

The Future of Human Rights: Restoring America's Leadership



*By William F. Schulz
Senior Fellow, Center for American Progress*



**EVERYONE
HAS THE RIGHT TO
LIFE,
LIBERTY AND
SECURITY OF
PERSON.**

The **Better World Campaign** works to strengthen the relationship between the United States and the United Nations through outreach, communications, and advocacy. We encourage U.S. leadership to enhance the UN's ability to carry out its invaluable international work on behalf of peace, progress, freedom, and justice. In these efforts, we engage policy makers, the media, and the American public to increase awareness of and support for the United Nations. To learn more, visit www.betterworldcampaign.org.

William F. Schulz is a Senior Fellow at the Center for American Progress and served as Executive Director of Amnesty International USA from 1994–2006. He is the editor of *The Future of Human Rights: U.S. Policy for a New Era* (Philadelphia: University of Pennsylvania Press, 2008).

This paper was commissioned by the Better World Campaign, a sister organization of the United Nations Foundation, as part of a series of papers developed for the 2008 Presidential campaign and incoming administration. These papers offer strategies for enhancing international cooperation to address global challenges and advance U.S. interests. The views represented in the paper are those of the author.

*Executive Summary***The Future of Human Rights: Restoring America's Leadership**

By definition, human rights only gain meaning if they can claim a global imprimatur. They are, after all, *universal* human rights, not particular to any one country alone. They “become” rights only because a significant number of countries have recognized them as such. This means that any nation that would understand itself to be a nation that respects and promotes human rights must ipso facto be a nation that recognizes the authority of the international community when it comes to human rights or else it faces a contradiction.

The United States has been living in contradiction for more than fifty years; the last seven have merely made that contradiction starker. On the one hand, the U.S. has with some good reason prided itself on being a champion of human rights around the world; on the other, it has regularly balked at the authority of the international community upon which those rights are based, especially when it comes to its own practices.

Moreover, no nation, no matter how powerful, can successfully pursue improvements in human rights around the world independent of that international community. If it tries, for example, to impose unilateral sanctions upon a country to protest human rights abuses there, those sanctions will inevitably fail if they lack the support and cooperation of others.

What has been especially damaging to human rights over the past seven years is that policies inimical to human rights have been carried out *in the name* of human rights. This includes the Iraq War of course (since human rights were at least a latter-day rationale for that conflict), but also encompasses the larger war on terror that has been pursued in the name of defending freedom and the rule of law. The result has been an unfortunate identification of human rights with America's worldly ambitions—an identification that has only exacerbated the customary suspicion in which human rights have been held by some in the developing world who see them as a guise for imposition of Western values.

All of this has contributed markedly to the decline in the U.S.'s global reputation.

A new administration, whether Republican or Democratic, has an opportunity to reverse that decline and, in the process, renew America's reputation for human rights leadership. How it addresses these issues cannot be considered independent of many of the other topics addressed in the “Don't Go It Alone” series: the Iraq War, for example, or the promotion of democracy, or the pursuit of women's health, or the fight against poverty. All of these have implications for human rights policy.

There are several distinct steps that a new President can take. Foremost among them will be to conform the U.S.'s own practices to international human rights norms. Only when no gap remains between domestic practices and international standards can the U.S. begin to reclaim the mantle of human rights leadership and disarm the arguments of human rights violators around the world who have cited the U.S. as a model for their own repressive policies. Therefore, the next Administration should close Guantanamo Bay and either release its occupants or transfer them to the American military or criminal justice system for prosecution. It should also renounce the use of torture unequivocally; discard the practice of extraordinary rendition; commit to close and never re-open so-called secret “black site” prisons; and restore habeas corpus rights to all detainees.

In addition to changing these detention policies, the U.S. must find ways to signal its intention to respect international regimens and institutions. The next administration can do this, for example, by taking the following steps:

- **Ratifying one or more significant human rights treaties**, including the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women;
- **Suspending the penalties leveraged against those countries that have refused to immunize U.S. troops from possible prosecution by the International Criminal Court (ICC);**
- **Sending observers to the 2009 Review Conference of the Rome Statutes of the ICC** in order to kick-start the process of considering eventual U.S. “re-signing” and ratifying of the Statutes;
- **Considering standing for election to the UN Human Rights Council**, despite its very real flaws;
- **Supporting appropriate candidates for membership in the Council** and, whether as a member or non-member, encouraging the Council to engage in productive work rather than political posturing;
- **Providing additional voluntary financial support to the office of the UN High Commissioner for Human Rights** to allow for increased human rights monitoring, capacity-building, and advising of country missions;
- **Demonstrating strong support for the doctrine of the “Responsibility to Protect,”** including establishing clear policy on U.S. obligations in the face of genocide and ethnic cleansing;
- **Welcoming one or more UN Special Rapporteurs who wish to investigate conditions in the U.S.,** thus modeling openness to others;
- **Issuing its own annual report on U.S. human rights standards** to complement the State Department’s excellent annual report on other countries’ records;
- **Supporting an international treaty on terrorism that both codifies countries’ responsibilities to combat terrorism and describes appropriate mechanisms for fulfilling them;** and
- **Initiating an international process for declaring “best practices” when it comes to the use of sanctions of various kinds.**

“No nation, no matter how powerful, can successfully pursue improvements in human rights around the world independent of the international community.”



History of Human Rights in the U.S.

The U.S. traces its roots back to the Pilgrims' dramatic quest for freedom. It incorporated into its Constitution a Bill of Rights that would become a template for other peoples' expressions of liberty—from the French revolution through the founding of East Timor in 2002. As a result, many Americans take an expansive view of what claims they may make under the rubric of "rights." A spokesman for the American Legion, for example, upon being asked to explain the symbolism of the American flag, was reflecting the views of many of his compatriots when he replied, "It stands for the fact that this is a country where we have the right to do what we want."¹ Similarly, when the State of South Carolina banned video poker some years ago, one poker enthusiast complained to the *New York Times*, "It's like the state telling me I have no rights. It's pretty close to being Communist."²

A moment's reflection of course reveals the error of such latitudinous interpretations. Our laws set all sorts of boundaries to behavior, and even well-established rights have their limits as illustrated most famously in the prohibition on shouting a false alarm about fire in a crowded theater. How, then, do we know what rights are truly rights?

For the first one hundred years of the American republic, Americans understood their rights solely to be those delineated in the U.S. Constitution. But in 1882 when the U.S. ratified the first Geneva Convention, it signaled its recognition that rights carried a trans-national dimension. Since then, and especially since the Universal Declaration of Human Rights, adopted in 1948 with American support, established the universal nature of human rights, the U.S. has been party to a whole series of treaties, covenants, and conventions affirming that human rights are by definition those rights that have garnered an international imprimatur. In the absence of such international recognition, rights claims—to play video poker, for example—carry far less weight and gravitas than they otherwise would.

This means that any nation that would understand itself to be a nation that respects and promotes inalienable human rights must ipso facto recognize the authority of the international community when it comes to human rights. There will inevitably be instances in which national and international laws will contradict one another. U.S. law, to take one prominent example, permits use of the death penalty while most applicable international law abjures it. But such contradictions do not mean that the U.S. has not historically recognized that humanitarian and human rights law gains its strength and legitimacy in large measure from its international nature. (The laws of war no less than the rules of the World Trade Organization require multilateral agreement.) Nor does it preclude evolution of U.S. statutes in the direction of closer conformity to international law, as witness the citation of international law and practice by the Supreme Court in its 2002 ruling that the execution of juvenile offenders was unconstitutional.³

“Any nation that would understand itself to be a nation that respects and promotes inalienable human rights must ipso facto recognize the authority of the international community when it comes to human rights.”

“We would have had no Universal Declaration of Human Rights had it not been for Eleanor and Franklin Roosevelt.”



Global Actions and Consequences

What has been far more problematic over the last few years than random disparities between domestic and international interpretations of human rights law has been a fundamental disparagement of the authority of the international community itself. Such depreciation started early: in 2000 Condoleezza Rice, then foreign policy advisor to candidate George W. Bush, wrote in *Foreign Affairs* magazine, “Foreign policy in a Republican administration...will proceed from the firm ground of the national interest, not from the interests of an *illusory* international community [emphasis added].” Over the past seven years the U.S. has repeatedly demonstrated its contempt for that allegedly chimerical community by doing such things as “unsigning” the Rome statute of the International Criminal Court (ICC); declaring the Geneva Conventions inapplicable to prisoners at Guantanamo Bay and other so-called “unlawful combatants;” ignoring UN findings and resolutions in the run-up to the Iraq War; or refusing to stand for election to the UN Human Rights Council.

The consequences have been devastating for the reputations both of the U.S., which has seen its favorability ratings drop precipitously around the world,⁵ and, paradoxically, of human rights themselves.

The U.S. has long prided itself on being a champion of human rights and with much good reason. We would have had no Universal Declaration of Human Rights had it not been for Eleanor and Franklin Roosevelt; the U.S. pushed hard for the civil rights provisions of the Helsinki Accords, thereby contributing to the eventual liberation of Eastern Europe; the U.S. judicial system with its wide array of due process protections has been a model emulated by newly emerging countries around the world; U.S. diplomats have frequently intervened on behalf of political dissidents; the Kosovo War was spearheaded by an American commitment to prevent ethnic cleansing; and the annual State Department human rights reports have long been an invaluable resource to the cause of human rights.

The current U.S. administration’s commitment to battling HIV/AIDS in Africa and its outspokenness on Darfur are consistent with this tradition. But for the most powerful nation in the world, long looked to as a model of human rights virtue, to undermine the international system itself—the very framework upon which human rights are predicated—is to cause immeasurable damage to the struggle for liberty.

“The consequences have been devastating for the reputations both of the U.S. and, paradoxically, of human rights themselves.”

A Reputation in Peril

Backtracking on our commitments to international treaties and norms in the name of defending human rights is not just ironic. One of the consequences of the Iraq War with its latter-day human rights rationale and of the “War on Terror” with its oft-stated goals of defending freedom and the rule of law is that human rights themselves have come to be identified with America’s worldwide ambitions. For human rights to be conflated with, fairly or not, in the words of the critic David Rieff, “the official ideology of American empire,”⁶ only exacerbates the customary suspicion in which human rights have been held by some in the developing world who see them as a guise for the imposition of Western values.

“No country can claim protection for its own citizens overseas if it fails to respect international norms at home.”

The truth is that if human rights and the U.S.’s pursuit of them are discredited, American interests are put in peril. Reserving the option to torture prisoners, denying them habeas corpus, sending them into “black site” prisons—all this makes it harder to defend America against the charge of hypocrisy; the claim that we are carrying out a war in defense of the rule of law by abandoning that very rule. Such a charge hands fodder for recruitment to our adversaries and makes the world less safe for Americans.

No country can claim protection for its own citizens overseas (be they soldiers taken as prisoners, nationals charged with crimes, or corporations faced with extortion) if it fails to respect international norms at home. Global relations are based in good part on reciprocity.

Nor can the U.S. offer effective objection to the human rights violations of others if it is guilty of those same violations itself or has shunned cooperation with international allies. No nation, no matter how powerful, can successfully pursue improvements in human rights around the world independent of the international community. Unilateral sanctions imposed upon a country to protest human rights abuses will inevitably fail if they lack the support of others.

Restoring America’s Leadership: Recommendations for Action

The next U.S. administration of whichever party has a ready opportunity to restore America’s position as a human rights leader. How it does that cannot be considered independent of many of the other topics addressed in the “Don’t Go It Alone” series: the Iraq War, for example, or the promotion of democracy, or the pursuit of women’s health, or the fight against poverty. All of these have implications for human rights policy.

Nonetheless, there are several distinct steps that a new President can take. Foremost among them will be to conform the U.S.’s own practices to international human rights norms. Only when no gap remains between domestic practices and international standards can the U.S. begin to reclaim the mantle of human rights leadership and disarm the arguments of those human rights violators around the world (Robert Mugabe, for example) who have cited the U.S. as a model for their own repressive policies.

Therefore, the next Administration upon entering office should:

- **Close Guantanamo Bay and either release its occupants or transfer them to the American military or criminal justice system for prosecution.** It should also renounce the use of torture unequivocally; discard the practice of extraordinary rendition; commit to close and never re-open so-called secret “black site” prisons; and restore habeas corpus rights to all detainees.

In addition to changing these detention policies, the U.S. must find ways to signal its intention to respect international regimens and institutions. The next administration can do this, for example, by taking the following steps:

- **Ratifying one or more significant human rights treaties**, the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women being two obvious possibilities, and/or revisiting some of the other treaties about which it has taken major reservations;
- **Suspending the penalties leveraged against those countries that have refused to immunize U.S. troops from possible prosecution by the International Criminal Court (ICC);**
- **Sending observers to the 2009 Review Conference of the Rome Statutes of the ICC** in order to kick-start the process of considering eventual U.S. “re-signing” and ratifying of the Statutes;
- **Cooperating with the ICC by providing evidence, where it is available, germane to prosecutions** and assisting in the apprehension of those charged with crimes;⁷
- **Considering standing for election to the UN Human Rights Council**, despite its very real flaws;
- **Supporting appropriate candidates for membership in the Council** and, whether as a member or non-member, encouraging the Council to engage in productive work rather than political posturing;
- **Providing additional voluntary financial support to the office of the UN High Commissioner for Human Rights** to allow for increased human rights monitoring, capacity-building, and advising of country missions;
- **Demonstrating strong support for the doctrine of the “Responsibility to Protect,”** including establishing clear policy on U.S. obligations in the face of genocide and ethnic cleansing;
- **Welcoming one or more UN Special Rapporteurs who wish to investigate conditions in the U.S.,** thus modeling openness to others;
- **Issuing its own annual report on U.S. human rights standards** to complement the State Department’s excellent annual report on other countries’ records;
- **Supporting an international treaty on terrorism that both codifies countries’ responsibilities to combat terrorism and describes appropriate mechanisms for fulfilling them;** and
- **Initiating an international process for declaring “best practices” when it comes to the use of sanctions of various kinds.**

While most of these recommendations involve the United Nations and related agencies, other international institutions and instruments, like the World Bank, the World Trade Organization (WTO), and multilateral trade agreements, also play important roles in the promotion of human rights. U.S. policy in these areas should be formulated through a human rights lens as well, including:

- The U.S. should use its vote and its influence at the World Bank to insure that a commitment to workers' rights is included in contracts under the auspices of the Bank or its affiliate, the International Finance Corporation.
- The next U.S. administration should make integration of core workers' rights into trade agreements a top priority, refusing, for example, to agree to new WTO trade concessions absent incorporation of workers' rights into WTO rules.
- Similarly, all future U.S. free trade agreements should require that the labor laws of partner countries conform to the core labor rights in the International Labor Organization Declaration.⁸

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

In the final analysis, human rights emerge out of the common misery of humankind regardless of gender or region or ethnicity. Human rights give voice to the deepest yearnings of the human spirit—yearnings for things like reconciliation of adversaries, a better life for our children, and a fair distribution of the earth's abundance. As such, they cannot be interpreted unilaterally or enforced by any one power alone. They require collaboration, mutuality, and dialogue. It was said that the poet Samuel Taylor Coleridge, a generous-hearted man, would sit at one end of a long dinner table and quote his erstwhile friend, William Wordsworth, to those around him while Wordsworth, a man of enormous self-regard, would sit at the other end of the table and quote William Wordsworth to those surrounding *him*. When it comes to human rights, such self-absorption just won't do. As President Harry S. Truman wrote in 1945, the year he helped found the United Nations, "We all have to recognize—no matter how great our strength—that we must deny ourselves the license to do always as we please."

No enterprise cries out more eloquently for a global fealty than the struggle for human rights. The next U.S. President will have the enormous privilege of giving renewed voice to that call.

About the Author

Dr. William F. Schulz served as the Executive Director of Amnesty International USA from 1994–2006, where he led the American section of the world's oldest and largest international human rights organization. He is currently a Senior Fellow at the Center for American Progress in Washington, DC, where he works in the area of religion and public policy and oversees a project designed to provide a blueprint for human rights policy for the next U.S. administration. During 2006–07 he served as a Fellow at the Carr Center for Human Rights Policy at Harvard's Kennedy School of Government and currently serves as a Presidential Fellow at Simmons College in Boston and an Adjunct Professor at the Wagner School of New York University.

During his twelve years at Amnesty, Dr. Schulz led missions to Liberia, Tunisia, Northern Ireland, and Sudan and visited other places as diverse as Cuba and Mongolia. He also traveled tens of thousands miles in the United States, spreading the human rights message from campuses to boardrooms to civic organizations.

A frequent guest on television programs such as *Good Morning America*, *The Today Show*, *Hardball*, and *Nightline*, Dr. Schulz is the author of two books on human rights, *In Our Own Best Interest: How Defending Human Rights Benefits Us All* (2001, Beacon Press) and *Tainted Legacy: 9/11 and the Ruin of Human Rights* (2003, Nation Books); the contributing editor of *The Phenomenon of Torture: Readings and Commentary* (2007, University of Pennsylvania Press) and *The Future of Human Rights: U.S. Policy for a New Era* (2008, University of Pennsylvania Press) and is regularly quoted in *The New York Times* and other national publications.

An ordained Unitarian Universalist minister, Dr. Schulz came to Amnesty after serving for fifteen years with the Unitarian Universalist Association of Congregations (UUA), the last eight (1985–93) as President of the Association. As President, he led the first visit by a U.S. Member of Congress to post-revolutionary Romania in January 1991, two weeks after the fall of Nicolae Ceausescu. That delegation was instrumental in the subsequent improvement in the rights of religious and ethnic minorities in Romania.

Dr. Schulz has served on the boards of People for the American Way, Planned Parenthood Federation of America, and the International Association for Religious Freedom, the world's oldest international interfaith organization. He is currently Chair of the Board of the Unitarian Universalist Service Committee and is a member of the Council on Foreign Relations.

Dr. Schulz has received a wide variety of honors, including seven honorary degrees (University of Cincinnati, Grinnell College, Lewis & Clark College, Meadville/Lombard Theological School, Nova Southeastern University, Oberlin College, and Willamette University), the Public Service Citation from the University of Chicago Alumni Association, and the Distinguished Achievement Award from the Oberlin College Alumni Association. He has been included in *Vanity Fair's* 2002 Hall of Fame of World Nongovernmental Organization Leaders and was named "Humanist of the Year" by the American Humanist Association in 2002.

Dr. Schulz is a Phi Beta Kappa graduate of Oberlin College, holds a master's degree in philosophy from the University of Chicago and the Doctor of Ministry degree from Meadville/Lombard Theological School (at the University of Chicago).

References

¹Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: The Free Press, 1991), p. 8.

²"South Carolina High Court Derails Video Poker Game," *The New York Times*, October 15, 1999.

³*Roper v. Simmons* (03-633) 543 U.S. 551 (2005), 12 S. W. 3d 397, affirmed.

⁴Condoleezza Rice, "Promoting the National Interest," *Foreign Affairs*, January/February 2000, p. 62.

⁵The remarkable tumble in favorable opinion of the U.S. around the world between 2002 and 2006 is reflected in polls conducted by the U.S. State Department's Office of Research and the Pew Global Attitudes Project—from 30% in 2002 in Turkey to 12% in 2006; from 25 to 15% in Jordan; 61 to 30% in Indonesia; 61 to 37% in Germany, and even from 75 to 56% in Great Britain.

(<http://pewglobal.org/reports/display.php?ReportID=252>.)

⁶David Rieff, *At the Point of a Gun: Democratic Dreams and Armed Intervention* (New York: Simon & Schuster, 2005), p. 169.

⁷For an interesting proposal to establish an international task force of military and law enforcement personnel charged with exploring ways to effectuate the arrest of fugitives indicted by the ICC, see the Responsibility to Protect Coalition and Center for International Human Rights, Northwestern University School of Law, Conference Report, *The Responsibility to Protect and the International Criminal Court: America's New Priorities*, March 2008.

⁸For a detailed description of actions the U.S. should take to protect labor rights, see Carol Pier and Elizabeth Drake, "Prioritizing Workers' Rights in a Global Economy," in William F. Schulz, editor, *The Future of Human Rights: U.S. Policy for a New Era* (Philadelphia: University of Pennsylvania Press, 2008), pp. 156-175.

Photos from the United Nations Photo Library.



**EVERYONE
HAS THE RIGHT TO
FREEDOM OF THOUGHT,
CONSCIENCE AND RELIGION;
THIS RIGHT INCLUDES
FREEDOM TO CHANGE HIS
RELIGION OR BELIEF,
AND FREEDOM, EITHER ALONE
OR IN COMMUNITY WITH
OTHERS AND IN PUBLIC OR
PRIVATE, TO MANIFEST
HIS RELIGION OR BELIEF
IN TEACHING, PRACTICE,
WORSHIP AND OBSERVANCE.**

Better World Campaign
1800 Massachusetts Avenue, NW 4th Floor
Washington, DC 20036
Phone: (202) 462-4900 | Fax: (202) 462-2686
www.betterworldcampaign.org

This publication was designed and printed by the Better World Campaign



This piece is printed on recycled paper with soy ink.

This paper contains 50% recycled content including 25% PCW.