

The Case for American Leadership on Human Rights

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Thank you so much for that kind introduction, Deborah. And thank you for your leadership. It has been amazing to watch the Center develop over the last 10 years from a great idea to a vibrant hub of research and action on some of the most cutting edge human rights issues of our time.

And thank you President Hubbard for all you have done to advance human rights and the rule of law during your tenure as president and throughout your career.

It is truly an honor for me to have this opportunity to speak with you today. As many of you know, the Center for Human Rights and my organization, Human Rights First, have close ties. The legendary Jerry Shestak—who was instrumental in the creation of the Center and became its chair—was one of the founders and first chairmen of Human Rights First. I was incredibly fortunate to have had Jerry as a mentor when I was a young lawyer new to this field, and I'll never forget his kindness and constant encouragement.

Back in 1978, we called ourselves the Lawyers Committee for Human Rights, and though we've changed our name, that history is part of our DNA. It continues to shape our identity as an organization and the way we approach the challenges before us. Our commitment to reasoned persuasion, to fact-based analysis, to building consensus, to pragmatic idealism: all of these qualities derive from our origin as an organization of lawyers who believe that the rule of the law is the best guarantor of human rights.

Ten years ago, when the Center for Human Rights was just getting off the ground, Mike Posner—my predecessor at the helm of Human Rights First—gave the keynote address at this luncheon. He focused his remarks on the post-9/11 legal landscape and what needed to be done to fix it. Our country was in the throes of its trip to the dark side back then. Americans were just beginning to learn words like Abu Ghraib and “enhanced interrogations,” and the rest of the world was realizing—some with dismay, others with relish—that when the going got tough, the nation that had been such a leader in building the international architecture of human rights, chose expediency over principle, cruelty over human dignity.

We are still suffering the fallout from that black chapter of our history. We are an imperfect nation, certainly. We have erred abroad, and here at home our union is far from perfect. Whole communities feel that law enforcement and the justice system have failed them. And it is heartbreaking to see our country—for generations a beacon for the persecuted—turn its back on thousands of endangered children fleeing over the southern border seeking safety in its arms.

Some people argue that the United States can no longer lead on human rights and that it should stay quiet until it gets its own house in order. I'm all for getting our house in order, but this is no time to be silent. Today, I'd like to talk about the importance of American leadership in the global struggle for human rights, and the role all of us can play in fostering it.

I arrived here in Houston in the wee hours this morning direct from Munich, where I was part of a congressional delegation to the Munich Security Conference. Every year for more than half a century, world leaders have gathered there to strategize about regional and global security issues. The discussions over the last three days were dominated by two enormous challenges—Russia's aggression against Ukraine, and the brutal rampage by the terrorist group now referred to as Daesh (formerly ISIL). It was clear to me listening to foreign and defense ministers from across Europe and around the world that everyone is looking to our country for leadership in resolving these crises. These are obviously challenges to security and the international order. But they are also challenges to the most fundamental of human rights. Time and again we see that security and rights are inextricably linked—not as competing interests in a zero sum game, but as mutually reinforcing values.

This is not an argument for the use of force — that should always be a last resort. Despite what you see on Fox News and MSNBC, American leadership is not binary. There are many options between dropping bombs and doing nothing, between boots on the ground and heads in the sand. International laws, courts, diplomacy, assistance, and trade provide opportunities for America to stand with those who risk their lives fighting for freedom. But it only works if human rights are seen as a priority, every day and in every decision.

Indeed, this is the premise of the Universal Declaration of Human Rights—that respect for human rights is the foundation of freedom, justice, and peace in the world. We need not choose between human rights and other imperatives. As FDR said in his famous Four Freedoms speech: “Freedom means the supremacy of human rights everywhere.”

That was true as Hitler was devastating Europe, and it's true today. The challenges we face can seem overwhelming, even incomprehensible. Yet they didn't come out of nowhere. They're the predictable result of human rights violations left to fester. Persecution of minorities, oppression of women, restrictions on core freedoms: these are not only sources of suffering, but harbingers of wider crisis. Refugees—the very embodiment of upheaval—are a barometer of distress, and there are more today than at any time since World War II.

But just as violations of rights lead to conflict, respect for human rights is the pathway forward. That's the good news. We do not need to go searching for a roadmap. We know the way.

Yet the case for putting human rights first is not an easy one in a political climate that favors shotgun responses and immediate gratification. It's a challenge to build consensus behind the idea that respect for human rights is our best bet to foster peace and stability. While most Americans feel positively about human rights in general, human rights issues tend to be seen as a kind of special interest—the dessert to the main course of economic and security concerns.

We know that when the United States lives up to its ideals, it can be an enormous force for progress. From the Universal Declaration to the Refugee Act, from Carter's effort at Camp David to Clinton's effort in Northern Ireland, from President Reagan's support for democratic movements in Eastern Europe to President Obama's leadership on LGBT equality worldwide, the US government has often played a critical role in forging progress on human rights.

When it forfeits its leadership role, however, the damage is profound.

Human rights violations by the United States give cover to despots; in their hands, American hypocrisy becomes a cynical—but powerful—weapon. It's no coincidence that in recent years, one repressive regime after another has dubbed its violent crackdown on dissent a "war on terror" and its peaceful opponents "enemy combatants."

The cost in influence and standing abroad of our government's use of torture is profound. Donald Gregg, who served as national security advisor to George H.W. Bush when Bush was Vice President, underscored the importance of moral capital and the real-world cost of squandering it. He wrote:

In 1973, as the CIA's South Korea station chief, I brought down the head of the Korean CIA by protesting his torture of an American-educated college professor arrested for alleged subversion. The new director banned the use of torture. Given recent American history, I could not even attempt to make such a protest today.

Likewise, when the United States fails to use its influence to support human rights activists, it puts people, movements, and societies at risk. The Center for Human Rights is doing essential work providing pro bono counsel to activists around the world who are in legal peril simply for doing their jobs. But when the US government acquiesces in restrictions on funding for NGOs, or fails to publicly criticize unfair trials of activists on trumped up charges, it sends a powerful signal to embattled human rights defenders that they are alone.

In 2012 Chen Guangcheng, the blind human rights lawyer from China, made a daring escape from house arrest and sought protection at the U.S. embassy in Beijing. Asked why he chose the U.S. embassy, he answered: "The U.S. holds itself out as embodying democracy and human rights...what would it mean if they refused to take me in?"

When the United States stands up for those fighting for their rights, it can make the difference between freedom and imprisonment, between life and death.

Conversely, when the United States abdicates this role, it leaves a vacuum that is inevitably filled by tyrants and other forces of oppression.

Now when I talk about the importance of American leadership, I don't mean to imply that we've cornered the market on truth or righteousness, or that other countries should be let off the hook. We might wish that there were another country or group of countries ready and willing to step in to challenge dictators and stand up for human rights. But wishing doesn't make it so. And when the United States ducks away, the problems tend to fester and multiply.

The genocide in Rwanda is perhaps the starkest cautionary tale about American inaction. But today's crises likewise demonstrate the irreplaceability of American leadership. Consider the refugee crisis in and around Syria, where the war has forced half of all Syrians to flee their homes and several million are now in neighboring countries. This is a humanitarian crisis of staggering proportions, the worst refugee crisis since World War II.

Of course it would be welcome if Saudi Arabia and other wealthy nations in the Middle East stepped up to take the lead in helping Syrian refugees and the countries—like Jordan—struggling to accommodate them. But they haven't. And to the extent that they are helping, it's been at the prodding of the United States, which has funded much of the relief effort.

Refugee protection has been at the core of Human Rights First's mission since the early days of the organization. And there's arguably no other work we do that is so central to the American identity. When the US fulfills its historical role in welcoming the "huddled masses yearning to breathe free," it both relieves suffering and underscores our nation's animating ideals, providing an example to the world.

That's why, over the years, we've recruited and trained hundreds of lawyers who've helped thousands of refugees gain asylum here. Last year we opened an office here in Houston to help the growing numbers of refugees in need of representation. And thanks to our great friend Admiral Don Guter, we have a wonderful new home in Houston at South Texas College of Law.

Last year, a surge of Central Americans—from Honduras, El Salvador, and Guatemala—crossed the Southern border, putting the US government's commitment to refugees to the test. Thousands of people—including many unaccompanied children and mothers with young children—fled here to escape horrendous violence and persecution.

You'd think that in the United States, public officials would find a way to ensure that children aren't being sent back to places where they're in danger of being killed or enslaved. You'd think this wouldn't even be controversial. You'd think a critical mass of politicians from both parties could divorce this issue from the politicized debate over immigration and come together to protect these most vulnerable families and children.

But that's not happening. Instead, our government has sent refugees back to danger without giving them a fair hearing. It is warehousing women and young children in prison-like detention centers. It is using mandatory detention and promises of swift deportation to try to deter desperate mothers who fear for the lives of their children. It is refusing to release them on bond and declining to rely on less expensive—yet equally effective—alternatives to detention. It is not only failing to help refugees get legal representation, in some cases it is actually getting in the way of generous pro bono lawyers who are offering to help.

We have seen these problems firsthand on investigative missions to detention facilities, key border crossings, border patrol stations, and asylum offices in Texas, New Mexico, Arizona, and California. This system of detention is expensive, unnecessary, and cruel. It's a human rights

disaster, and, along with others—including the ABA, which has been a real leader in detention reform—we are pressing our government to change it.

Under President Hubbard's leadership, the ABA launched a Working Group on Unaccompanied Immigrant Minors and we have been glad to partner with it and the ABA Commission on Immigration to address issues relating to access to counsel for immigrant children and families. Together, we are urging our country to live up to its ideals.

As I mentioned earlier, it was ten years ago nearly to the day that Mike Posner spoke at your inaugural luncheon about the human rights challenges in the wake of 9-11.

Many of those challenges remain, but we have made important progress thanks in part to a group of retired generals and admirals that Human Rights First convened more than a decade ago who believe, as we do, that human rights abuses like torture and prolonged detention without charge undermine our security. Because of their unquestionable credibility, they neutralized the “soft-on-terror” charge and opened ears that were deaf to the voices of more conventional human rights activists.

In numerous op-eds and meetings with public officials and political candidates, these military leaders argued that the prison camp at Guantanamo and the use of torture are massive PR bonanzas to Al Qaeda and its ilk and obscure the difference between the United States and its enemies in the eyes of people whose support and cooperation the United States needs.

President Obama said these retired military leaders made an extraordinary impression on him. That's why they were standing with him in the Oval Office in 2009 when he signed the executive order banning torture.

That was an important moment, but we knew we had a lot more work to do to rebuild the bipartisan consensus against torture that shattered after 9/11. So along with the military leaders and a group of veteran professional interrogators, we set out to secure the public release of the Senate Intelligence report on the CIA's so-called enhanced interrogation program. When we took up that challenge, many saw it as quixotic and told us to forget it—that the report would never see the light of day. But we knew it could be a turning point; getting the facts out would be the best way to convince the American people that torture not only did not save lives, it was counterproductive.

As you all know, the declassified executive summary of the torture report was released in December. It is grim reading. The report details a program that was far more brutal and widespread than Americans were led to believe, and was an utter failure as an intelligence-gathering technique.

Now we're using the renewed focus to push for legislation that would solidify the ban on torture and leave no doubt about where the United States stands on this issue. After 9-11, government leaders used loophole-lawyering to give torture the veneer of legality. A new law would go a long way toward preventing a return to the dark side.

At the same time, we are continuing to press the government to close Guantanamo. When the first prisoners were brought to the hastily constructed prison in 2002, who would have guessed that we would see normalization of relations with communist Cuba before the detainees there were tried or released. Once touted by its architects as “the legal equivalent of outer space,” even those who were part of standing it now believe that Guantanamo should be shut down. And despite the roadblocks put up by Congress, I believe the President has the authority he needs to do so. Many in Congress say they would support closing Gitmo if the Administration would only show them a plan for doing it. Well, we’ve got a plan. It’s a blueprint called *How to Close Guantanamo*, and we first issued it in back in 2009. You can read it on our website. The real problem is not the want of a plan; it’s the lack of political will.

But that is starting to change. Last year the administration transferred 33 detainees out of Guantanamo, more than any year since 2009. Congress is threatening more restrictions, and the president will need to veto them to continue moving forward. We need to make sure he does so.

I want to talk for a moment about another human rights challenge, one of the most pressing issues of our time, yet one that many people are not even aware of: slavery. Not the transatlantic slave trade of the 18th century, but its modern form, human trafficking. Today, around the world nearly 21 million people are victims of human trafficking. They are forced to work in factories or restaurants, or as janitors or domestic servants, on farms or massive agricultural plantations. Some are held in brothels or controlled by pimps on the street.

Victims are often lured into slavery by the promise of a better life. But when they arrive at their destination, their identification papers are taken away; they are often charged fees—enormous debts they must work to pay off. The people caught up in slavery’s vicious net are often the most vulnerable in our society—the poor, the young, and the powerless. There have been extensive efforts to rescue and aid victims, raise awareness, pass laws targeting trafficking—but the problem keeps growing.

Modern day slavery is a 150 *billion* dollar global criminal enterprise. The profits rival those of the illegal drug and arms trade. To shut it down, we need to start looking at human trafficking as a profit-driven business.

Right now, the risks are low, and the rewards high. To flip that equation, we have to go after every link in the trafficking supply chain—recruiters, transporters, money launderers—everyone who enables this business to work. That means more and tougher prosecutions focused further up the food chain. It means more and tougher financial investigations. It means governments working with businesses to make sure they are not unwitting enablers of the exploiters.

Last month we convened a two-day meeting in Washington chaired by former Commandant of the Marine Corps General Chuck Krulak and former Director of the FBI Louie Freeh, in which we brought together some of the foremost experts and activists working to combat slavery around the world—including former ABA President Laurel Bellows whose leadership has been so important on this issue. We will be working together to disrupt the business of human trafficking by strengthening prosecutions, increasing resources for anti-trafficking policies, and building public-private partnerships to increase supply chain transparency.

The last challenge—or group of challenges—I want to raise is the difficult human rights climate in the Middle East. From the war in Syria to the rise of Daesh, the disintegration of Yemen and Libya, to the crackdown on dissent in Egypt, the problems in the Middle East are a source of both widespread suffering and political extremism, which in turn produces security threats to people in the region and to the United States.

The democratic uprisings of the Arab Spring offered the United States a rare opportunity to alter its policy toward the region. Historically, the U.S. had backed repressive regimes in the name of stability. But once that supposed stability proved illusory, this rationale was no longer rational.

Yet despite a few promising moves, our government hasn't altered its basic approach. As Bahrain continues its crackdown, criticism from the U.S. is muted at best. And our government is backing a regime in Egypt that is at least as repressive as Mubarak's was.

And now Bahrain and Egypt—along with Saudi Arabia and other repressive governments in the region—are U.S. allies in the fight against Daesh. It appears that human rights concerns haven't just taken a backseat; they're not even in the car.

The United States needs a new approach to the region, one that puts respect for human rights at its heart. So here at Human Rights First, we have begun bring together retired diplomats, military and business leaders, and activists from the region to formulate a new vision for US policy towards the region grounded in bolstering the democratic aspirations and human rights of its people.

By employing such an approach, the United States wouldn't sacrifice its other interests. On the contrary, it would secure them.

The naysayers argue that the United States can't, for example, push for democratic change in Saudi Arabia because of oil. That argument might sound reasonable—right up until there's a wide-scale revolt in Saudi Arabia.

The prospect of such a cataclysmic event makes the need to reform U.S. policy urgent. Promoting human rights isn't just the right thing to do, it's the smart thing to do.

On the flight from Munich last night, I read a new book called *The Twilight of Human Rights Law* written by a law professor at the University of Chicago. His argument is essentially that human rights treaties are quaint, undemocratic, and clearly don't work because governments have not stopped violating rights. So we should give up on the idea—born, he says, out of a mix of hubris and naiveté—that we can change the way governments act by pressing them to respect human rights.

Interesting. Well, no human rights activist I've ever met thinks their mission is accomplished when a government passes a law or ratifies a treaty. We all know that building respect for human rights takes creativity, perseverance, and hard work. Standard-setting is only the beginning.

And even in times like these, when the world seems awash in chaos and brutality, we know that the choice between idealism and pragmatism is a false one. Respect for human rights *is* pragmatic. That was the foundational wisdom of the Universal Declaration of Human Rights: “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.”

That is the world we are working together to build.

Thank you for listening, and thank you for everything you do to make that world a reality.

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