address Nondemocratic Countries, and Enhance (ADVANCE) Democracy Act of 2007 (Title XXI of P.L. 110-53).<sup>64</sup> Congress has frequently required additional reports on specific issues or countries/regions of concern, either as part of standalone legislation or through reporting requirements contained in broader bills.

See also:

- CRS In Focus IF10795, *Global Human Rights: The Department of State’s Country Reports on Human Rights Practices*;
- CRS In Focus IF10803, *Global Human Rights: International Religious Freedom Policy*;
- CRS In Focus IF10587, *Human Trafficking and U.S. Foreign Policy: An Introduction*; and
- CRS Report R44953, *The State Department’s Trafficking in Persons Report: Scope, Aid Restrictions, and Methodology*.

## International Institutions and Initiatives

The United States works through multilateral institutions and other international groupings to promote democracy and human rights. Beginning in the aftermath of World War II, the United States and other leading democracies sought to embed democratic norms within multilateral institutions, including the Bretton Woods system governing international financial institutions (1944), the United Nations (UN, 1945), the North Atlantic Treaty Organization (NATO, 1949), the Organization for Security and Cooperation in Europe (OSCE, 1975), and the European Union (EU, 1993), among others. The integration, to varying degrees, of democracy and human rights norms within these institutions served to link these norms with security and economic benefits in order to incentivize countries to meet democratic standards.<sup>65</sup> The importance of democratic values to these institutions has not been uniform across institutions or across time, however.<sup>66</sup> Specialized international organizations have also developed over time that use monitoring and

<sup>62</sup> For instance, Section 6707(a)(2) of P.L. 118-31 amended Section 116 of the FAA to require that the annual country reports on human rights practices include information on acts of transnational repression.

<sup>63</sup> See Section 5401-5406 of P.L. 118-31.

<sup>64</sup> The ADVANCE Democracy Act of 2007 in part amended an earlier reporting requirement under Section 665(c) of P.L. 107-228 (22 U.S.C. §2151n note). The reporting requirement was repealed by Section 6707(b)(3) of P.L. 118-31.

<sup>65</sup> See Robert Kagan, “The Weight of Geopolitics,” *Journal of Democracy*, vol. 26, no. 1 (January 2015), pp. 21-31.

<sup>66</sup> For example, analysts note that NATO was established foremost on the basis of shared opposition to the Soviet Union and subsequently increased its emphasis on democratic values over time. See Nikolas K. Gvosdev, “Realist Counsel on Democracy Promotion,” in *Does Democracy Matter? The United States and Global Democracy Support*, pp. 7-31.

public reporting, technical assistance, and other means to support and advance human rights and democratic governance. These include UN and regional human rights bodies; international tribunals such as the International Criminal Court; the Community of Democracies; the Open Government Partnership; the Media Freedom Coalition; and the Freedom Online Coalition, among others.

Congress may shape U.S. participation in international institutions and initiatives by appropriating funding and enacting conditions or restrictions. For instance, Section 701 (22 U.S.C. §262d) of the International Financial Institutions Act (P.L. 95-118, as amended), declares that U.S. government policy is to use its voice and vote in international financial institutions to “advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in ... a pattern of gross violations of internationally recognized human rights.” Another example is a recurring SFOPS provision that restricts U.S. funding to the UN Human Rights Council absent the Secretary of State determining that the Council “is taking significant steps to remove Israel as a permanent agenda item and ensure integrity in the election of members to such Council.”<sup>67</sup> In addition to U.S. assessed contributions to international organizations, Congress through appropriations may also direct voluntary contributions to institutions involved in democracy or human rights assistance activities, such as the UN Democracy Fund, the UN Office of the High Commissioner for Human Rights, and the Organization of American States. Views of the effectiveness of bilateral versus multilateral approaches to promoting democracy and human rights vary, as do positions on U.S. participation in relevant institutions such as the U.N. Human Rights Council.

**Human Rights Treaties and U.S. Ratification.** Of the treaties adopted by the UN General Assembly and entered into force, the United Nations considers nine to be core international human rights treaties (alongside nine related Optional Protocols). The scope of these agreements includes civil and political rights; economic, social and cultural rights; the rights of particular vulnerable groups; and rights against certain forms of ill-treatment (e.g., torture). These treaties establish committees of independent experts charged with monitoring treaty implementation by States Parties.<sup>68</sup> Other international treaties also relate to human rights issues, including, for example, the Convention on the Prevention and Punishment of the Crime of Genocide and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.<sup>69</sup>

The United States, despite protections for human rights in U.S. domestic law and practice, has refrained from ratifying six of the nine core international human rights treaties. Of these treaties, the United States has ratified the International Covenant on Civil and Political Rights (ratified in 1992), the International Convention on the Elimination of All Forms of Racial Discrimination (1994), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1994). The United States has signed but not ratified the International Covenant on Economic, Social, and Cultural Rights (signed in 1977); the Convention on the Elimination of All Forms of Discrimination Against Women (1980); the Convention on the Rights of the Child (1995); and the Convention on the Rights of Persons with Disabilities (2009). The United States has neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

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<sup>67</sup> See, most recently, Section 7048(c) of P.L. 118-47.

<sup>68</sup> See, for example, <https://www.ohchr.org/en/treaty-bodies/ccpr>.

<sup>69</sup> The United States has signed and ratified both treaties. The latter is a supplement to the UN Convention against Transnational Organized Crime.

Proponents of U.S. ratification of human rights treaties contend that ratification enhances U.S. leadership in promoting human rights. Not ratifying, they argue, undermines the credibility of the United States when it advocates for foreign governments to adhere to international human rights obligations. Opponents of U.S. ratification generally argue that ratification may infringe on U.S. sovereignty or inhibit the ability of the United States to act in service of its interests. Ratification opponents also question the overall effectiveness of the treaties in addressing human rights issues, arguing that many countries with poor human rights records have ratified such treaties without taking meaningful action to improve human rights conditions.

See also:

- CRS In Focus IF10861, *Global Human Rights: Multilateral Bodies & U.S. Participation*;
- CRS Report RL33608, *The United Nations Human Rights Council: Background and Policy Issues*;
- CRS In Focus IF11457, *United Nations Issues: U.N. Office of the High Commissioner for Human Rights*; and
- CRS Report R47715, *The United Nations System: Frequently Asked Questions*.

## Restrictions on Foreign Assistance and Arms Sales

A number of statutes condition certain U.S. foreign assistance and arms exports on the basis of democracy- and human rights-related standards, while generally authorizing the President to waive restrictions or providing other forms of flexibility to the executive branch in implementing these requirements.

### Broad Restrictions on Security and Other Assistance

**Security Assistance (Including Arms Sales) and Development Assistance.** Pioneering provisions for restricting assistance on the basis of human rights are Section 502B and Section 116 of the Foreign Assistance Act of 1961 (FAA; P.L. 87-195, as amended), enacted in the 1970s. Section 502B (22 U.S.C. §2304) declares that a principal goal of U.S. foreign policy is “to promote the increased observance of internationally recognized human rights by all countries.”<sup>70</sup> These provisions restrict assistance in relation to “gross violations of internationally recognized human rights,” defined as including “torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.”<sup>71</sup> (See footnote concerning a slight difference in language between the two provisions.)

Section 502B, which restricts security assistance, including arms sales, directs the President:

to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.<sup>72</sup>

<sup>70</sup> 22 U.S.C. §2304(a)(1).

<sup>71</sup> 22 U.S.C. §2304(d)(1); 22 U.S.C. §2151n(a). Differing from Section 502B, the language in Section 116 (see 22 U.S.C. §2151n(a)) omits the phrase “and trial.”

<sup>72</sup> 22 U.S.C. §2304(a)(3).

Accordingly, Section 502B stipulates that “no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.”<sup>73</sup> This section also restricts licenses for the export of crime control and detection instruments and equipment to such countries.<sup>74</sup> Certain exceptions can apply, including if the President certifies to Congress that “extraordinary circumstances” warrant the provision of assistance.

Section 502B defines the restricted “security assistance” to include certain categories of assistance authorized under the FAA,<sup>75</sup> as well as “sales of defense articles or services, extensions of credits (including participations in credits), and guaranties of loans” under the Arms Export Control Act (AECA; P.L. 90-629; 22 U.S.C. §§2751 et seq.). Also restricted are “any licenses in effect with respect to the export to or for the armed forces, police, intelligence, or other internal security forces” of the foreign country of (1) defense articles or defense services under Section 38 of the AECA (22 U.S.C. §2778), or (2) items listed under the 600 series of the Commerce Control List, which contains dual-use items controlled for export.<sup>76</sup>

Section 502B(c) establishes a mechanism whereby the House or Senate (via resolution), or the Senate Committee on Foreign Relations or House Committee on Foreign Affairs, can request a statement from the Secretary of State regarding human rights in a country.<sup>77</sup> After receiving that statement, Congress may then consider legislation to terminate, restrict, or continue security assistance to the country.<sup>78</sup>

Section 116 (22 U.S.C. §2151n) prohibits FAA-authorized development assistance, or support from the U.S. International Development Finance Corporation, from being provided “to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights ... unless such assistance will directly benefit the needy people in such country.”<sup>79</sup> Such assistance is also prohibited from being provided “to any

<sup>73</sup> 22 U.S.C. §2304(a)(2).

<sup>74</sup> The section restricts licenses issued under the Export Administration Act of 1979 (P.L. 96-72). This law, which later expired but was continued in effect through the International Emergency Economic Powers Act, was largely repealed and replaced in 2018 by the Export Control Reform Act (Title XVII, Subtitle B of P.L. 115-232).

<sup>75</sup> Assistance provided pursuant to part II of the FAA for military assistance (chapter 2), the economic support fund (chapter 4), military education and training (chapter 5), peacekeeping operations (chapter 6), or anti-terrorism assistance (chapter 8).

<sup>76</sup> 22 U.S.C. §2304(d)(2).

<sup>77</sup> 22 U.S.C. §2304(c). Congress has rarely formally used Section 502B(c). In 1976, the House International Relations Committee requested and received responsive statements from the State Department pertaining to Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines. See U.S. Congress, House Committee on International Relations, *Human Rights and U.S. Policy: Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines*, committee print, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., December 31, 1976. In some Congresses, Members have introduced resolutions that would request statements from the State Department pursuant to Section 502B(c); to date, no such resolution has passed.

<sup>78</sup> In the event that a requested statement is not transmitted within 30 days, Section 502B(c)(3) (22 U.S.C. 2304(c)(3)) states that “no security assistance shall be delivered to such country” absent specific subsequent congressional authorization “unless and until such statement is transmitted.” In a 1989 signing statement, President George H.W. Bush objected to Section 502B(c) on constitutional grounds, writing that the 30-day cut-off would “have the effect of allowing a single House of Congress (or even a single committee) to halt the provision of assistance. This section violates the constitutional principle, recognized by the Supreme Court in *INS v. Chadha*, that every legislative act of the Congress must be presented to the President in accordance with the requirements of Article I, section 7 of the Constitution.” George Bush, “Statement on Signing the International Narcotics Control Act of 1989,” December 13, 1989.

<sup>79</sup> 22 U.S.C. §2151n(a).

government failing to take appropriate and adequate measures, within their means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services.”<sup>80</sup>

The Foreign Assistance Act of 1961 does not require to be made public a list of governments that are or have been subject to restriction pursuant to these FAA provisions.<sup>81</sup> While the provisions together also mandate annual reports on human rights conditions in foreign countries that the State Department fulfills through its *Country Reports on Human Rights Practices*, these reports do not state which governments have engaged in “a consistent pattern of gross violations of internationally recognized human rights.”<sup>82</sup> Successive administrations reportedly have interpreted language such as “consistent pattern” narrowly;<sup>83</sup> some critics have argued that this practice has allowed the executive branch to avoid assessing that governments have met the law’s standard for restricting assistance.<sup>84</sup>

<sup>80</sup> 22 U.S.C. §2151n(b). Section 116 of the FAA has two subsections designated as subsec. (b). This language is stated in the second subsec. (b), added to the FAA by Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-513).

<sup>81</sup> The joint explanatory statement accompanying Division K of the Consolidated Appropriations Act, 2022 (P.L. 117-103) directed that the Secretary of State report to Congress “detailing each instance when section 502B of the FAA was applied in the past ten years to prevent the provision of security assistance or the issuance of an export license under the Export Administration Act of 1979, and each instance when the President certified in writing that extraordinary circumstances existed to warrant the provision of assistance or issuance of such an export license.” The report was also required to “specify the criteria used to determine if the government of a country has engaged in a consistent pattern of gross violations of human rights and include a current list of such governments.” This report was reportedly submitted to the appropriate congressional committees in October 2022, but was not required to be made publicly available.

<sup>82</sup> In a 1978 conference report accompanying legislation amending Section 502B, Congress stated that it did not intend “to require the executive branch to publicly identify those countries which it considers to be consistent violators of human rights. Rather it is the intent of the committee of conference to place renewed emphasis on human rights as a major factor that must, as a matter of law, be taken into account in making security assistance decisions.” U.S. Congress, H.Rept. 95-1546, 95<sup>th</sup> Cong., 2<sup>nd</sup> sess., accessed via *Congressional Record*, daily edition, September 7, 1978.

<sup>83</sup> A similar provision pertaining to international financial institution assistance was amended in 1983 to refer merely to governments engaging in a “pattern” of gross human rights violations, rather than “consistent pattern.” In September 1983, the House Committee on Foreign Affairs held a subcommittee hearing to consider whether to similarly amend the Foreign Assistance Act. According to testimony by the then-Chairperson of the House Committee on Banking, Finance and Urban Affairs, Subcommittee on International Development Institutions and Finance, Representative Jerry Patterson, “this was done because of observations my subcommittee made during the long series of hearings during 1981 and 1982 about U.S. support for loans to such countries as Argentina, Chile, Guatemala, Paraguay, South Korea, and Uruguay.... In making this change, we were attempting especially to deal with the argument that improvements in human rights records entitled countries to be exempted from the requirements of the law. The law does not refer to ‘improvement’ and a change of the kind and scope of violations is not enough to change the requirement that the United States oppose loans to particular countries if a pattern of gross violations continues.” U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Human Rights and International Organizations, *Review of U.S. Human Rights Policy*, hearings, 98<sup>th</sup> Cong., 1<sup>st</sup> sess., March 3, June 28, and September 21, 1983.

<sup>84</sup> For example, according to September 1983 testimony by former Deputy Assistant Secretary of State for Human Rights Stephen B. Cohen, “a reading of the legislative history shows that Congress intended in section 502B that governments practicing torture, arbitrary detention, or summary execution on significant scale were to be denied U.S. security assistance. I believe the intent has been distorted by the way in which the executive has interpreted the word ‘consistent.’ It is claimed that even though gross violations of human rights are significant in number and recurrent, the pattern is not consistent if there is some decline in the overall number of abuses. To illustrate, suppose that country A tortures and executes 400 political prisoners a year. It would be considered to engage in a consistent pattern of gross violation, and therefore ineligible for security assistance. But if the number of executions falls by 25 percent, to 300 a year, under the administration’s interpretation of the law, the reduction is considered a positive step and the pattern is considered no longer consistent.” U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Human Rights and International Organizations, *Review of U.S. Human Rights Policy*, hearings, 98<sup>th</sup> Cong., 1<sup>st</sup> sess., March 3, June 28, and September 21, 1983. See also Stephen B. Cohen, “Conditioning U.S. Security Assistance on Human Rights Practices,” *The American Journal of International Law*, Vol. 76, No. 2 (April 1982), pp. 246-279; Human Rights First, *Walking the Talk: 2021 Blueprints for a Human Rights-Centered U.S. Foreign Policy*, chapter 8, “Overhauling U.S. Security Sector Assistance,” October 2020.



See also:

- CRS In Focus IFI 1197, *U.S. Arms Sales and Human Rights: Legislative Basis and Frequently Asked Questions*.

Other provisions of law similarly restrict certain types of assistance on the basis of gross violations of internationally recognized human rights:

- **International Financial Institutions.** Section 701 (22 U.S.C. §262d) of the International Financial Institutions Act (P.L. 95-118, as amended), originally enacted in 1977, declares that U.S. government policy is to use its voice and vote in international financial institutions (IFIs) to “advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in ... a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person.”<sup>85</sup> This provision instructs U.S. executive directors of IFIs to oppose “any loan, any extension of financial assistance, or any technical assistance” to such countries “unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.”<sup>86</sup>
- **International Food Aid.** Section 403(j) (7 U.S.C. §1733(j)) of the Food for Peace Act (P.L. 83-480, as amended), added in 1990, restricts U.S. international food assistance “to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights,” unless the assistance “is targeted to the most needy people in such country and is made available in such country through channels other than the government.”

## Restrictions on Individual Security Force Units (The “Leahy Laws”)

The “Leahy Laws,” the origins of which date back to appropriations provisions sponsored by Senator Patrick Leahy in the 1990s, prohibit U.S. assistance to foreign security force units when there is credible information that the unit has committed a “gross violation of human rights” (GVHR). Pursuant to the laws, before providing assistance, the U.S. government vets potential recipients for information about GVHR involvement.<sup>87</sup>

The Leahy Laws constitute two separate provisions that generally restrict security assistance otherwise funded by the Departments of State and Defense. Congress made the law applicable to

<sup>85</sup> Section 37 (22 U.S.C. §283z-9) of the Inter-American Development Bank Act (P.L. 86-147, as amended), added in 1992, which authorized a U.S. contribution to the Inter-American Development Bank’s Multilateral Investment Fund, similarly specified that “such funds shall only be disbursed from the Fund to countries that have governments that are democratically elected ... and that do not engage in a consistent pattern of gross violations of internationally recognized human rights.”

<sup>86</sup> Annual appropriations bills have also contained recurring human rights-related provisions pertaining to IFI loans and financing.

<sup>87</sup> The Leahy Laws do not define GVHR. Drawing instead on the term “gross violations of internationally recognized human rights,” as defined and articulated under Section 116 and 502B of the FAA, the U.S. government primarily vets foreign security forces for credible information indicating (1) torture, (2) extrajudicial killing, (3) enforced disappearance, or (4) rape under color of law (in which a perpetrator abuses their official position to commit rape). Other acts may also be assessed as to whether they constitute GVHRs.



State Department assistance (authorized by the FAA or the AECA) permanent in 2007 through amendment to the FAA (Section 620M [formerly 620J]; 22 U.S.C. §2378d). The law applicable to assistance furnished by the Department of Defense (DOD), made permanent in 2014, is stated at 10 U.S.C. §362.<sup>88</sup>

Rather than contemplating broad restrictions as under Section 502B of the FAA (discussed above), the Leahy Laws entail the targeted withholding of assistance from specific foreign security force units. Further, in contrast to how Section 502B of the FAA defines “security assistance” for the purposes of that section, the Leahy Laws are generally not applied to foreign military sales (FMS) or direct commercial sales (DCS) because the executive branch has interpreted “assistance” under the Leahy Laws as that provided with U.S.-appropriated funds.<sup>89</sup> Under this interpretation, the State Department Leahy Law does, however, apply to sales involving Foreign Military Financing (FMF), as this program involves U.S.-appropriated funds.

Proponents of the Leahy Laws tout the laws as a tool to disassociate the United States from objectionable security forces, while also incentivizing adherence to human rights standards by governments wishing to access and benefit from U.S. security assistance.<sup>90</sup> At the same time, some policymakers have debated whether the Leahy Laws constrain the United States’ capacity to pursue other U.S. national security interests and foreign policy priorities. Congress continues to assess and modify these laws.

See also:

- CRS In Focus IF10575, *Global Human Rights: Security Forces Vetting (“Leahy Laws”)*.

## Coup-Related Restrictions

A recurring provision in annual SFOPS legislation restricts certain U.S. foreign assistance following a coup d’état. For FY2024, the provision provides that

[n]one of the funds appropriated or otherwise made available pursuant to titles III through VI [encompassing bilateral economic assistance, security assistance, multilateral assistance, and export and investment assistance] of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup d’état or decree or, after the date of enactment of this Act, a coup d’état or decree in which the military plays a decisive role.<sup>91</sup>

These restrictions explicitly do not apply to “assistance to promote democratic elections or public participation in democratic processes, or to support a democratic transition.”<sup>92</sup> Assistance may resume if the Secretary of State certifies to Congress “that subsequent to the termination of

<sup>88</sup> In addition to the Leahy Laws, Congress has enacted certain provisions that seek to prohibit U.S. security assistance to individual units due to human rights-related issues. These include provisions in annual SFOPS appropriations acts related to sexual exploitation or abuse and, separately, excessive force to repress peaceful expression or assembly.

<sup>89</sup> This interpretation may in part reflect a continuance of historical practice, as the first iterations of the Leahy Laws were recurring provisions in annual foreign operations appropriations and DOD appropriations bills that applied only to the funds appropriated by each of those bills.

<sup>90</sup> For example, see Amnesty International, “Deconstructing the Leahy Law: Fact vs Fiction,” <https://www.amnestyusa.org/updates/deconstructing-the-leahy-law-fact-vs-fiction/>.

<sup>91</sup> See Section 7008 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2024 (Division F of P.L. 118-47).

<sup>92</sup> More generally, annual SFOPS appropriations have consistently provided that funds for democracy programs may be made available “notwithstanding any other provision of law.”

assistance a democratically elected government has taken office.” The Secretary of State may also waive restrictions “on a program-by-program basis” by certifying that such waiver is in the U.S. national security interest.<sup>93</sup> Congress has modified this recurring provision over time, and executive branch interpretations and application of the provision have varied.

See also:

- CRS In Focus IFI1267, *Coup-Related Restrictions in U.S. Foreign Aid Appropriations*.

## Human Trafficking, Child Soldiers, and Religious Freedom-Related Restrictions

Congress has enacted laws that authorize the executive branch to restrict assistance to countries designated in relation to issue-specific annual reports (see also discussion and links to related CRS products in “Reporting Requirements” above).

**Trafficking Victims Protection Act (TVPA).** Pursuant to the TVPA (Division A of P.L. 106-386; 22 U.S.C. §§7101 et seq.), the State Department’s annual Trafficking in Persons Report describes and ranks the anti-trafficking efforts of the United States and foreign governments. The TVPA restricts certain foreign assistance to the governments of countries that the Secretary of State determines do not fully comply with TVPA standards for combating human trafficking and are not making significant efforts to become compliant—those ranked as “Tier 3” in the report. Specifically, nonhumanitarian, nontrade-related foreign assistance authorized by the FAA or the AECA may be withheld from such countries.<sup>94</sup> Additionally, the President may instruct U.S. executive directors of the multilateral development banks and of the International Monetary Fund to vote against and otherwise attempt to deny loans or other uses of funds to such countries. The President may waive these restrictions, in whole or in part, to promote the purposes of the TVPA or if the President determines it is in the national interest of the United States to do so.

**Child Soldiers Prevention Act (CSPA).** The CSPA (Title IV of P.L. 110-457, as amended; 22 U.S.C. §§2370c et seq.) requires that the Secretary of State publish annually a list of countries within which “governmental armed forces, police, or other security forces” or “government-supported armed groups, including paramilitaries, militias, or civil defense forces,” recruited or used child soldiers during the previous year. Pursuant to the CSPA, the State Department, since 2010, has published a list of such countries within the annual Trafficking in Persons Report. The CSPA prohibits the provision of certain types of security assistance to the governments of such countries. The CSPA articulates exceptions to these restrictions, however, and the President may waive the restrictions, in whole or in part, if the President determines that to do so is in the national interest and certifies that the foreign government is taking steps to address the problem of child soldiers.

**International Religious Freedom Act (IRFA).** IRFA (P.L. 105-292, as amended; 22 U.S.C. §§6401 et seq.) mandates that the President, using information from the International Religious Freedom Report and other sources, annually designate as “countries of particular concern” (CPCs) those countries whose governments have engaged in or tolerated particularly severe religious freedom violations. For CPCs, the IRFA requires the executive branch to implement one or more restrictive measures stated in the law. These include restrictions on development assistance in accordance with Section 116 of the FAA, restrictions on security assistance in

<sup>93</sup> This waiver authority was included for the first time in FY2023.

<sup>94</sup> For countries that do not receive such assistance, the TVPA authorizes the President to withhold funding for participation by officials or employees of designated countries in educational and cultural exchange programs.

accordance with Section 502B of the FAA, and efforts to deny loans to or other uses of funds to the country from international financial institutions, among other possible actions. At the same time, the law provides the executive branch significant discretion in determining which, if any, restrictive actions to take. Administrations can take “commensurate action” in lieu of IRFA’s suggested measures against CPCs, exempt a CPC from new sanctions by referring to already existing human rights-related sanctions against that country, or waive sanctions by citing U.S. national interest.

See also:

- CRS In Focus IF10901, *Child Soldiers Prevention Act: Security Assistance Restrictions*;
- CRS In Focus IF10803, *Global Human Rights: International Religious Freedom Policy*;
- CRS In Focus IF10587, *Human Trafficking and U.S. Foreign Policy: An Introduction*; and
- CRS Report R44953, *The State Department’s Trafficking in Persons Report: Scope, Aid Restrictions, and Methodology*.

## Country-Specific Foreign Aid Restrictions

From time to time, Congress has enacted legislation to restrict foreign assistance to a specific country due to democracy- or human rights-related concerns. These provisions have varied in a number of ways, including in terms of the types of assistance restricted, whether assistance is withheld writ large or from specific foreign government institutions, and whether assistance is prohibited or is conditioned on progress in certain areas. Annual SFOPS appropriations are a common vehicle for country-specific restrictions, with such restrictions typically being limited to the fiscal year funds appropriated by the given appropriations bill. Many such provisions restrict assistance unless the Secretary of State certifies that the government in question has taken certain steps to improve human rights or democracy conditions, as specifically articulated in the law. Congress has also at times enacted enduring country-specific restrictions that remain in place until the President determines and certifies that conditions have changed.<sup>95</sup> More informally, congressional committees and Members at times have placed “holds” on specific proposed assistance or arms sales to foreign governments, citing human rights concerns.<sup>96</sup>

Some Members of Congress have at times weighed the benefits and drawbacks of enacting country-specific restrictions as opposed to general, global standards, such as those found in other legislation discussed above. The former method represents a more direct means by which Congress may shape the provision of foreign assistance on the basis of human rights concerns, including when Members assess that the executive branch has failed to take sufficient action on

<sup>95</sup> Section 570(a) of P.L. 104-208, for example, restricted nearly all forms of bilateral assistance to Burma’s government, and directed that U.S. executive directors of international financial institutions vote against loans or other uses of funds to Burma, “until such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government.” These restrictions, enacted in September 1996, remained in place until December 2016, when President Obama provided such a determination and certification to Congress. The White House, “Presidential Determination Pursuant to Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997,” 81 *Federal Register* 94211, December 2, 2016.

<sup>96</sup> Upon receiving notification from the executive branch concerning a planned sale or obligation of funds, Members of Congress may raise concerns and place a “hold” on the action. This is an informal practice not prescribed in law. In many cases, little information concerning holds is publicly available. See, for example, Doyinsola Oladipo and Mike Stone, “Proposed U.S. Arms Sales to Nigeria on ‘Hold’ Over Human Rights Concerns – Sources,” *Reuters*, July 30, 2021; Chao Deng, “Sen. Patrick Leahy Blocks \$75 Million in Funding to Egypt, Citing Human Rights,” *The Wall Street Journal*, October 18, 2022; CQ News, “Cardin Puts Hold on Defense Aid to Egypt Over Human Rights Record,” October 4, 2023.

its own pursuant to existing authorities. On the other hand, singling out a foreign government for restriction based on sometimes bespoke criteria may invite criticisms of unfair selectivity or bias.<sup>97</sup>

## Sanctions Targeting Individuals and Entities

Congress has contributed to the development of an array of targeted sanctions programs that allow the United States to impose economic sanctions or travel restrictions on a foreign individual or entity in connection with democracy- and human rights-related concerns. These include authorities that can be applied globally, as well as those focused on activities within, or in relation to, specific countries.<sup>98</sup>

### Global Authorities

**Global Magnitsky Act.** The Global Magnitsky Human Rights Accountability Act (Global Magnitsky Act, Title XII, Subtitle F of P.L. 114-328, as amended; 22 U.S.C. §§10101 et seq.) authorizes the President to impose economic sanctions and deny entry into the United States to foreign persons identified as engaging in human rights violations or corruption.<sup>99</sup> The executive branch has used Executive Order (E.O.) 13818 of December 20, 2017, as the framework for implementing the Global Magnitsky Act.<sup>100</sup> Drawing on the International Emergency Economic Powers Act (IEEPA), National Emergencies Act (NEA), and Immigration and Nationality Act (INA), E.O. 13818 expands the scope of sanctionable targets, including broader networks of individuals and entities associated with perpetrators of serious human rights abuse or corruption.<sup>101</sup>

The Global Magnitsky Act provides the executive branch with authority to impose sanctions against persons around the world without requiring the United States to create a country-specific sanctions program (discussed below), which can sometimes be diplomatically or politically challenging. On the other hand, country-specific programs allow the United States to tailor sanctionable criteria to context-specific behaviors and categories of persons.

See also:

- CRS In Focus IFI0576, *Human Rights and Anti-Corruption Sanctions: The Global Magnitsky Human Rights Accountability Act*; and

<sup>97</sup> For example, former Representative Donald Fraser argued in 1979 regarding country-specific prohibitions that “the conservatives and liberals have gone after each other’s favorite violators. The conservative members cut aid to leftist countries, such as Tanzania, Mozambique, Angola, Cambodia, Vietnam, and Laos. The liberal members cut aid to rightist countries such as the Philippines, Argentina, Chile, and Brazil. I do not favor this method. I think it is better for Congress to write the general standards and oversee their implementation by the executive branch; but I have voted for a number of these cuts when the administration did not seem to be taking action.” Donald M. Fraser, “Human Rights and U.S. Foreign Policy: Some Basic Questions Regarding Principles and Practice,” *International Studies Quarterly*, vol. 23, no. 2 (June 1979), pp. 174-185.

<sup>98</sup> For a general overview of U.S. sanctions, see CRS Report R47829, *Sanctions Primer: How the United States Uses Restrictive Mechanisms to Advance Foreign Policy or National Security Objectives*.

<sup>99</sup> The law has its origins in the Russia-focused Sergei Magnitsky Rule of Law Accountability Act of 2012 (Title IV of P.L. 112-208).

<sup>100</sup> Executive Order (E.O.) 13818, “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” 82 *Federal Register* 60839, December 20, 2017.

<sup>101</sup> National Emergencies Act (NEA; P.L. 94-412; 50 U.S.C. §§1601 et seq.); International Emergency Economic Powers Act (IEEPA; Title II of P.L. 95-223; 50 U.S.C. §§1701 et seq.); Immigration and Nationality Act (INA; P.L. 82-414; 8 U.S.C. §§1101 et seq.).

- CRS Report R46981, *The Global Magnitsky Human Rights Accountability Act: Scope, Implementation, and Considerations for Congress.*

**SFOPS Visa Restrictions.** A recurring provision in annual SFOPS bills (currently located at Section 7031(c)) requires the Secretary of State make ineligible for U.S. entry foreign officials credibly implicated in significant corruption or a gross violation of human rights. This restriction extends to immediate family members of the foreign officials. For FY2024, the provision applies to any foreign official “about whom the Secretary of State has credible information have been involved, directly or indirectly, in significant corruption, including corruption related to the extraction of natural resources, or a gross violation of human rights, including the wrongful detention of locally employed staff of a United States diplomatic mission or a United States citizen or national.”<sup>102</sup> This requirement is subject to certain exceptions, and may be waived by the Secretary of State if the Secretary determines that such waiver “would serve a compelling national interest” or “the circumstances which caused the individual to be ineligible have changed sufficiently.” Unlike Global Magnitsky sanctions, an SFOPS Section 7031(c) designation does not entail economic sanctions. The designation may be made public or kept confidential.

**Immigration and Nationality Act (INA) Restrictions.** Section 212 of the INA (see 8 U.S.C. §1182(a)(3)(C)) provides the Secretary of State with broad authority to make foreign nationals inadmissible to the United States in order to avoid adverse impacts to U.S. foreign policy. The State Department has utilized such authority to impose numerous visa restrictions in response to country- and issue-specific human rights and democracy concerns.<sup>103</sup> Section 212 also includes specific activities as grounds for U.S. inadmissibility, including participation in genocide, commission of acts of torture or extrajudicial killings, and responsibility for particularly severe violations of religious freedom, among others. Drawing on presidential authority under INA Section 212(f) (8 U.S.C. §1182(f)), the executive branch has also broadly suspended the entry of persons in connection with serious human rights and humanitarian law violations (through Presidential Proclamation 8697 of August 4, 2011)<sup>104</sup> and corruption or the enabling of corruption (through Presidential Proclamation 7750 of January 12, 2004 and Presidential Proclamation 10685 of December 11, 2023).<sup>105</sup> (This presidential authority is also used to deny entry into the United States to persons subject to U.S. economic sanctions.)<sup>106</sup> Pursuant to Section 222(f) (8 U.S.C. §1202(f)) of the INA, relevant records pertaining to the refusal of visas are generally confidential.

<sup>102</sup> See Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2024 (Division F of P.L. 118-47).

<sup>103</sup> For example, a February 2021 policy to impose visa restrictions against individuals involved in transnational repression. See U.S. Department of State, “Accountability for the Murder of Jamal Khashoggi,” February 26, 2021.

<sup>104</sup> Presidential Proclamation 8697 of August 4, 2011, “Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Participate in Serious Human Rights and Humanitarian Law Violations and Other Abuses,” 3 C.F.R. 2011 Comp., p. 94.

<sup>105</sup> Presidential Proclamation 7750 of January 12, 2004, “To Suspend Entry as Immigrants or Nonimmigrants of Persons Engaged In or Benefiting From Corruption,” 3 C.F.R. 2004 Comp., p. 2; Presidential Proclamation 10685 of December 11, 2023, “Suspension of Entry as Immigrants and Nonimmigrants of Persons Enabling Corruption,” 88 *Federal Register* 86541.

<sup>106</sup> See Presidential Proclamation 8693 of July 24, 2011, “Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions,” 3 C.F.R. 2011 Comp., p. 86, and executive orders establishing sanctions programs.



## Country-Specific Sanctions Programs

Congress has enacted laws that provide authority to impose sanctions related to democracy or human rights situations in specific contexts. The President has also used authorities set out in the IEEPA, NEA, and INA to establish country-specific sanctions regimes, citing, in part, human rights abuses, corruption, and/or the undermining of democracy as the national security rationale for the restrictions. Many of the more than 40 economic sanctions regimes currently maintained by the United States include sanctionable criteria related to such issues. Examples include the following:

- The Sergei Magnitsky Rule of Law Accountability Act of 2012 (Title IV of P.L. 112-208; 22 U.S.C. §5811 note), a 2012 Russia-focused precursor to the Global Magnitsky Act, which requires the President to impose sanctions against persons determined to have been involved in the “criminal conspiracy” uncovered by Russian lawyer and auditor Sergei Magnitsky or Magnitsky’s subsequent detention, abuse, and death, or, more broadly, responsible for human rights violations against individuals seeking to expose the illegal activity of Russian officials or to exercise or defend human rights and freedoms in Russia.
- E.O. 13936 of July 14, 2020, which draws on several Hong Kong-related laws, as well as IEEPA, NEA, and INA authorities, to in part provide for Hong Kong-focused sanctions against persons responsible for developing, adopting, or implementing Hong Kong’s June 2020 national security law, actions, or policies that undermine democratic processes or institutions, censorship, or other activities that limit freedoms of expression or assembly, or other human rights abuses.<sup>107</sup>
- E.O. 14014 of February 10, 2021, which was issued following a February 2021 military coup in Burma and draws on IEEPA, NEA, and INA authorities to provide for Burma-focused sanctions in part against foreign persons involved in serious human rights abuse, actions or policies that undermine democratic processes or institutions, or actions or policies that restrict freedom of expression or peaceful assembly or that limit access to media.<sup>108</sup>

Some country-focused programs contain transnational elements. For instance, E.O. 14024 of April 15, 2021, which targets “harmful foreign activities” by the Russian government, includes sanctionable criteria related to the undermining of democratic processes or institutions in the United States or abroad, the assassination or other unlawful killing or bodily harm against U.S. persons or U.S. ally or partner nationals, and involvement in transnational corruption, among other criteria.<sup>109</sup>

See also:

- CRS In Focus IF12390, *U.S. Sanctions: Overview for the 118th Congress*;
- CRS In Focus IF12452, *U.S. Sanctions on Iran*;
- CRS Report R48052, *U.S. Sanctions on Russia: Legal Authorities and Related Actions*;

<sup>107</sup> E.O. 13936, “The President’s Executive Order on Hong Kong Normalization,” 85 *Federal Register* 43413, July 17, 2020.

<sup>108</sup> E.O. 14014, “Blocking Property With Respect to the Situation in Burma,” 86 *Federal Register* 9429, February 10, 2021.

<sup>109</sup> E.O. 14024, “Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,” 86 *Federal Register* 20249, April 15, 2021.



- CRS In Focus IF10715, *Venezuela: Overview of U.S. Sanctions Policy*;
- CRS Report R41438, *North Korea: Legislative Basis for U.S. Economic Sanctions*; and
- CRS Report R45618, *The International Emergency Economic Powers Act: Origins, Evolution, and Use*.

## Import Restrictions and Export Controls

**Forced Labor Import Ban.** Section 307 of the Tariff Act of 1930 prohibits the importation of products “mined, produced, or manufactured wholly or in part” by forced labor, convict labor, and/or indentured labor under penal sanctions.<sup>110</sup> Section 910 of the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) eliminated a prior long-standing “consumptive demand” exception to this prohibition. In subsequent years, Congress has further enacted country-specific legislation that subjects products mined, produced, or manufactured by North Korean nationals (Section 302A of P.L. 114-122, as amended by Section 321 of P.L. 115-44; 22 U.S.C. §9241a), or in China’s Xinjiang region or by certain Xinjiang-related entities (Section 3 of P.L. 117-78), to a rebuttable presumption that they are prohibited from importation pursuant to Section 307.<sup>111</sup>

See also:

- CRS In Focus IF11360, *Section 307 and Imports Produced by Forced Labor*; and
- CRS Report R46631, *Section 307 and U.S. Imports of Products of Forced Labor: Overview and Issues for Congress*.

**Export Controls.** The Export Control Reform Act of 2018 (Title XVII, Subtitle B of P.L. 115-232, as amended; 50 U.S.C. §§4801 et seq.), which authorizes export controls on dual-use goods, includes a statement of policy that export controls are to be used in part to “carry out the foreign policy of the United States, including the protection of human rights and the promotion of democracy.”<sup>112</sup> The executive branch implements a number of relevant export controls, including list-based (i.e., the control of specific items), end-user, and end-use controls, as well as licensing policies that allow review of transactions for human rights and democracy concerns.<sup>113</sup> These controls include, for example, adding certain foreign entities implicated in human rights abuses, or the undermining of democracy, to the Commerce Department’s “Entity List,” which generally entails a presumption of license denial for the export of controlled items to such entities. The Commerce Department has explicitly cited human rights or democracy concerns as the U.S. national security and foreign policy rationale for imposing export controls in response to some country-specific situations, including human rights violations in China’s Xinjiang region and the February 2021 military coup in Burma, among others. Congress has also passed laws that impose export controls in response to specific overseas situations.<sup>114</sup> Due in part to congressional actions, the Commerce Department has taken some steps in the past several years to update U.S. export

<sup>110</sup> 19 U.S.C. §1307.

<sup>111</sup> See also Customs and Border Protection, “Forced Labor,” at <https://www.cbp.gov/trade/forced-labor>; “Uyghur Forced Labor Prevention Act,” at <https://www.cbp.gov/trade/forced-labor/UFLPA>.

<sup>112</sup> 50 U.S.C. §4811(2)(D).

<sup>113</sup> Department of Commerce Bureau of Industry and Security (BIS), “Promoting Human Rights and Democracy,” at <https://www.bis.doc.gov/index.php/policy-guidance/promoting-human-rights-and-democracy>; BIS, “Amendment to Licensing Policy for Items Controlled for Crime Control Reasons,” 85 *Federal Register* 63007, October 6, 2020.

<sup>114</sup> For example, see P.L. 116-77, as amended.

controls to address the export of advanced technologies that can be used for purposes of repression.<sup>115</sup>

See also:

- CRS Report R46814, *The U.S. Export Control System and the Export Control Reform Act of 2018*.

## Other Areas of Congressional Engagement

Congress engages in a variety of other areas to influence U.S. foreign policy related to democracy and human rights, including but not limited to the following (see associated footnotes for relevant CRS products):

- conducting oversight of U.S. bilateral and multilateral diplomacy;
- engaging in congressional diplomacy through public statements, travel overseas, and engagement with other legislatures (e.g., through the House Democracy Partnership);<sup>116</sup>
- mandating the creation of offices or positions within U.S. federal agencies (e.g., congressional authorization of the Assistant Secretary of State for Democracy, Human Rights, and Labor, codified at 22 U.S.C. §2651a(c)(2));
- creating congressional or independent commissions (e.g., the Tom Lantos Human Rights Commission, Commission on Security and Cooperation in Europe, Congressional-Executive Commission on China, and U.S. Commission on International Religious Freedom);
- imposing broad conditions on U.S. trade with foreign countries (e.g., human rights-related eligibility criteria for preferential trade treatment under the African Growth and Opportunity Act; Title I of P.L. 106-200);<sup>117</sup>
- supporting national or international efforts to pursue criminal accountability for atrocities;
- authorizing and appropriating resources for U.S. international broadcasting efforts;<sup>118</sup> and
- authorizing and appropriating resources to combat foreign disinformation (e.g., through the work of the State Department's Global Engagement Center).

## Selected Factors Affecting U.S. Efforts

In addition to varying local dynamics in particular countries, numerous general factors may make U.S. efforts to promote democracy and human rights more complex and challenging now than in earlier post-Cold War years. A selection of these are discussed below.

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<sup>115</sup> See, for example, BIS, "Commerce Proposes Restrictions on U.S. Persons' Support for Foreign Military, Intelligence, and Security Services and Controls to Protect National Security and Human Rights," July 25, 2024.

<sup>116</sup> See <https://hdp.house.gov/>.

<sup>117</sup> See CRS In Focus IF10149, *African Growth and Opportunity Act (AGOA)*. See also CRS In Focus IF10046, *Worker Rights Provisions in Free Trade Agreements (FTAs)*, and CRS Report R46842, *Worker Rights Provisions and U.S. Trade Policy*.

<sup>118</sup> See CRS Report R46968, *U.S. Agency for Global Media: Background, Governance, and Issues for Congress*.

## Restrictions on Civil Society and Media

After the end of the Cold War, the United States and other international donors substantially increased democracy assistance funding, including for civil society groups operating in relatively closed societies. This, along with other factors and events (e.g., the role of civil society activism in “color revolutions” in certain post-Soviet countries and the later Arab Spring movements), appears to have motivated some non-democratic governments to increase restrictions on the work of civil society and media organizations.<sup>119</sup> Even in relatively freer contexts, some governments have used measures that purport to combat issues of public concern (such as terrorism, defamation, or mis/disinformation) but that also unduly restrict, or in some cases effectively criminalize, freedoms of assembly, association, or expression.<sup>120</sup> In the context of the COVID-19 pandemic, some governments used a stated need to combat health-related misinformation to justify imposing restrictions on civil society, the media, and the internet.<sup>121</sup>

Restrictions have taken a variety of forms, including restrictive legal or regulatory tools (e.g., stringent and onerous registration requirements for nongovernmental organizations) and the selective or arbitrary enforcement of such tools. Notably, some governments have imposed restrictions on the ability of domestic civil society groups to receive funding, including from foreign sources, thereby making it more difficult in some cases for the United States and other international democracy assistance funders to support democracy and human rights advocates.<sup>122</sup>

## Democratic Backsliding

Breakdowns of democracy may occur in a variety of ways, including sudden shock events such as coups as well as incremental erosions in democratic institutions and norms. Some research indicates that the proportion of such breakdowns arising from the latter phenomenon—which some analysts refer to as “democratic backsliding” or “autocratization”—has increased since the end of the Cold War.<sup>123</sup> In some cases, political leaders who have taken power through democratic means have subsequently worked to gradually erode checks on their power, such as by undermining the independence of the judiciary, civil society, and the media. At times, leaders later have worked to directly undermine the integrity or fairness of elections.<sup>124</sup> Analysts have pointed to various contemporary cases of democratic backsliding that have been apparent top-down

<sup>119</sup> See, for example, Saskia Brechenmacher and Thomas Carothers, “Defending Civic Space: Is the International Community Stuck?” Carnegie Endowment for International Peace, October 22, 2019.

<sup>120</sup> See also CRS In Focus IF12137, *Global Trends in Democracy and Authoritarianism: Challenges to Press Freedom*.

<sup>121</sup> For example, in Uganda, according to Amnesty International, “the Uganda Communications Commission issued a statement [in March 2020] saying that anyone spreading false information would be subject to arrest and prosecution” under existing laws. This legal framework was “used during the COVID-19 pandemic to criminalize freedom of expression and to penalize journalists and writers, such as Kakwenza Rukirabashaija, an author known for a book criticizing President Museveni and his family who was arrested in April 2020 on trumped-up charges of defamation and cyber related crimes.” See Amnesty International, *Silenced and Misinformed: Freedom of Expression in Danger During COVID-19*, October 2021. See also United Nations Office of the High Commissioner for Human Rights, “COVID-19 pandemic exposes repression of free expression and right to information worldwide, UN expert says,” July 10, 2020; V-Dem, “Pandemic Backsliding: A Year of Violations and Advances in Response to COVID-19,” policy brief, July 2021.

<sup>122</sup> Nicolas Bouchet, Ken Godfrey, and Richard Youngs, “Rising Hostility to Democracy Support: Can it Be Countered?” Carnegie Endowment for International Peace, September 1, 2022.

<sup>123</sup> Nancy Bermeo, “On Democratic Backsliding,” *Journal of Democracy*, vol. 27, no. 1 (January 2016), pp. 5-16; Erica Frantz, *Authoritarianism: What Everyone Needs to Know* (New York: Oxford University Press, 2018); Erica Frantz, “Contemporary Challenges to Global Democracy,” *Brown Journal of World Affairs*, vol. 26, no. 2 (May 2021); V-Dem, *Democracy Report 2021: Autocratization Turns Viral*, March 2021.

<sup>124</sup> *Ibid.*

processes driven by elected political leaders.<sup>125</sup> Although such processes have occurred in a variety of contexts, would-be authoritarian actors may seek to leverage or exacerbate potentially conducive structural factors present in some countries, such as high levels of political polarization and public dissatisfaction with government performance.<sup>126</sup> Newer democracies with lower levels of state capacity or where the rule of law is not well-established may be particularly susceptible.<sup>127</sup>

As a matter of foreign policy, some observers have noted that the United States has tended to respond more swiftly and forcefully to sudden events such as coups than to gradual erosions in democracy or respect for human rights.<sup>128</sup> The latter are more difficult to discern in real time, and crafting effective policy responses to them may be more challenging.<sup>129</sup>

## Technological Developments

Emerging technologies have the potential to affect democracy and human rights in both positive and negative ways. New technologies may improve citizens' access to information or ability to organize, for instance. However, early optimism over the democratizing power of the internet and social media has been tempered over time. Some authoritarian governments have shown an ability to mitigate politically threatening aspects of new technologies, in some cases leveraging them to further social and political control. Governments increasingly possess an array of tools—including artificial intelligence (AI)-enhanced surveillance, digital spyware, online censorship, website blocking, paid commentators, automated bots, and targeted internet shutdowns or slowdowns—to monitor their citizens and shape their information environments. According to an October 2022 U.S. Intelligence Community (IC) assessment, “digital repression”—defined as “the use of digital information and communication technologies to surveil, manipulate, or coerce individuals or groups to control public debate and prevent challenges to leaders’ hold on power”—now constitutes a threat to freedom globally, as “both autocrats and personalist leaders in backsliding democracies are increasingly using such practices to try to exercise control over

<sup>125</sup> Thomas Carothers and Benjamin Press, “Understanding and Responding to Global Democratic Backsliding,” Carnegie Endowment for International Peace, October 20, 2022; Thomas Carothers and Brendan Hartnett, “Misunderstanding Democratic Backsliding,” *Journal of Democracy*, vol. 35, no. 3 (July 2024), pp. 24-37; Larry Bartels, “The Populist Phantom,” *Foreign Affairs*, November/December 2024.

<sup>126</sup> See, for example, Milan W. Svolik, “Polarization Versus Democracy,” *Journal of Democracy*, vol. 30, no. 3 (July 2019), pp. 20-32.

<sup>127</sup> Stephan Haggard and Robert Kaufman, “The Anatomy of Democratic Backsliding,” *Journal of Democracy*, vol. 32, no. 4 (October 2021), pp. 27-41; Roberto Stefan Foa, “Why Strongmen Win in Weak States,” *Journal of Democracy*, vol. 32, no. 1 (January 2021), pp. 52-65; Richard Wike and Janell Fetterolf, “Global Public Opinion in an Era of Democratic Anxiety,” Pew Research Center, December 7, 2021.

<sup>128</sup> Thomas Carothers and Benjamin Press, “Understanding and Responding to Global Democratic Backsliding,” Carnegie Endowment for International Peace, October 20, 2022. According to the authors, “it is striking that in multiple cases of leader-driven democratic backsliding, Western democracies were slow to realize what was happening and to take steps to oppose it firmly. For example, the U.S. government was still lauding Erdoğan’s Turkey as a beacon of democracy in a Muslim-majority country well after the signs of serious democratic deterioration were apparent. Only twelve years after Orbán began dismantling Hungarian democracy has the European Union started to take potentially serious measures to oppose his autocratic project. And since Tunisian President Kais Saied carried out a presidential self-coup in July 2021, U.S. policymakers have been slow to come to terms with the full extent of his antidemocratic intentions.”

<sup>129</sup> Some analysts have called on pro-democracy governments to develop methodology to better identify gradual forms of democratic backsliding and to respond as early in the process as possible (e.g., through diplomatic and economic disincentives and/or efforts to strengthen countervailing institutions such as independent judiciaries, the media, and civil society). See *ibid.*; Nic Cheeseman and Marie-Eve Desrosiers, “How Not To Engage with Authoritarian States,” Westminster Foundation for Democracy, February 2023.

domestic content creators and their audiences as well as dissident expatriates.”<sup>130</sup> Some governments and citizens have also criticized social media platforms for the role they may play in social and political polarization, the propagation of disinformation and hate speech, and offline human rights abuses in democracies and nondemocracies alike.

Some research indicates that, owing to a variety of factors, there has been a general shift in this century among authoritarian governments away from mass political violence toward more selective and subtle forms of repression and information manipulation.<sup>131</sup> Technological tools may reduce some of the pitfalls that modern authoritarian governments face from more traditional and visible forms of political repression, such as risks of public backlash, high resource costs, and “principal-agent” dilemmas associated with empowering large numbers of individuals to implement repressive policies.<sup>132</sup> Some research indicates that the use of modern technology by authoritarian regimes has increased their durability.<sup>133</sup> The PRC’s model of technology-enhanced authoritarianism, in particular, increasingly appears to have implications for democracy and human rights in other countries around the globe.<sup>134</sup> Some research indicates, for instance, that PRC firms are driving the proliferation of AI surveillance technology around the world to a greater degree than companies from any other country, although firms in democracies are also contributing to the spread of technology that can be misused for purposes of repression.<sup>135</sup> Some U.S. policymakers have sought ways to respond to democracy- and human rights-related technology challenges, such as by supporting the development and proliferation of technologies to promote internet freedom (e.g., tools to circumvent government censorship) and strengthening export controls.

## International Influence of Authoritarian Actors

The increased relative power and international influence of certain authoritarian countries appears to be contributing to a less hospitable global environment for democracy and human rights.<sup>136</sup>

<sup>130</sup> The IC assesses that a key factor spurring government leaders to exercise digital repression has been “fears that open public debate of political or social topics could endanger their hold on power,” with the Arab Spring protests and uprisings of 2010-2011 representing a potential global turning point “when authoritarian governments came to recognize that their publics’ digital connectivity posed an existential threat” to their regime security. According to the IC, “the use of digital tools and methods to monitor and limit dissent probably will become even more pervasive, targeted, and complex during the next few years,” and “this trend ... probably will outpace efforts to restore digital freedoms.” See U.S. National Intelligence Council (NIC), “Digital Repression Growing Globally, Threatening Freedoms,” October 31, 2022.

<sup>131</sup> Sergei Guriev and Daniel Treisman, *Spin Dictators: The Changing Face of Tyranny in the 21<sup>st</sup> Century* (Princeton, NJ: Princeton University Press, 2022).

<sup>132</sup> Steven Feldstein, *The Rise of Digital Repression: How Technology is Reshaping Power, Politics, and Resistance* (New York: Oxford University Press, 2021).

<sup>133</sup> Andrea Kendall-Taylor, Erica Frantz, and Joseph Wright, “The Digital Dictators: How Technology Strengthens Autocracy,” *Foreign Affairs*, March/April 2020.

<sup>134</sup> The PRC may serve as an aspirational example for other authoritarian governments that perceive technology as a key component of the Communist Party’s apparent success in perpetuating its political control while still maintaining economic growth. At the same time, domestic factors in other countries—including political regime type and technical and bureaucratic capacity—may play important roles as to whether governments aspire to, or are capable of, adopting practices similar to the PRC’s.

<sup>135</sup> Steven Feldstein, *The Global Expansion of AI Surveillance*, Carnegie Endowment for International Peace, September 2019; Martin Beraja et al., “Exporting the Surveillance State via Trade in AI,” Brookings Institution, 2023; Dana Priest, Craig Timberg, and Souad Mekhennet, “Private Israeli spyware used to hack cellphones of journalists, activists worldwide,” *Washington Post*, July 18, 2021; Ronald J. Deibert, “The Autocrat in Your iPhone,” *Foreign Affairs*, January/February 2023.

<sup>136</sup> According to one measure, non-democracies accounted for 46% of global GDP in 2022, compared with 24% in 1992. V-Dem, *Democracy Report 2023: Defiance in the Face of Autocratization*, March 2023.



Although the precise objectives of authoritarian governments may be complex and varied, many focus on protecting against threats to domestic regime security, potentially driving them to seek to contain or roll back the spread of democracy abroad in addition to at home. Some analysts view China and Russia, in particular, as working to move the international order in a direction that is more hospitable to authoritarianism, and as cooperating with each other to some extent toward that goal. A February 2022 joint Russia-PRC statement asserted that “it is only up to the people of the country to decide whether their State is a democratic one,” argued for the international community “to respect cultural and civilizational diversity,” and pledged to increase cooperation to oppose “color revolutions.”<sup>137</sup> Some analysts contend that Russia’s aggressive actions in Eastern Europe, including its February 2022 expanded invasion of Ukraine, have been driven in part by Russian leaders’ fears for regime security associated with democratic expansion in nearby countries.<sup>138</sup>

Authoritarian governments may undermine democracy and human rights internationally in various ways, including, for example, by: (1) providing aid or other support to foreign governments, including other authoritarian governments, that undermines democracy or the prospects for democratization in recipient countries;<sup>139</sup> (2) actively or indirectly supporting the diffusion of techniques or tools that are used to violate human rights and repress political dissent; (3) subverting institutions or norms within democracies, such as through election interference; and (4) working through international bodies to undermine, distort, or erode support for, human rights-related international norms. In the past several years, analysts have devoted greater attention to the problem of authoritarian government-sponsored disinformation and influence activities in other countries, claiming that governments pursuing these activities aim to distort public discourse and undermine free expression or fair political competition.<sup>140</sup> Some authoritarian government-sponsored activities may constitute a form of “transnational repression,” a long-standing but purportedly growing problem that the nongovernmental organization Freedom House describes as “governments reach[ing] across national borders to silence opposition among diaspora and exile communities.”<sup>141</sup>

The international influence of authoritarian governments may be a complicating factor for U.S. efforts to promote democracy and human rights across a range of areas. For instance, bilateral U.S. democracy assistance programs focused on combating domestic challenges to democracy and human rights in particular countries may increasingly also need to confront negative transnational influences posed by third countries.<sup>142</sup> At the same time, some experts caution against overstating the transnational role that China and Russia may play relative to the role of local political dynamics. These experts suggest that, to date, Russia and China’s influence on

<sup>137</sup> Joint Statement of the Russian Federation and the People’s Republic of China on the International Relations Entering a New Era and the Global Sustainable Development, February 4, 2022.

<sup>138</sup> See, for example, Robert Person and Michael McFaul, “What Putin Fears Most,” *Journal of Democracy*, February 22, 2022.

<sup>139</sup> For instance, Russia’s government has provided or promised more than 1 billion dollars in loans, as well as other support, to Belarus in the wake of a political crisis involving widespread protests against electoral fraud in Belarus’s 2020 presidential election. See CRS In Focus IF10814, *Belarus: An Overview*.

<sup>140</sup> Some such tactics have been described under the umbrella concept of “sharp power.” See, for example, Christopher Walker and Jessica Ludwig, “The Meaning of Sharp Power,” *Foreign Affairs*, November 16, 2017.

<sup>141</sup> Freedom House, *Defending Democracy in Exile: Policy Responses to Transnational Repression*, June 2022.

<sup>142</sup> Thomas Carothers, “Rejuvenating Democracy Assistance,” *Journal of Democracy*, vol. 31, no. 1 (January 2020), pp. 114-123.



global democracy and human rights may have helped entrench existing authoritarian regimes more than it has caused democratic backsliding elsewhere.<sup>143</sup>

## Selected Policy Considerations

### U.S. Interests and Tensions with Other Objectives

Proponents of U.S. democracy and human rights promotion argue for these efforts not only on moral grounds, but also on the basis of long-term U.S. interests. Such proponents contend, for example, that rights-respecting democracies are more reliable U.S. partners; that democracies are considerably less likely to go to war with one another (referred to by some experts as “democratic peace theory,” although the validity of this theory has been a topic of debate); and that, conversely, threats to U.S. security—such as instability, terrorism, transnational crime, and migration crises—tend to be associated with or emanate from authoritarian governance.<sup>144</sup> Some research also finds that “personalist” authoritarian regimes—in which power is concentrated in the hands of a single leader—are prone to unpredictable and aggressive foreign policies (as some experts argue Russia’s invasion of Ukraine illustrates).<sup>145</sup> In light of these assessments, some analysts argue that issues of human rights, democracy, and countering authoritarianism have myriad implications for other U.S. objectives and should be prioritized as overarching foreign policy foci.<sup>146</sup> Other analysts question the extent to which foreign government regime types and human rights situations are vital to U.S. interests, or express doubts about the U.S. capacity to help improve overseas human rights and democracy situations, even if doing so would support U.S. interests (see “Impact and Effectiveness of U.S. Efforts”).<sup>147</sup>

Efforts to promote democracy and human rights may at times conflict with other policy goals. The odds of succeeding in achieving U.S. goals in, for example, deterring terrorism or weapons proliferation, are seen to improve with mutual trust among governments. U.S. emphasis on democracy and human rights may increase tension between the United States and nondemocratic governments, and that tension may hamper cooperation toward these or other objectives.<sup>148</sup> At

<sup>143</sup> Thomas Carothers and Benjamin Press, “Understanding and Responding to Global Democratic Backsliding,” Carnegie Endowment for International Peace, October 20, 2022. Some analysts have argued that authoritarian governments actively work to inflate foreign perceptions of their power and influence. See Péter Krekó, “How Authoritarians Inflate Their Image,” *Journal of Democracy*, vol. 32, no. 3 (July 2021), pp. 109–123.

<sup>144</sup> See, for example, Varieties of Democracy Institute, “Case for Democracy Conference: Conference Report,” January 2022. For additional information and sources, see also CRS Report R45344, *Global Trends in Democracy: Background, U.S. Policy, and Issues for Congress*.

<sup>145</sup> Erica Frantz and Andrea Kendall-Taylor, “The Evolution of Autocracy: Why Authoritarianism Is Becoming More Formidable,” *Survival*, vol. 59, no. 5 (September 2017), 57–68; Adam E. Casey and Seva Gunitsky, “The Bully in the Bubble: Putin and the Perils of Information Isolation,” *Foreign Affairs*, February 4, 2022; Erica Frantz and Joseph Wright, “It’s Not Just a Putin Problem. ‘Personalists’ Like Him are Behind Much of the World’s Bad Behavior,” *Washington Post*, March 2, 2022.

<sup>146</sup> See, for example, Task Force on US Strategy to Support Democracy and Counter Authoritarianism, *Reversing the Tide: Towards a New US Strategy to Support Democracy and Counter Authoritarianism*, Freedom House, April 2021; Michael J. Green and Derek Mitchell, *Democracy, Human Rights, and American Grand Strategy: Toward a Bipartisan Consensus*, Center for Strategic & International Studies, October 2024.

<sup>147</sup> See, for example, Stephen M. Walt, “Why is America so Bad at Promoting Democracy in Other Countries?” *Foreign Policy*, April 25, 2016; Walter Russell Mead, “The Paradox of American Democracy Promotion,” *The American Interest*, April 9, 2015.

<sup>148</sup> In the context of bilateral security partnerships, some democracy promotion advocates argue that U.S. policymakers tend to underappreciate the linkage between values and interests, overestimate the risks to U.S. security interests of (continued...)

times, U.S. efforts to promote democracy and human rights over the long-term may collide with efforts to respond to crises or other shorter-term policy imperatives. According to a 2023 analysis of U.S. relations with nearly 60 nondemocracies, “security issues are the dominant driver of U.S. relations with authoritarian countries,” while democracy and human rights shape relations with these countries “in complex and highly varied ways; they are a backburner issue in some cases, while they loom large in others.”<sup>149</sup>

**Values Promotion and “Strategic Competition.”** Given the current focus on geopolitical competition between the United States government and the governments of China and Russia, a U.S. rhetorical and policy emphasis on democracy and human rights has the potential to support the pursuit of some U.S. objectives, while potentially complicating others. As contrasted with the repressive political systems of China and Russia, shared democratic values can be a powerful and deep-rooted source of cohesion between the United States and its democratic allies. Preserving an international order that is conducive to values of democracy and human rights is the *raison d'être* for such competition to begin with, according to some analysts: “Chinese and Russian leaders are challenging the liberal international order in part because they view the principles of that order as an existential threat to their regimes and believe they would be safer in a more illiberal world. As a result, both Beijing and Moscow are working to roll back the global influence of democratic norms and weaken the democratic countries opposing their revisionist designs.”<sup>150</sup> Some have argued that U.S. support for democratic institutions in third countries can help build resilience against efforts by China and other authoritarian competitor states “to co-opt elites in [these] countries and advance their malign agendas.”<sup>151</sup> On the other hand, some analysts question the importance of competing ideologies (i.e., between democracy and authoritarianism) in the current geopolitical competition and argue that a U.S. emphasis on values and ideology increases risks, such as of intensifying rivalry with authoritarian governments and narrowing the scope for cooperation with these governments when it is in the U.S. interest.<sup>152</sup>

Some third countries that U.S. policymakers may view as strategically important to the United States have authoritarian governments (e.g., Vietnam) or may be experiencing human rights abuses and democratic backsliding (e.g., India).<sup>153</sup> The governments of such countries may be less inclined to maintain or deepen their partnerships with the United States if the U.S. government forcefully presses them on democracy and human rights.<sup>154</sup> In some instances, U.S. policymakers may face somewhat paradoxical trade-offs. On the one hand, some forms of U.S. engagement with strategically important countries could lend legitimacy to problematic governments or their

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raising democracy and human rights issues, and underestimate the gains that can be achieved by doing so. See Thomas Carothers and Benjamin Press, “When US Security and Democracy Interests Clash,” *Just Security*, November 18, 2021.

<sup>149</sup> Thomas Carothers and Benjamin Feldman, “Examining U.S. Relations with Authoritarian Countries,” Carnegie Endowment for International Peace, December 23, 2023.

<sup>150</sup> Hal Brands and Charles Edel, “A Grand Strategy of Democratic Solidarity,” *The Washington Quarterly*, vol. 44, no. 1 (March 2021), pp. 29-47.

<sup>151</sup> Dan Negrea and Patrick Quirk, “An ‘America First’ Democracy Support Agenda for the Next President,” *The Jerusalem Strategic Tribune*, July 2024.

<sup>152</sup> See, for example, Elbridge Colby and Robert D. Kaplan, “The Ideology Delusion,” *Foreign Affairs*, September 4, 2020; Thomas Pepinsky and Jessica Chen Weiss, “The Clash of Systems?” *Foreign Affairs*, June 11, 2021; Robert Manning and Mathew Burrows, “The Problem with Biden’s Democracy Agenda,” *War on the Rocks*, July 27, 2021.

<sup>153</sup> See CRS In Focus IF10209, *U.S.-Vietnam Relations*; CRS In Focus IF12198, *India: Human Rights Assessments*.

<sup>154</sup> For examples of this critique, see Stephen M. Walt, “Biden’s State Department Needs a Reset,” *Foreign Policy*, April 1, 2023; Walter Russell Mead, “The Cost of Biden’s ‘Democracy’ Fixation,” *The Wall Street Journal*, April 3, 2023.

repressive practices.<sup>155</sup> U.S. neglect of democracy and human rights issues in these relationships could also undercut long-term U.S. interests by failing to push back against developments that can destabilize these countries over time and erode their capacity to be effective partners of the United States.<sup>156</sup> On the other hand, a deterioration in relations or a lessening of U.S. engagement with these governments could, in some cases, encourage their greater engagement with China or other authoritarian governments, with its own risks to U.S. interests, including with regard to democracy and human rights.<sup>157</sup> Sometimes, different forms of U.S. engagement with the same country may have conflicting effects (e.g., security or other assistance to the government on the one hand, and democracy assistance to civil society groups on the other; see the textbox below).<sup>158</sup>

Russia's expanded invasion of Ukraine in 2022, and some of the resulting U.S. foreign policy considerations, illustrate the complexities and competing priorities that can be at play. Broadly, some policymakers from the United States and other major democracies portray the defense of Ukraine in part as a defense of democracy against authoritarianism, even as democracies have, to some extent, sought improved cooperation with certain authoritarian governments to counter Russia.<sup>159</sup> Relatedly, efforts to ensure continued support for Ukraine within NATO can come into tension with efforts to push back against governance and rule of law challenges among certain NATO members (e.g., Hungary and Turkey). U.S. policy may also grapple with possible tensions between governance-related criteria for NATO accession and some policymakers' desire to extend security protections to countries such as Ukraine that have experienced or are vulnerable to Russian government aggression.<sup>160</sup>

### U.S. Security and Other Assistance to Nondemocracies

U.S. funding for democracy assistance to some countries is less than assistance the United States provides those countries for other purposes, and some of those latter types of aid may have ambiguous effects on democracy and human rights.<sup>161</sup> Some analysts posit that some assistance to government ministries or security forces—such as for purposes of combating terrorism—has the potential to strengthen the ability of authoritarian leaders to maintain

<sup>155</sup> Nic Cheeseman and Marie-Eve Desrosiers, "How Not To Engage with Authoritarian States," Westminster Foundation for Democracy, February 2023.

<sup>156</sup> Regarding India, for example, one analyst questioned whether democratic backsliding could "get to a point where you have communal violence, significant violence and unrest, significant crackdowns on Muslim communities ... That could conceivably distract the Indian government from focusing on the strategic and foreign policy issues that allow it to work with the [United States]," including to counter China. See comments by Michael Kugelman in Rachel Oswald, "US Welcome of India's Modi is Darkened by Rights Record," *CQ*, June 15, 2023.

<sup>157</sup> Some analysts contend that the leaders of certain authoritarian governments may seek to leverage U.S. fears of losing ground to China and Russia for their own purposes. See Jon Hoffman, "The Middle East and the Manipulation of Great Power Competition," *The National Interest*, May 9, 2022.

<sup>158</sup> Nic Cheeseman and Marie-Eve Desrosiers, "How Not To Engage with Authoritarian States," Westminster Foundation for Democracy, February 2023.

<sup>159</sup> See, for example, Lucan Ahmad Way, "The Rebirth of the Liberal World Order?" *Journal of Democracy*, vol. 33, no. 2 (April 2022), pp. 5-17; Richard Youngs, "Autocracy Versus Democracy After the Ukraine Invasion: Mapping a Middle Way," Carnegie Endowment for International Peace, July 20, 2022.

<sup>160</sup> Regarding Ukraine's membership aspirations, NATO allies have "reaffirmed that Ukraine's future is in NATO and that they will continue to support it on its irreversible path to full Euro-Atlantic integration, including NATO membership." Allies have decided that Ukraine "has moved beyond the need for the Membership Action Plan," and allies "will continue to support Ukraine's progress on interoperability, as well as additional democratic and security sector reforms." See NATO, "Relations with Ukraine," updated October 3, 2024, [https://www.nato.int/cps/en/natohq/topics\\_37750.htm](https://www.nato.int/cps/en/natohq/topics_37750.htm). See also CRS Report R48121, *NATO's July 2024 Washington, DC Summit: In Brief*.

<sup>161</sup> Nic Cheeseman and Marie-Eve Desrosiers, "How Not To Engage with Authoritarian States," Westminster Foundation for Democracy, February 2023.

political control.<sup>162</sup> A USAID-sponsored study published in 2018 found that the effect of U.S. democracy assistance may decline with increasing amounts of U.S. security assistance in a given country, among other factors.<sup>163</sup> More broadly, some research finds that some foreign assistance can exaggerate existing governance trends in a given country—both positive (democratization) and negative (autocratization).<sup>164</sup>

## Impact and Effectiveness of U.S. Efforts

Perceptions among experts and observers of growing challenges to democracy and human rights around the world may raise questions about the impact and effectiveness of ongoing U.S. democracy promotion efforts. In general, governance-related developments in foreign countries may be protracted, uncertain, and nonlinear processes, with constraints on the ability of the United States to influence them. Some analysts question the capacity of the United States to address deep-rooted challenges in other countries whose societal, historical, and cultural contexts differ markedly from those of the United States.<sup>165</sup> Skeptics of democracy promotion note that the leaders of authoritarian governments have powerful incentives to oppose these efforts in their countries.<sup>166</sup> Other analysts contend that the United States in some cases can effectively marshal its influence to meaningfully support democracy and push back against human rights violations where they are occurring.<sup>167</sup> Some experts point to instances in which they argue that U.S. diplomatic messaging, sanctions, or other tools have made a positive difference.<sup>168</sup> In other cases, the U.S. government's use of these tools may allow U.S. policymakers to be seen by observers as standing with democracy and human rights, but with unclear impacts.

Evaluating the impact of U.S. democracy and human rights efforts is challenging given that developments are often slow-moving and nonlinear, confounding variables are many and complex, and questions over how to measure progress remain. Additionally, some foreign leaders may find it politically unpalatable to be seen as acquiescing to U.S. pressure on issues of democracy and human rights, so the effects of diplomacy in this area may be difficult to discern. U.S. agencies may attempt to gauge the effectiveness of particular tools and interventions. For instance, a USAID-sponsored evaluation of USAID democracy assistance provided between 2001 and 2014 found a modest positive relationship between such assistance and a given recipient

<sup>162</sup> Ibid.

<sup>163</sup> Finkel et al., “Effects of U.S. Foreign Assistance on Democracy Building: Report on Phase III Activities,” August 2018.

<sup>164</sup> Independent Commission for Aid Impact, *Review of the UK's Approach to Democracy and Human Rights: Literature Review*, January 2023. Some U.S. efforts, such as through the Millennium Challenge Corporation (MCC), seek to condition foreign assistance in part based on democracy and human rights-related performance indicators. For more information, see CRS Report RL32427, *Millennium Challenge Corporation: Overview and Issues*.

<sup>165</sup> For example, see Walter Russell Mead, “The Paradox of American Democracy Promotion,” *The American Interest*, April 9, 2015.

<sup>166</sup> See, for example, Richard Sokolsky and Aaron David Miller, “U.S. Democracy Promotion: Aim Lower,” Carnegie Endowment for International Peace, June 2, 2016.

<sup>167</sup> Some analysts argue that the United States should lower its aims and seek a middle path, such as by strategically pursuing opportunities to support improved governance overseas, even if doing so may bolster some authoritarian governments. See Stephen D. Krasner, “Learning to Live With Despots: The Limits of Democracy Promotion,” *Foreign Affairs*, March/April 2020.

<sup>168</sup> For instance, one analyst has argued that U.S. diplomacy “helped support a mostly peaceful transfer of power” in Brazil in 2022 by making clear that “any military-backed attempt to keep then-Brazilian President Jair Bolsonaro in power after his loss in the presidential election would have serious consequences for the U.S.-Brazilian relationship.” See Thomas Carothers, “How Not to Overcorrect,” in “Should America Still Promote Democracy?” *Foreign Affairs*, April 13, 2023.

country's democracy rating on a prominent democracy index.<sup>169</sup> According to the study, U.S. democracy assistance can have a greater effect depending on certain factors, including when levels of U.S. security assistance are low and when the country is not already experiencing democratic backsliding, among others.<sup>170</sup>

According to one nongovernmental study published in 2014, “over the last 30 years American democracy promotion has played a clear—albeit varying—role in supporting democratization in many countries, although it cannot be seen as the primary cause in any one case.”<sup>171</sup> Factors in U.S. foreign policy that have contributed to success include “long-term commitment, links between rhetoric and action, consistency with other policies, and creative adaptation of tools.”<sup>172</sup> In general, U.S. democracy and human rights efforts may have greater impact when they are integrated as part of overall foreign policy strategies in specific contexts.<sup>173</sup> The executive branch's ability to develop and implement effective, context-sensitive strategies may be constrained by a variety of factors, however, including resource limitations, inadequate coordination across government agencies, and competing or shifting priorities.

## Criticisms and Questions About U.S. Credibility

**Sovereignty and “Interference.”** Some critics question the appropriateness of U.S. democracy and human rights promotion, such as by asserting that it imposes American or Western values on other societies.<sup>174</sup> Some leaders of foreign governments, particularly authoritarian governments, contend that some U.S. and other like-minded governments' efforts to promote democracy and human rights constitute “interference” in their countries' domestic affairs. Supporters of U.S. efforts generally argue that aspirations for human rights and democracy are universal, and are a legitimate international concern as reflected in documents such as the U.N. Charter, the Universal Declaration of Human Rights, and subsequent binding international human rights treaties.<sup>175</sup>

<sup>169</sup> This positive effect was lower than the effect of such aid provided between 1992 and 2000, however. See USAID, “Effects of U.S. Foreign Assistance on Democracy Building: Report on Phase III Activities,” August 2018.

<sup>170</sup> Broader (i.e., not U.S.-specific) studies and literature reviews have similarly found positive, if modest, effects of democracy assistance. See, for example, Miguel Niño-Zarazúa et al., *Effects of Swedish and International Democracy Aid*, Expert Group for Aid Studies, 2020; Rachel M. Gisselquist et al., “Does Aid Support Democracy? A Systematic Review of the Literature,” United Nations University World Institute for Development Economics Research, working paper, January 2021.

<sup>171</sup> Nicole Bibbins Sedaca and Nicolas Bouchet, *Holding Steady? US Democracy Promotion in a Changing World*, Chatham House, February 2014.

<sup>172</sup> Ibid.

<sup>173</sup> Some research has found that democracy assistance programs, for example, are more effective when their goals align with broader U.S. policy and are supported by tools such as sanctions or aid conditionality. See Sarah Sunn Bush, “Three Lessons for Democracy Assistance Effectiveness,” in *Does Democracy Matter? The United States and Global Democracy Support*, pp. 51-64.

<sup>174</sup> For example, see Oke Epia, “Imposing Western Values in Africa: Public Diplomacy and the Homosexuality Debate,” University of Southern California Center on Public Diplomacy blog, February 4, 2014.

<sup>175</sup> According to a 1974 State Department policy paper summary, “the unequivocal view of the Office of the Legal Adviser is that the principle of non-interference is not in itself a legal bar to official US cognizance of human rights problems in a foreign country. The US Government formally and publicly acknowledged that human rights violations are matters of international concern when it ratified the U.N. Charter in 1945 and approved the Universal Declaration of Human Rights in 1948. According to the Office of the Legal Adviser of the Department, ‘there is now ample legal justification for diplomatic representations to a state concerning its treatment of its own nationals where such treatment violates minimum standards of international law.’” U.S. Department of State Office of the Historian, “Summary of Paper on Policies on Human Rights and Authoritarian Regimes,” Foreign Relations of the United States, 1969-1976, Volume E-3, October 1974.



**Inconsistency.** Various observers have described the United States as pressing on democracy and human rights in its policies toward competitor states or countries in which the United States does not have major competing strategic objectives, while at times downplaying the democracy and human rights shortcomings of strategic partners.<sup>176</sup> Some argue that such inconsistency undermines the credibility of U.S. democracy and human rights efforts in the eyes of foreign governments and publics and invites charges of hypocrisy.<sup>177</sup> Governments of authoritarian competitor states sometimes work to promote notions of U.S. hypocrisy.<sup>178</sup> Nonetheless, some analysts contend that it is necessary for the United States to pursue opportunities selectively based on factors including the likelihood of positive impact and the possible effects on other U.S. interests (see “U.S. Interests and Tensions with Other Objectives”). Possible options for narrowing a possible U.S. credibility gap are more consistent promotion of democracy and human rights or, alternatively, a tempering of U.S. ambition and rhetoric.<sup>179</sup>

**The U.S. Example and U.S. Actions Abroad.** Some experts argue that democracy’s appeal around the world has historically been enhanced by United States’ serving as an attractive (if flawed) example, and that U.S. domestic challenges may undermine the appeal of democracy globally as well as the credibility of the United States as a defender of democracy and human rights. According to the nongovernmental organization Freedom House, “in recent years [the United States’] democratic institutions have suffered erosion, as reflected in rising political polarization and extremism, partisan pressure on the electoral process, mistreatment and dysfunction in the criminal justice and immigration systems, and growing disparities in wealth, economic opportunity, and political influence.”<sup>180</sup> An Organization for Security and Cooperation in Europe (OSCE) election observation mission report examining the 2024 U.S. general elections stated that the elections “demonstrated the resilience of the country’s democratic institutions, with a well-run process in a highly polarized environment, candidates campaigning freely across the country, and voters engaging actively.” At the same time, the report noted various challenges, including “disinformation campaigns, threats and political violence, concerns about foreign interference, including through cyberattacks, and continued repeated claims by [Donald] Trump of widespread electoral fraud in the 2020 elections, dismissed by state and federal courts, [which] have eroded public trust in democratic processes.”<sup>181</sup> Some democracy promotion experts contend that possible stresses on U.S. democratic norms and institutions during a second Donald Trump Administration could in turn affect the defense of democracy abroad.<sup>182</sup>

Some experts and critics of U.S. foreign policy relatedly argue that certain U.S. actions abroad have undercut U.S. credibility on democracy and human rights. Points of criticism include, for example, U.S. efforts during the Cold War to overthrow or subvert certain democratically elected

<sup>176</sup> For example, see Nicole Bibbins Sedaca and Nicolas Bouchet, “Holding Steady? US Democracy Promotion in a Changing World,” Chatham House, February 2014; Lincoln A. Mitchell, *The Democracy Promotion Paradox* (Washington, DC: The Brookings Institution, 2016).

<sup>177</sup> See, for example, Thomas Carothers and Benjamin Feldman, “Examining U.S. Relations with Authoritarian Countries,” Carnegie Endowment for International Peace, December 23, 2023.

<sup>178</sup> See, for example, *The Economist*, “China’s Message to the Global South,” July 6, 2023.

<sup>179</sup> For an example of arguments favoring the latter, see Richard Sokolsky and Aaron David Miller, “U.S. Democracy Promotion: Aim Lower,” Carnegie Endowment for International Peace, June 2, 2016.

<sup>180</sup> Freedom House, “Freedom in the World 2024: United States,” accessed at <https://freedomhouse.org/country/united-states/freedom-world/2024>.

<sup>181</sup> OSCE International Election Observation Mission, “United States of America – General Elections: Statement of Preliminary Findings and Conclusions,” November 5, 2024.

<sup>182</sup> For example, see Larry Diamond, “Democracy Without America? What Trump Means for Global Democratic Momentum,” *Foreign Affairs*, November 8, 2024; Thomas Carothers, “Prospects for US Democracy Support During the Second Trump Presidency,” European Democracy Hub, November 18, 2024.

foreign governments, as well as U.S. actions, or the effects of U.S. actions, in the context of post-9/11 counterterrorism policies, including targeted killings and renditions, abuses of prisoners and detainees, and civilian deaths associated with U.S. military interventions. The governments of some authoritarian competitor states actively promote perceptions of human rights abuses and challenges to democracy both domestically within the United States and in association with U.S. actions abroad.<sup>183</sup>

Some observers argue that the United States would be better served by focusing on its own domestic challenges rather than on democracy and human rights in other countries.<sup>184</sup> Others argue that the United States should work to shore up democracy in the United States while simultaneously confronting pressing challenges to democracy and human rights overseas.<sup>185</sup> Some maintain that democracy's intrinsic value around the world remains independent of the health of U.S. democracy in particular, and/or note that the United States has long possessed human rights and democracy shortcomings but has nonetheless sought to project values leadership abroad.<sup>186</sup> In light of challenges to democracy in the United States and other long-standing democracies, some analysts have suggested that democracy promotion efforts could work to facilitate models of mutual learning around common challenges affecting both new and established democracies alike.<sup>187</sup>

## Author Information

Michael A. Weber  
Specialist in Foreign Affairs

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<sup>183</sup> For example, see PRC State Council Information Office, "The Report on Human Rights Violations in the United States in 2023," May 2024.

<sup>184</sup> For example, see Emma Ashford, "America Can't Promote Democracy Abroad. It Can't Even Protect It at Home," *Foreign Policy*, January 7, 2021.

<sup>185</sup> For example, see Richard Fontaine et al., *Leading the Free World: Reasserting U.S. Leadership on Democracy and Human Rights*, Center for a New American Security, October 28, 2024.

<sup>186</sup> Michael J. Green and Derek Mitchell, *Democracy, Human Rights, and American Grand Strategy: Toward a Bipartisan Consensus*, Center for Strategic & International Studies, October 2024; Hal Brands and Charles Edel, "A Grand Strategy of Democratic Solidarity," *The Washington Quarterly*, vol. 44, no. 1 (March 2021), pp. 29-47.

<sup>187</sup> See Thomas Carothers and Frances Z. Brown, "The Chastened Power," *American Purpose*, March 10, 2021; Thomas Carothers, "Rejuvenating Democracy Promotion," *Journal of Democracy*, vol. 31, no. 1 (January 2020), pp. 114-123.

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