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THE PROMOTION OF FIRST AMENDMENT RIGHTS IN U.S. FOREIGN POLICY

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TABLE OF CONTENTS

Executive Summary.....	2
Introduction.....	4
History of First Amendment Rights.....	5
Intrinsic Value of First Amendment Rights.....	21
Current U.S. Efforts.....	32
Regional Section I: East Asia.....	52
Regional Section II: Southeast Asia.....	82
Regional Section III: North Africa.....	116
Regional Section IV: Middle East.....	155
Concluding Remarks	197
Bibliography.....	210

EXECUTIVE SUMMARY

In order to highlight the necessity of promoting First Amendment rights guaranteed in the United States Constitution as part of foreign policy committed to democratic advancement abroad, our Task Force has created the following report that examines both the intrinsic value behind these rights and offers creative, specifically tailored policy recommendations to implement the strategies we find particularly useful in addressing this issue. Successfully generating and constructing policy to promote U.S. interests from a position of universal morality and global self-interest is essential to the recognition and advancement First Amendment rights as part of American influence abroad. In the past, U.S. foreign policy has been concerned with promotion of democracy but not specifically with advocating for and increasing access to the fundamental freedoms of the First Amendment. The freedoms of religion, speech, press, petition, and assembly may not be well integrated into the political systems of nations where democracy is absent, nascent, unstable, or failing to thrive. There must be public interest and support for these freedoms as well as governmental practices that align with them; simple democratic processes and a vote are not enough to make a democracy function to its fullest potential.

Our Task Force recognizes that variances within cultural values, political or religious practices, and economic or social interests in other nations may have resulted in an environment where Constitutional rights are repressed. Indeed, tragic incidents of violence have even erupted when the Constitutional freedoms which we wish to promote conflict with regional values. In order to address this issue, we have selected four regions of the globe which would benefit from increased access to First Amendment rights. Recognizing the complexity and difficulty of promoting these rights across different countries, with respect to their specific historical,

political, cultural and economic contexts, clarifies a hierarchy of needs in addressing fundamental policy challenges in U.S. foreign relations from which we have built policy recommendations. By analyzing key countries in East Asia, Southeast Asia, North Africa and the Middle East where access to First Amendment rights could and should be improved, we seek to promote rights through a series of specific policy recommendations tailored to each area.

Finally, this report builds from the foundation of the regional recommendations to create generalized policy options that are globally applicable to the advancement of First Amendment rights. A variety of flexible modalities are explored and elaborated upon in order to present policy recommendations that are adaptable to multiple countries and regions. The promotion of Constitutional rights is therefore crucial to U.S. foreign policy and the advancement of an international community that respects fundamental rights. The inherent connection between human rights promotion through implementation of democratic principles is used as a framework of support for these recommendations, and is explored for intrinsic value. The unity between fundamental freedoms and human rights efforts creates a supportive network for implementation of modalities discussed in our policy recommendations. The fundamental value of First Amendment rights is undeniable. While the U.S. has played an extremely active role in the promotion of democracy, it has largely neglected the advancement of civil liberties and human rights. This Task Force report seeks to rectify this contradiction by highlighting the importance of including First Amendment rights in U.S. foreign policy.

INTRODUCTION

Written by Meredith Morrow-Okon, Austin Yang, and Emily Ma

The impact of First Amendment rights on democracy is the basis for the argument that the United States should effectively champion the inclusion of these rights in foreign policy decisions. Implementation by a variety of modalities is essential in maintaining protection and increasing inclusion of First Amendment rights in nascent democracies in particular. The burden of proof placed on this policy recommendation is therefore to uphold the intrinsic value of freedom of speech, press, assembly, petition, and religion in order to highlight the beneficial attributes of these principles as they pertain to strengthening human rights and democratic governments. Uniform advocacy for increased political and diplomatic engagement on the topic of First Amendment rights is the ultimate goal of this report. This will be balanced against an understanding of U.S. governmental budget constraints, recognition of possible conflicts in foreign engagement, and a realistic acknowledgement of policy options pertaining to democratic proliferation and advancement in different regions around the world. Specific policy options tailored to key regions will be presented, along with broader recommendations that could be implemented in multiple locations to enhance democratization and incorporate First Amendment values into foreign government structures.

HISTORY OF FIRST AMENDMENT RIGHTS

History and Current Interpretations

Over the past few decades, there have been an increasing number of nations around the world that have transformed their regime type from dictatorship to democracy. In this rising trend of democratization, the United States in particular has played a vital role because of its stated moral imperative to promote democracy. However, many have raised the concern that while the U.S. has contributed a significant amount of effort towards facilitating the process of regime transformation in other countries, comparatively slight attention has been paid to the promotion of First Amendment rights within the U.S. itself.

Before analyzing the challenges that the U.S. is currently facing in different regions and discussing the possible policy solutions, it is crucial to first understand how First Amendment rights have been perceived in the U.S. over the years. According to an annual survey conducted by the First Amendment Center in 2012, when asked to name the five specific rights guaranteed in the First Amendment, 65% of Americans could name the freedom of speech, followed by 28% who could name the freedom of religion, 13% mentioned the freedom of press, 13% knew the right to assemble, and only 3% of respondents could name the right to petition. Moreover, 30% of Americans could not list any of the rights guaranteed by the First Amendment. Such results have been fairly consistent from year to year.¹ This lack of knowledge among Americans of their own basic rights indicates that it is necessary to clarify the value of the First Amendment.

Without understanding First Amendment rights, it is difficult to further discuss possible policy recommendations that help to promote them. Therefore, the first step in the promotion of First Amendment rights abroad is to look at the historical development of the First Amendment in the

U.S., the implication of each clause, its evolution over time, the limitations of First Amendment rights, and how Americans perceive these rights.

The establishment of the first constitution of the United States, the Articles of Confederation, can be traced back to 1781, even before the Revolutionary War ended. The Articles of Confederation were ratified by all thirteen states and adhere to the central ideas of the Declaration of Independence, which state that the government has a duty to respect and protect certain individual rights, failing which the people may abolish the government and begin anew. Although the Articles follow the spirit of this concept, there was no sort of law that guaranteed individual rights. It was considered unnecessary, as the freedom of expression was already part of the constitutions of most of the thirteen states.² Within a few years, delegates from each state gathered at the Constitutional Convention in 1787 to develop a new constitution. Compared to the Articles of Confederation, the new constitution gave the federal government considerably increased power, which created fear among some constitution framers that the power delegated to the new government could undermine individual rights, and they asserted that restraint must be imposed on all governments. At the end of the convention, the delegate of Virginia, George Mason, first proposed to create a Bill of Rights, but the idea was opposed because most of the other delegates believed that the power of the central government was still strictly limited by the structure of the new constitution. In 1789, the Congress officially proposed ten amendments, which were eventually ratified by three quarters of the states in 1791. The text of the First Amendment has been left unchanged as follows ever since its ratification:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of

*the people peaceably to assemble, and to petition the Government for a redress of grievances*³

However, because the establishment of the First Amendment and the Bill of Rights came from the fear of an over-powerful national government, these merely targeted the federal government instead of applying the same regulations to individual states. The ruling result of *Barron v. Baltimore* in 1833 further confirmed this fact.⁴ In this case, John Barron sued the city of Baltimore for damaging its wharf during construction, claiming a violation of his Fifth Amendment rights, but Chief Justice John Marshall explained that the ten amendments could only apply to the federal government, not state governments.⁵ The situation began to change in 1868 when all states ratified the fourteenth amendment, announcing that “no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.” In *Gitlow v. New York* (1925), for the first time the Supreme Court incorporated the Fourteenth Amendment into the ruling process to decide whether Benjamin Gitlow’s *Left Wing Manifesto*, which advocated the overturn of government, was protected from New York’s Criminal Anarchy Law by the First Amendment.⁶ While Gitlow eventually lost the case, the Court announced that the First Amendment no longer only applied to the federal government, but to the states as well. The case was significant because it made the First Amendment the law of the land, superseding state law. In addition, due to its expansion of the reach of the First Amendment, the fourteenth amendment is also referred as the “incorporate doctrine.”⁷

In order to further understand the meaning of the First Amendment, it is important to not only recognize the broader goal that the framers wished to accomplish through the Bill of Rights, which was to build a new democracy by protecting individual rights, but also to identify the

framers' objectives behind each individual clause. While the specific purpose of each clause was not explicitly stated in the official documents, Professor Thomas I. Emerson offers four possible fundamental functions that he concluded were what the framers intended to achieve.

First, Professor Emerson indicates that the framers considered the freedom of speech, assembly, press, and petition to be essential processes to discover truth. They believed the incorporation of these rights into social and political practice leads to rational discussions and enables free inquiries, which will ultimately advance knowledge and help to implement better social decisions.⁸ Second, the First Amendment rights are designed to facilitate the political structure of the U.S. democratic system. American colonists asserted that full freedom of expression is vital for creating both individual judgments and common decisions, which are the two most important components of completing a self-governing process. Third, the First Amendment constructs a balance in society by providing citizens with the right to criticize the government, thereby making social change available through non-violent processes. As Emerson notes, it also allows new ideas to be tested and discussed before their actual implementation, thus minimizing the chance of error. Together, these two usages of the First Amendment offer a channel for peaceful social progress. The last function of First Amendment rights that Emerson points out is personal fulfillment. The freedoms of speech, press, assembly, petition, and religion can help individuals to realize their maximum potential through personal development and growth. Although it is impossible to know for certain what the framers' original intentions were, Emerson believes these four functions reflect something of the framers' state of mind.⁹

Attempting to discover the original purpose behind First Amendment rights provides one way of understanding their meaning. However, Emerson claims that the First Amendment should be interpreted according to current applicability instead of original intent. *The Encyclopedia of*

the American Constitution also writes that “the body of law presently defining First Amendment liberties has been shaped not so much by the words or intent of the original sponsors as by the actors and events of much later history.” In fact, the implications of the First Amendment rights were never seriously defined by the Supreme Court until the 20th century.¹⁰ It is necessary to identify the historical events that have influenced the development of the First Amendment rights in order to understand how the meaning of each clause has evolved over time.

Freedom of Speech and Freedom of Press

The best-known right in the First Amendment is the freedom of speech. Due to the nature of freedom of speech and its inseparable connection with freedom of the press, it is more logical to discuss these two rights collectively. Historically, nations’ ruling powers often deem the freedom of expression a threat to their authority and attempt to eliminate or restrict it. For example, after William Caxton founded the first British printing press in 1476¹¹, printed material began to dilute the British government’s monopoly on the flow of information.¹² The British government recognized the potential hazards of unrestricted publication and soon imposed several measures in order to regain control, including seditious libel laws, prior restraint, and bonds. Seditious libel laws were used to punish people who criticized the government, regardless of the content of the criticism. Prior restraints forced publishers to obtain approval from government or church authorities before any publications. The government also required printers to deposit a substantial amount of money called bonds before printing, to be forfeited if the government disapproved of the content of publication. Such regulations even extended to the American colonies during the 16th and 17th centuries.¹³

Although the U.S. constitution established the freedom of speech later on in the Bill of Rights, it has never granted an absolute freedom of speech to its citizens. In fact, to this day, several types of speech still remain controversial and may not be protected by the First Amendment. These speeches are: libel, subversive speech, and obscenity.¹⁴

Libel, Subversive Speech, and Obscene Speech

As Professor Don R. Pember points out, the operation of the democratic system largely relies on the participation of citizens. A critical aspect of this process is to examine the performance of the system by giving people the right to criticize their own government and elected officials. However, in conflict with this idea, the United States has implemented a number of sedition laws throughout history that limited citizens' freedom of speech against the government, such as the Alien and Sedition Acts of 1798, the Sedition Act of 1918, and the Smith Act of 1940.¹⁵ These remained influential until 1964, when the result of landmark case *New York Times Co. v. Sullivan* introduced an important test for seditious libel cases.¹⁶ Justice William J. Brennan Jr. ruled that public figures who seek to establish a libel case must provide concrete evidence to demonstrate "actual malice".¹⁷ To be more specific, the plaintiff needs to prove that the defendant published the defamatory statement in question with the "knowledge of falsity or reckless disregard of whether the material was false or not" in order to win the case.¹⁸

Second, the question of whether fighting words and subversive speech should be protected and to what extent has been extremely controversial. The Supreme Court has adopted various tests to determine First Amendment protections for this type of speech. The first test introduced was the "clear and present danger test". It allows the government to prohibit a speech when the speech creates a clear and present danger that will bring substantive "evil." In 1919,

Justice Oliver Wendell Holmes Jr. first employed the “clear and present danger” test in the case of *Schenck v. New York* (1919) to decide whether Charles Schenck, who printed and distributed anti-draft pamphlets to military draftees, was protected by the First Amendment.¹⁹ As a result, the Court argued that the action of advocating draftees to resist the draft during World War I had clearly threatened U.S. national security and subsequently decided that Schenck’s subversive speech could not be protected by the First Amendment.²⁰

In 1925, after socialist Benjamin Gitlow encouraged the forceful overthrow of government in *Left Wing Manifesto*, he was charged with criminal anarchy under New York State’s Criminal Anarchy Act.²¹ Unlike Schenck’s case, Gitlow’s statement had minimal effect in the public sphere and did not present a clear wartime danger. However, instead of using the clear and present test, the Supreme Court took a completely different approach by applying the “bad tendency” test. The Court claimed that “a single revolutionary spark may kindle a fire that, smoldering for a time, may burst into a sweeping and destructive conflagration,” which reflected the Court’s concern about the potential damage that a speech could do even though the initial impact of speech may be minimal.²² The ruling method not only conflicted with the “clear and present danger” test but also restricted the protection of First Amendment guarantees.

Finally, in the case of *Brandenburg v. Ohio* (1969) a Ku Klux Klan leader named Clarence Brandenburg was first convicted for promoting violence action against African Americans and Jews at a rally, but the decision was later reversed after his appeal.²³ Justice Hugo Black and William O. Douglas explained that under the protection of the First Amendment, one would not be convicted for simply advocating any violent or illegal activities unless “such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action.” The Court essentially relied on a revised version of the clear and present

danger test to come to this conclusion. The ruling decision of this case set a critical landmark in refining the limits of First Amendment rights.²⁴

In the third case of limited speech, obscene speech falls outside of the First Amendment's protection, and there are some problematic issues with this type of speech. While laws regulating obscene expression can be found at both the federal and state level, it is extremely difficult to concretely define obscenity. Similar to the case of subversive speech, the Supreme Court has adopted several different tests to determine whether a speech should be considered obscene. American courts first embraced the *Hicklin* rule when they started to discuss the meaning of obscenity for the Comstock Act of 1873. The *Hicklin* rule considers a work obscene if "it has a tendency to deprave and corrupt those whose minds are open to such immoral influences and into whose hands it might fall."²⁵ The definition was criticized as overly broad, therefore creating the possibility that authorities might abuse their power against erotic speech. It also restricted the rights of adults to read or watch anything that is not deemed appropriate for children.

After the ruling decision of *Miller v. California*²⁶ in 1973, the newly appointed Chief Justice Warren Burger along with four other members of the high court constituted a new three-part agreement called the *Miller* test. Under the *Miller* test, a speech is obscene if it meets the following standards:

1. An average person, applying contemporary local community standards, finds that the work, taken as a whole, appeals to prurient interest;
2. The work depicts in a patently offensive way sexual conduct specifically defined by applicable state law;
3. The work in question lacks serious literary, artistic, political or scientific value.

As Burger stated, when defining the standard of an average person, a jury must consider all adults who comprise the community, including ones who are highly sensitive or insensitive to inflammatory material. On the other hand, the term “community standards” has been interpreted as state standards in most jurisdiction cases. In cases where potential obscene materials are distributed through postal services, the government has the right to decide which venue to use to determine the community standard. It is also important to note that “prurient interest” in the first part of the *Miller* test focuses only on sexually explicit content, not violent content.

The *Miller* test has been accepted by the Supreme Court to judge obscenity today, but the regulations regarding non-obscene erotic materials, which are protected by the freedom of speech, still remain controversial. Congress first conducted the Communication Decency Act in 1996 to safeguard children from “indecent” speech on the Internet, but it was found unconstitutional after *Reno v. ACLU* (1997)²⁷. Although Congress introduced the Child Online Protection Act in the following year, the Supreme Court claimed that the statute restrained more speech than needed to meet Congress’ goal of protecting minors and was therefore unconstitutional.

Prior Restraint

All the topics that have been discussed so far concern the content of the speech. While these court cases offer the guidelines to define whether the First Amendment protects the subject of a potentially problematic speech, the process of prosecution and enforcement brings in a completely different issue. Most of the Founding Fathers adhered to British Judge William Blackstone’s doctrine of “no prior restraint or censorship”, in which the government cannot inhibit any publications before they are released to the public. James Madison further articulated

that not only licensing restraint should be prohibited, but also legislative restraint and subsequent punishments, although this view was not widely accepted before 1964. A good demonstration of the doctrine of no prior restraint is the case of *Near v. Minnesota* (1931).²⁸ The Court ruled that Minnesota's Public Nuisance Law, which issued injunction against people who published "malicious, scandalous or defamatory" newspaper articles, was a violation of First Amendment rights and explained that no prior restraint can be placed unless the speech endangers national security.²⁹

However, in reality, prior restraint still exists today in various forms and it regulates speech by its content, time, place, and manner. Thus, the courts have developed a set of criteria that any law designed to restrict speech must meet. These rules are known as the "time, place, and manner restrictions." There are four standards in this set of rules. First, the regulation must be content neutral. The restriction must be applied equally to all speech regardless of the content of that speech. It is crucial to note that some regulations that give the enforcer too much discretion can also fail to meet this criterion. Second, the regulation cannot be a total prohibition of the communication. The speakers or publishers must have reasonable alternative means of presenting their ideas or information to the public. This rule provides the speech giver with a protection that allows them to communicate their speech in a different way. Third, the regulation must serve a substantial government interest, and the government must justify the rule by demonstrating that interest. If there are other ways that the government can use to achieve the same result without constraining the freedom of speech, the government should take that approach instead. Fourth, the regulation must be narrowly tailored to the need of government interest. That is, the regulation cannot ban more expression than is necessary to further the interest of government. For instance, if it only requires protesters to not protest on the main street

in order to prevent traffic, then the regulation should not regulate a given protest more than that.³⁰

The freedom of speech and the freedom of press have played an essential role in constituting American society and government today. As history has shown, despite the fact that courts hold preferred positions toward protecting First Amendment rights in legal cases, there are still limits on the freedom of speech when that freedom conflicts with other factors, such as national security, personal safety, government interest, or community standards of morality. While many topics are still debatable, the tests that the U.S. Supreme Court developed over time have provided clear guidelines to find the balance between the freedom of speech and other issues.

Freedom of Religion

There has been a strong connection between religion and government in American history. The religious roots of the United States can be traced back to the colonial period. According to U.S. Supreme Court expert Dr. Barbara A. Perry, each of the thirteen English colonies in North America, except for Rhode Island, had a form of established religion that was tied to the government.³¹ For example, when British settlers established the first colony in 1606 at Jamestown, Virginia, all ministers were obligated to obey orders from the Church of England. The citizens of the colony also had to follow the Dale's Law to fulfill strict religion requirements. Any person who missed three devotional services would face the death penalty, as stated in the Dale's Law.³²

The relationship between religion and government finally changed after the independence of the United States. The Declaration of Independence in 1776 announced that every person is

endowed with certain “unalienable rights,” and that it is the government’s duty to secure these rights. As the book *Constitutional Debates on Freedom of Religion* points out, most founders regarded the freedom of religion as one of these unalienable rights even though their idea of religious liberty differs from the concept today. Soon after, two constitutional framers, Thomas Jefferson and James Madison, further developed advanced ideas about the freedom of religion and turned these into the two important clauses in the First Amendment: the establishment clause and the free exercise clause.³³

Establishment Clause

The establishment clause of the First Amendment forbids the government to endorse or prefer a particular religion over others, which reflects Thomas Jefferson’s idea of building “a wall of separation between church and state.”³⁴ However, there has been some disagreement on how the clause should be interpreted. Some separationists, such as constitutional historian Leonard W. Levy, support a strict separation between government and religion as a way to maintain civility among different religious groups in the society, while the accommodationists, such as Supreme Court Chief Justice William Rehnquist, argue that the government can support religious denominations as long as it does not favor some over others, or establish a national religion.³⁵

A significant test that interprets the establishment clause was articulated in the case of *Lemon v. Kurtzman* (1971).³⁶ In 1971, a taxpayer, Alton Lemon, challenged the constitutionality of Pennsylvania’s Nonpublic Elementary and Secondary Education Act that provided reimbursement for parochial school teachers who used public funds to purchase non-secular materials³⁷. The Supreme Court later held the law to be unconstitutional and developed a three-

part test called the *Lemon Test*. The *Lemon Test* demands that laws concerning the establishment clause meet all three following requirements in order to be deemed constitutional³⁸:

1. The law must have a clear secular or non-religious legislative purpose;
2. The principal or primary effect of the law must neither advance nor inhibit religion;
3. The law must not foster excessive entanglement between church and state.

The test was used in *Wallace v. Jaffree* (1985) to invalidate an Alabama law that allowed students in public school to use one minute for prayer at the beginning of each school day.³⁹

The law not only promoted a religious purpose but also privileged certain religions over others, which clearly failed to meet the first two requirements of the *Lemon Test*. Nonetheless, there have been some inconsistent and contradicting rulings in the area of the establishment clause.⁴⁰ For example, while the Court prohibited student-led prayers at public school football games in *Santa Fe Independent School Dist. v. Doe* (2000)⁴¹, they permitted the state legislature to initiate prayers at the opening of its session in *Marsh v. Chambers* (1983).⁴² Contradictions in such court decisions have resulted in a debate between separationists and accommodationists, and they are likely to continue in the future as similar cases challenge the Supreme Court.⁴³

Free Exercise Clause

Whereas the establishment clause focuses on the disestablishment of national religion and prevents government actions that endorse particular religions over others, the free exercise clause's emphasis is on the protection of individuals' religious beliefs.⁴⁴ James Madison and other framers believed that everyone is entitled to freely choose and reject any religious belief or practice. However, in reality, this freedom is not absolute. In *Reynold v. United States* (1878)⁴⁵, George Reynolds, who was a member of a Mormon church, challenged the Morrill Anti-Bigamy

Act and argued that the free exercise clause permitted him to fulfill his religious duty, which was, as he saw it, to take more than one wife. As the Supreme Court decided, the free exercise clause protected his religious belief but not his illegal religious actions; Reynolds was thus convicted for bigamy. This case is crucial to the interpretation of the free exercise clause because it officially distinguishes religious beliefs from religious practices and permits the government to reasonably regulate religious practices.⁴⁶

However, to what extent a law that restricts religious practice can be considered reasonable is still a debatable topic. In 1961, Justice William finally developed a more concrete standard by suggesting that “any governmental interference with an individual’s free exercise of religion should involve a compelling state interest” in a dissenting opinion.⁴⁷ The standard was later adopted in the case of *Wisconsin v. Yoder* (1972).⁴⁸ In that case, the Supreme Court held that the free exercise clause gave Amish parents the privilege of holding fourteen-and fifteen-year-old children out of high school because the state of Wisconsin did not have a compelling reason to oppose the action.⁴⁹

Similar to the establishment clause, inconsistencies in court decisions concerning governmental restrictions on religious practices still occur. Nonetheless, it is evident that the free exercise clause, at the very least, protects an individual’s right to hold internal beliefs and work within the establishment clause to preclude the government’s prosecution or advancement of a particular religion.⁵⁰

Freedom of Assembly and Petition

According to Dr. John R. Vile in his book *A Companion to the United States Constitution and its Amendments*, the freedom of assembly and petition both serve critical purposes in the

democratic system. They together empower citizens to organize political rallies and influence the government without fear of being punished, thereby balancing the power between people and their government.⁵¹

Justice Morrison Waite C.J. claimed that “[t]he Government of the United States when established, found it [the right to peacefully assemble] in existence, with the obligation on the part of the States to afford it protection,” which demonstrates the importance of the right of assembly despite the fact that it is less well known than other First Amendment rights.⁵² In addition, the reach of the freedom of assembly has changed throughout history. While the early interpretations of the right merely focused on political protests in public spaces, the Supreme Court in 1958 recognized the other aspect of this right, the freedom of association, after denying Alabama’s request to acquire the membership list of the National Association for the Advancement of Colored People in *NAACP v. Alabama* (1958).⁵³

It is sometimes difficult for the Supreme Court to deal with the right of assembly in terms of public protest because protests are constructed by both speech and conduct, which adds the complication of freedom of speech to the issue. In such cases, the Court often utilizes the “time, place, and manner restrictions” rule mentioned in the freedom of speech section to determine whether a law that regulates assembly is constitutional.⁵⁴ The Court will not permit any assemblies that are held for illegal purposes, such as protests that aim to destruct properties or physically attack government officials, as they fall outside of First Amendment protection.⁵⁵ Moreover, when it comes to cases involving the freedom of association, the Supreme Court will generally give groups the right to decide how they want to operate their groups. For instance, the Court concluded in *Hurley v. Irish American Gay, Lesbian, and Bisexual Group of Boston* (1995)⁵⁶ that since the organizers of Boston St. Patrick’s Day parade had the right to choose the

message they wanted to convey, it is thus constitutional for them to exclude specific groups that support gay rights.

On the other hand, the freedom of petition grants people the right to ask governments at any level to correct any problem without being punished. According to the article *Public Order, Petitioning and Freedom of Assembly*, the concept was established in the Bill of Rights of 1689 by the Parliament of England in response to the deprivation of liberty by Stuart King, “it is the right of the subject to petition the King and all commitments and prosecutions.”⁵⁷ In the United States today, the right of petition is the least controversial among all the rights guaranteed in the First Amendment. However, there are still limits, as in any other right. First, it is important to note that the limits of other First Amendment rights are still in effect even if the subjects are presented in the form of petition. In *McDonald v. Smith* (1985), the Court confirmed this fact by ruling against Robert McDonald for the libelous materials in his petition letter to the President, stating that the freedom of petition did not grant him absolute immunity from other laws.⁵⁸ Second, in *Minnesota Board for Community Colleges v. Knight* (1984), the Supreme Court explained, “nothing in the First Amendment or in this Court’s case law interpreting it suggests that the rights to speak, associate, and petition require government policymakers to listen or respond to individuals’ communications on public issues,” which means that the freedom of petition only creates a channel for people to express their opinions but does not necessarily guarantee feedback.⁵⁹ While the right of petition draws less attention than other First Amendment rights, as the U.S. Supreme Court pointed out, the right is vital in reminding citizens that the responsibility to redress legitimate grievances lies with the government.

INTRINSIC VALUE OF FIRST AMENDMENT RIGHTS

Human Morality and Freedom

In order to contextualize First Amendment freedoms within the larger advocacy dialogue for democracy, it is first imperative to understand the influence of these rights on democratic foundations and decision-making bodies. In order to accomplish this, a direct link must be forged between First Amendment rights and human rights. Their intersection and influence on one another inherently add to global understanding of the positive impacts of democratic governments. English philosopher Maurice Cranston, a professor of Political Science at the London School of Economics, wrote extensively on the subject of human rights and the autonomous freedoms that are incorporated into the First Amendment. His work contextualizing the Universal Declaration of Human Rights within a larger discussion of human morality remains influential in the realm of philosophical studies. With regards to the matter of socialization of human rights, or democratization by extension of freedoms, he writes:

Rights have been variously defined by jurists and philosophers. Some have spoken of them in terms of ‘justifiable claims’ or ‘moral titles,’ others have analyzed rights in terms of duty (‘what we have an overwhelming duty to respect’); others again have preferred to speak of right conduct or obligation or of ought...All these words – right, justice, duty, ought, obligation – are the key terms of what Kant called the ‘categorical imperative.’ What out to be done, what is obligatory, what is right, what is duty, what is just, is not what it would be nice to see one day; it is what is demanded by the basic norms of morality or justice.⁶⁰

Cranston’s views are representative of many other academics and political scientists who have added their voices to the global and historical discussion on the necessity of promoting

democratization of human rights. Jeremy Waldron, faculty in philosophy at the New York School of Law, helpfully narrows the discussion on human rights to the particular freedoms granted by the First Amendment. In an excerpt from *Liberal Rights*, he emphasizes, “First-generation rights are the traditional liberties and privileges of citizenship, covered by the first twenty articles of the Universal Declaration of Human Rights: free speech, religious liberty, the right not to be tortured, the right to a fair trial, the right to vote, and so forth...Much liberal thought in the twentieth century has focused on the question of whether it is possible really to enjoy civil liberties and political freedoms as they are traditionally understood, without also enjoying a fair degree of material security.”⁶¹ Waldron therefore recognizes the question of democratization has to do with ensuring access to the specific rights of the First Amendment as well as security for the continued enjoyment of such freedoms.

Interconnected Nature of Rights

The argument that human rights build on one another has been developed further by Professor Henry Shue of Oxford, whom Waldron references in “Two sides of the coin,” a subsection of *Liberal Rights*.

No one, Shue argues, can fully enjoy *any* right that he is supposed to have if he lacks the essentials for a reasonably healthy and active life. The rights that are most familiar to us, rights to civil and political liberty, evoke images of autonomy, rational agency, and independence. It is our interest in those underlying ideas that explains our allegiance to first-generation rights, but we know that things like malnutrition, epidemic disease, and exposure can debilitate and finally destroy all the human faculties that such rights presuppose. There is no prospect of an individual living the sort of autonomous life we have

in mind when we talk about liberty if he is in a state of abject and desperate need. His condition would be one of lethargy rather than agency, or, at best, action under the impulse of necessity rather than action governed by autonomous deliberation.⁶²

This realization connects directly to the need for multilateral and multifaceted modalities to ensure extension and protection for civil liberties and human freedoms outlined by the First Amendment. Unless civil rights are addressed and upheld as cornerstones of nascent democratic structures, economic and social rights cannot begin to be incorporated into a given society. The issue of democratization and the inherent value delivered by this type of government is the second piece of the puzzle necessary to addressing the burden of proof placed on creators of American foreign policy. Many renowned philosophers and political scientists have written at length on this issue and, indeed, devoted entire careers and hundreds of scholarly works to probing this question. A sort of moral reading must be used when understanding and enforcing the values of the Constitution which in turn relates back to the broader framework of support for justice upheld by democratic governments. Ronald Dworkin explains, “The First Amendment...recognizes a moral principle – that it is wrong for government to censor or control what individual citizens say or publish – and incorporates it into American law.”⁶³ The moral foundation of these First Amendment freedoms is therefore understood to have considerable influence over the inherent value of democratic forms of government.

The Value of Democracy

The first author who warrants investigation on the topic of political societies is John Locke. The entirety of the eighth chapter of his work, the *Second Treatise of Government*, is dedicated to this subject. Though this was written in 1690 and published in a series collectively

called *Two Treatises of Government* in 1764, the moral truths behind his writing are still influential and relatable to present-day issues concerning the proliferation of democracy. The importance of philosophical arguments and inquiries spurred by writers such as Locke can be found in the debates surrounding the American Bill of Rights itself, in which the first ten amendments to the U.S. Constitution were written when the framers recognized the document might not pass without inclusion of the amendments.⁶⁴ Locke's theories also helped to guide many nascent democracies during their establishment and have served as the basis for many a political document or decision over hundreds of years. In the chapter, "Of the Beginning of Political Societies," the value and benefits of democratic systems is explored at length. Locke argues, "For, when any number of men have, by the consent of the every individual, made a community, they have thereby made that community one body, and with a power to act as one body, which is only by the will and determination of the majority...and so everyone is bound by that consent to be concluded by the majority." This, Locke emphasizes, is the only way any sort of lawful government can be created. The will of the majority and the adherence to decisions made by the largest number of freemen was the basis Locke believed that all legitimate political bodies required in order to be considered just.

The basic argument applicable to the idea of democratization is therefore that a democratic form of government is the only lawful form that should be encouraged on a global scale. The United States, by adhering to Locke's support for democratic governments, has demonstrated time and again that promotion of these values is inherently connected to foreign policy. The rights required to promote liberty in a civil society are guaranteed through the First Amendment of the U.S. Constitution, but these liberties must also be promoted through emerging

democracies around the world in order to comply with Locke's ideology on the intrinsic value of such governments.

Democracy and Human Rights

The interconnected nature of democracy and human rights is difficult to dissect, as the relationship between the two is often accepted as axiomatic. However, application of the framework provided by the fundamental freedoms of the First Amendment provides a key piece of the puzzle when probing beneath the surface of democracy and human rights to discover just how and why these build on one another. It is pointed out in *The Foundations of Freedom* that the “practical, pragmatic interaction” between democracy and human rights is important in that it connects to all areas of human conduct.⁶⁵ In tandem, they create a mechanism for social change that also accommodates mankind's emerging needs that is simultaneously flexible and self-correcting. A combination of the two creates a link between individual situations and the aims of governing bodies, where both gain strength through association and allow errors to be made and corrected without causing social destruction.

Another important area where democracy and human rights overlap concerns the question of individual security is in that “human rights are a necessary counter-weight to the otherwise overwhelming power of the state...”⁶⁶ This situation was realized decades before in a plea made by French philosopher Albert Camus to protect individual freedoms against powerful, potentially all-consuming states, in which he discussed the danger of abuses in the hands of organizations and political power structures to the detriment of the people. The protection against this hazard is delivered by the freedoms guaranteed by the First Amendment.

Specific Impacts on Democracy from First Amendment Rights

Assembly and Association

The right of assembly is crucial to the advancement of democratic principles for several reasons, primarily because “it embraces political rights and the right to form or to join political associations for the purpose of advancing certain ideas or opinions in the political life of the nation.”⁶⁷ Effective mobilization of citizens through this platform is thus able to allow people to assert their voices and desires to the government. This right also allows workers to associate into unions and provides a safe organizing format for minorities to assert their needs as well. Next to active participation in the voting process, this right provides “one of the most effective means to publicize the grievances of the citizenry.”⁶⁸

Peaceful Petition

The argument has been submitted that the right to petition is an extension of the right to assembly and the right to free speech, as there is no set form for petition in the wording of the First Amendment. In fact, this right was omitted from the Universal Declaration of Human Rights because the delegates of the U.N. felt it would prove too difficult to implement.⁶⁹ Nonetheless, the right is basic to the full exercise of true democracy. In the *Areopagitica*, John Milton defended the freedom of speech and related it to the right of petition by emphatically highlighting that civil liberty can only be attained when “complaints are freely heard, deeply considered, and speedily reformed.”⁷⁰ This right therefore allows citizens of democracies to be represented and supported by their governments.

Thought, Speech, Assembly, and Press

Again we turn to the *Areopagitica* to understand the importance of the closely interrelated and inseparably intertwined rights of expression protected by the First Amendment. In this document, Milton stated, “Give me the liberty to know, to utter and to argue freely according to the conscience, above all liberties.”⁷¹ Freedom of expression has been protected by other governments and treaties such as the French Declaration of the Rights of Man and the United Nations Charter. Though freedom of expression is a positive addition to the practice of democratic values, it is also comprised of a reverse aspect which allows and encourages citizens to call into account the actions of public officials and government representatives. This combination of elements encompasses the true value of freedom of expression guaranteed in the First Amendment to ensure that a self-governing society does not fall to internal corruption, but constantly seeks to address the needs and wills of the people.

Human Rights Development in America

In the aftermath of World War II, the global desire for change and protection against the destruction of life produced by the Holocaust and Nazism provided the motivation for an international human rights movement. This proactive zeitgeist encouraged delegates at the 1945 San Francisco conference from which the United Nations was established to also include an international bill of rights in the charter for that groundbreaking organization. The drafting party borrowed from the State of the Union address given by President Franklin Delano Roosevelt four years earlier in which he specifically called for protection of four essential freedoms: “the freedom of speech and expression, the freedom of worship, the freedom from want, and the freedom from fear.”⁷² This call to action was part of the broader dialogue that had been gathering

strength since the 1940's calling for conditions of peace at the end of wartime to include protection for human rights, along with anti-colonial sentiments that ultimately culminated in pro-democracy movements on an international scale. Free speech and freedom of religion in particular connected to the anti-colonialism that had been stirring since before the war broke out.⁷³ These efforts culminated in the text of the United Nations Charter after forty-six civic and religious groups assisted in the creation of the charter during the San Francisco conference, which was accepted by U.S. Secretary of State Edward Stettinius on May 4th of that year.

The drafters of the Universal Declaration of Human Rights borrowed from this same language as they wrote the preamble to that document. Lead by the brilliant legal mind of John Humphrey and the political and humanitarian prowess of Eleanor Roosevelt, the Universal Declaration highlights the importance placed on protection of human rights by the United States in a variety of ways. The Economic and Social Council of the United Nations was influenced by the international desire to set up commissions in economic and social fields for the promotion of human rights, so its members were obliged to set up the Human Rights Commission which ultimately drafted the Universal Declaration. The fact that this is the only commission of the entire United Nations system mandated by the U.N. Charter underlines the importance of the championing of human rights to the founders of these organizations and documents. After a total of seven drafting stages, the Third General Assembly of the U.N. adopted the Universal Declaration in 1948 with a nearly unanimous vote, not including eight abstaining nations.⁷⁴

Overlap Between the First Amendment and the Universal Declaration of Human Rights

There are three individual articles included in the Universal Declaration that incorporate protection of the same freedoms that are addressed in the First Amendment of the U.S.

Constitution. The specific text reads as follows:

Article 18. 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.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.⁷⁵

The first article mentioned here connects directly to the protection for freedom of religion that acts as one of the five pillars of the First Amendment. The second article overlaps with freedom of speech and press to the extent that expressions proliferated through media forums provide the frontier to promote such exchanges. Finally, the third article and the specific protections outlined therein for assembly and association essentially restate the freedom of assembly and petition upheld by the First Amendment. It is therefore easy to see the connections between the First Amendment freedoms and the ways in which they operate within the international framework for human rights provided by the Universal Declaration, which serves as a definitive example of the global nature and appeal of these freedoms.

Human Rights and U.S. Foreign Policy

The importance of First Amendment rights in a global context cannot be underestimated or summarized into a single section of a policy recommendation paper. Rather, as the dialogue on globalizing democracy continues to evolve, the key elements of human rights promotion and First Amendment rights need to continue to serve as the framework for this conversation to unfold on an international scale. Political globalization and the globalization of democratic forms of governance are extending to increasing numbers of nation-states, and the trend continues to proliferate to the extent that foreign policy has become critically interconnected with this movement.⁷⁶ Furthermore, the institutionalization of democratic rights across borders, which includes First Amendment freedoms, provides both conditions for and the framework of decision making.⁷⁷

U.S. foreign policy has been concerned with the promotion of human rights since the beginning. As observed by Arthur Schlesinger, “Americans have agreed since 1776 that the United States must be a beacon of human rights to an unregenerate world.”⁷⁸ This subtle reference to the framing of the U.S. Constitution contextualizes the American value of our own positive image and national identity within a larger picture of human rights promotion. This was especially highlighted by the Carter administration and was endorsed by former President Jimmy Carter, who raised an agenda of public diplomacy to the foreground of societal prominence. Institutionalization of human rights became a central concern for President Carter, as he signed two controversial covenants on human rights: the U.N. Convention on Elimination of All Forms of Discrimination Against Women and the U.N. Covenant on Economic, Social, and Cultural Rights.⁷⁹ From there, the conversation on human rights has expanded to include connections to democracy, modalities for implementation, and connections to First Amendment rights in a

world where technology and media, among others, are useful in promoting this agenda. The percentage of Americans who considered human rights a very important priority for U.S. foreign policy rose at the end of the Cold War, according to the University of Maryland research center's Program on International Policy Attitudes.⁸⁰ This evolution over time of human rights rhetoric has grown to include direct links to policy recommendations and continues to influence foreign diplomacy and international forums for democracy promotion and proliferation.

Conclusion

The important influence of First Amendment rights on human rights promotion via democratization through U.S. foreign policy clearly outlines the necessity for a variety of modalities to implement these values in other countries. Various regions across the globe would benefit immensely from a myriad of policy options that have been analyzed and included in this report. Several have been tailored specifically to the country they relate best to, while others are more broadly applicable to democratic advancements through generalized foreign policy strategies. The rest of this report will take into account U.S. historical efforts to increase First Amendment rights both locally and globally, current efforts undertaken by the U.S. to promote these freedoms abroad, and specific regions that would benefit from further efforts on this front.

CURRENT U.S. EFFORTS

Introduction

Recent publicized events over the highly controversial Anti-Islamic film, “Innocence of Muslims” triggered a violent outcry for repercussions to the filmmaker. The rippling effect of this film was the outbreak of protests in Islamic countries decrying the offensive message of the film. In Pakistan, Afghanistan, and Indonesia, violent riots broke out outside of U.S. embassies that led to both civilian and law enforcement casualties and injuries. One of the riots outside the U.S. embassy in Libya resulted in the death of Ambassador Chris Stevens, along with three other embassy employees.⁸¹ When the U.S. legal system did not prosecute the filmmaker for his offensive film, dialogue was triggered over the issue of the U.S. stance on hate speech.

While many democratic European nations ban the expression of hate speech, the United States continues to avoid any law explicitly banning it. The current official stance of the United States Federal Government, as declared by the Department of State, is that everyone has the right to freedom of expression. Although the government has been quoted to “deplore the content of the video,” they continue to uphold the “protections in international law and in domestic U.S. law for freedom of expression.”⁸² Despite the opposition to the United States’ apparent leniency on freedom of speech, the values of the First Amendment must continue to be promoted in foreign policy. Banning hate speech in the U.S. would be unconstitutional, regardless of the underlying reason. What may be considered hate speech to one individual may not appear to another as hate speech. The ambiguity of what is considered hate speech creates difficulty in restricting it without posing the risk of infringing on other civil rights, such as the right to protest.

Much of the current First Amendment based advocacy is ensconced in overarching pursuits of global democratization efforts. The importance of free expression is often overshadowed by pro-democracy policy. This section covers a general overview of the mechanisms employed by the United States to further the cause of promoting the values of the First Amendment. This Current Efforts section is divided into the modalities Public Diplomacy; Military Intervention; Cross-Cultural Participation; Soft Power; Digital Media; and Credibility. Through these, we will explain how the U.S. uses its global power to promote the freedom of expression, highlighting the need for more direct and explicit foreign policy on First Amendment values.

Public Diplomacy

Commitment to First Amendment Promotion

In a broad overview of efforts made by the United States government in its assistance to nondemocratic and democratizing countries, the Department of State releases the Advancing Freedom and Democracy Report. This report is a reflection of the U.S. commitment to “Promotion of universal values – freedom of expression, assembly, association, and religion.”⁸³ The Advancing Freedom and Democracy Report is a valuable resource to understand the range of effort to promote First Amendment rights, among others, in current foreign policy. In a short summary document, the Department of State provides snippets of its effort to promote core American values through foreign assistance programs, and funding for local NGOs, and provide resources and support for structuring and implementing a democratic governmental institution. The U.S. also partners with other organizations that work towards similar goals such as the International Labor Organization and International Finance Corporation in support of worker

rights. U.S. embassies also partner with local institutions to set up American Corners in their host country. American Corners are libraries and resources centers for American literature, society, and culture.⁸⁴ Every month, a variety of events are held to garner interest in U.S. culture and by extension, its values. American Corners also encourage exchanges to the U.S. to foster closer ties between U.S. citizens and the citizens of the host country.

The report is submitted in accordance with the ADVANCE Democracy Act of 2007. Under the ADVANCE Democracy Act, The United States acknowledges that “democratic countries have a number of instruments available for supporting democratic reformers,” and commits the United States to promoting democracy abroad as fundamental to United States policy.⁸⁵ The act also created Democracy Liaison Officer positions within the Department of State, to work under the Assistant Secretary. Democracy Liaison Officers are assigned to posts where the Secretary of State deems necessary. These officers “provide expertise on effective approaches to promote and build democracy; [and] assist in formulating and implementing strategies for transitions to democracy” and other such responsibilities as assigned by the Secretary or Assistant Secretary.⁸⁶

Despite this, the Advancing Democracy and Freedom Report and ADVANCE Democracy Act do not explicitly refer to the First Amendment. The Report is general in structure and may indirectly report on assistance to NGOs or foreign organizations that promote free expression values, but there are no direct mentions of free speech promotion outside of the democracy sphere. Similarly, Democracy Liaison Officers are rarely tasked with advocating specifically First Amendment rights. Democracy Liaison Officers, unless specifically tasked with a First Amendment promotional goal, focus on the broad idea of democracy as described by the

requirement of the positions. This lack of focus on First Amendment rights demonstrates the need by foreign U.S. policy to be assigned with more specifically targeted programs.

Free Expression within Human Rights

The Bureau of Democracy, Human Rights and Labor within the Department of State releases annual reports on human rights laws and practices on states that “[receive] assistance and all United Nations members,” drafted by the respective U.S. embassies in each country.⁸⁷ The sections of the Country Reports on Human Rights Practices are based upon the provisions of the Universal Declaration of Human Rights and other international agreements. The reports are on a total of seven aspects of human rights, ranging from Respect for the Integrity of the Person, to Worker Rights. Section Two summarizes the Respect for Liberties. Subsections of Section Two include: Freedom of Speech and Press; Freedom of Peaceful Assembly and Association; Freedom of Religion; Freedom of Movement; Internally Displaced Persons; Protection of Refugees; and Stateless Persons.

Freedom of Religion

Concurrently with the Human Rights Report, the Bureau of Democracy, Human Rights and Labor generates the International Religious Freedom Report. The Report is prepared in accordance with the International Religious Freedom Act of 1998, a marker of the United States’ commitment to religious freedom on a global scale. The sections of the report consist of Religious Demography; Status of Government Respect for Religious Freedom including the Legal/Policy Framework as well as Government Practices; Status of Societal Respect for

Religious Freedom; and U.S. Government Policy, which discusses current efforts made by embassy officials to uphold the United States' dedication for religious freedom.

Azerbaijan, a Muslim dominated Eastern European state, can be used as a case study. Azerbaijan, according to its 2011 report, has had reports of both governmental and societal abuse and discrimination due to religious affiliation. Under U.S. government policy, embassy officials are cited as “maintaining close contact with officials from the government and with NGOs that address religious freedom.”⁸⁸ Embassy officials also closely monitor the degree of religious freedom through active contact with religious leaders. The embassy also hosted a dinner for government officials, religious leaders, and NGO representatives to open lines of communication for religious freedom and tolerance. The direct impacts of these events are difficult to measure; however, they provide safe spaces under U.S. authority for discussion on freedom of religion to take place. Embassies within countries that are free of religious abuse also make continued efforts for religious understanding and discussion through events and dinners that encourage meaningful dialogue.

Military Intervention

The most contentious form of American value promotion is through military interference. From the war in Iraq to proxy skirmishes during the Cold War, it can be argued that the United States often utilizes its military force to further the values of democracy and inherently, the values of the First Amendment. Often the “western political rhetoric” maintains that some governments need intervention and guidance to restore order and set up the preliminary structure for a democratic government, incorporating First Amendment values into the construction of new constitutions.⁸⁹ However “the idea that interventions might be morally acceptable provokes

suspicion because some past interventions by Western powers have had imperialistic purposes and have produced enormous suffering.”¹⁰ This suspicion is an obstacle to assisting a country with implementing First Amendment rights and often bars reaching intervention goals. As empirical evidence reveals, often military intervention fails to achieve its primary objective. One perceived reasoning behind this is explained by the differing national interests of the target country and that of the intervener. Bruce Bueno de Mesquita and George Downs concluded from their research that the voting structure of democratic interveners often obstructs opportunities for democratization. In most cases, voter’s policy priorities differ vastly from that of the intervened state. This conflict prevents the construction a stable democracy, and a failure of reaching intervening goals.

The United States engages in what it terms “humanitarian warfare,” that is, the use of armed force for humanitarian purposes⁹⁰. Humanitarian war is often associated with NATO’s intervention in Kosovo of the former Yugoslavia. Operation *Allied Force* was intended to raise humanitarian issues, to protect the refugees, and was touted as “purely humanitarian.”⁹¹ This type of warfare was considered positive due to the “self-sacrificing” intentions of the interventionists. It can be difficult to determine whether results of such interventions are effective and sustainable. Military action is arguably the most unstable method of democracy promotion, and often leads to poor results. However, there are exceptions in which countries that have experienced military intervention have moved towards democratization.⁹² As a veritable policing force, armed force under the name of humanitarianism is acceptable; “Intervention by the U.S. or its allied forces in Haiti, Rwanda, Bosnia, Somalia, Iraq, or Yugoslavia” ostensibly deserves admiration for their selfless donation of forces to support the defenseless.⁹³ If armed force is appropriate for the good of the people, then it could be argued that force to protect

humanity's rights to freedom of expression and religion is also allowable under extreme oppression.

Cross-Cultural Participation

Incoming Foreigners

Promoting cross-cultural programs creates a large impact by directly affecting the citizens of each participating country in a profound way through cultural diffusion. It is an opportunity to share with foreign citizens the basic values and importance of the First Amendment; free speech and freedom of information.

In the summer of 2011 and 2012, the Department of State funded a Global Perspectives on Democracy – Afghanistan (GPD) program through the University of Virginia Center for Politics. The GPD invited 68 professionals from judicial and public service sectors of Afghanistan to foster relationships and professional skills to create stronger ties between Afghanistan and the U.S.⁹⁴ Of the 68 participants, the Thomas Jefferson Center hosted four that were interested in First Amendment rights. For the duration of their stay, the visitors were exposed to discussions of the United States' commitment to First Amendment values.⁹⁵ This was direct effort by the United States towards influencing members of foreign governments to advocate First Amendment values. Although this University of Virginia Center exchange program has not been long established, it is similar to a well-established Department of State exchange program, the International Visitor Leadership Program (IVLP). This program invites current and emerging foreign leaders in a variety of fields to the United States to work with their U.S. counterparts. The purpose of this exchange is to build relationships and “support the foreign policy goals of the United States.”⁹⁶

The number of international students at American universities has skyrocketed⁹⁷ in recent years, exposing them to American culture and the variety of viewpoints to be found in American educational institutions. Many wealthy political and corporate figures (such as Bo Xilai, a previous Communist Party Official of China) send their children to be educated in American universities. Particularly in Liberal Arts colleges, international students are more likely to be subjected to education buttressed by American values. Many social science courses support the benefits of freedom and democracy. According to an IMF Working Paper done by Antonio Spilimbergo on Democracy and Foreign Education, democracy can be spread through foreign education.⁹⁸ The study considers the levels of democracy in both the sending and receiving countries, as well as the percentage of total population that is sent abroad to study. Global data spanning a time period of fifty years reveals a strong correlation between the average indices of democracy in the host country and the level of democracy in the origin country.

Predictably, there are various factors to consider, such as the chosen subject of study by students, and the vehicles by which returning students make a difference at home remain largely only hypotheses. However, according to remarks made in 2012 on the Impact of International Student Exchanges by Tara Sonenshine, the Undersecretary for Public Diplomacy and Public Affairs, “more than 350 [former exchange students] have become heads of state, including Dilma Rousseff of Brazil, Julie Gillard of Australia, and Abdullah Gul of Turkey.”⁹⁹ One of the hypotheses suggested by Spilimbergo in his conclusion states that “foreign-educated leaders seem to be extremely motivated to introduce democracy and to keep up with the more developed countries where they studied; in general, the leaders’ educational levels seem to be associated with the probability of introducing structural reforms.”¹⁰⁰ If leaders are motivated to propagate democracy, it can be assumed that First Amendment values are also worth promotion by foreign

educated leaders. The freedom of expression can cultivate innovation of ideas in a variety of fields to advance developing countries' rights protection and understand of individual liberties.

Fulbright Scholars

The Fulbright program, as opposed to the volunteer and development goals of the Peace Corps, aims to advance access to education around the world, opening channels of communication between scholars and students. Americans are sent abroad to conduct research, teach in foreign classrooms, or assist in English language classrooms. Similarly, non-U.S. citizens have the opportunity to travel to the United States for similar ventures. Due to what the program's founder Senator Fulbright described as the "multiplier effect," in which the influence on one participant in turn influences the other around him and so on, the Fulbright Program enjoys continued successful exchanges and lasting relationships.¹⁰¹ Scholars leave behind ideas, understanding, classroom lessons and materials. Foreign Fulbright Scholars in the U.S. can return to their home countries with first-hand knowledge of First Amendment freedoms in daily life from their experience in the U.S. Based upon a hypothesis suggested by Spilimbergo, exchange returnees make it more difficult for dictators to maintain oppression by spreading new ideas."²⁴ Further study needs to be done to solidify the depth effect of the Fulbright in promoting First Amendment values.

Peace Corps Volunteers

Begun by John F Kennedy to "promote world peace and friendship", The Peace Corps mission is to

Help promote a better understanding of Americans on the part of the peoples served

*Help promote a better understanding of other peoples on the part of Americans.*¹⁰²

The Peace Corps agency disseminates hundreds of American citizens each year to developing countries for a variety of projects, from AIDs prevention to English language education. “Sargent Shriver, [a driving force of Peace Corps establishment,] has announced that ‘every Peace Corps volunteer is advancing freedom and peace’ ... providing the image of the democratic unselfish volunteer.”¹⁰³ Despite the criticisms of Peace Corps actual effectiveness, it is inevitable that cross-cultural influence will occur. When Americans participate in cross cultural exchanges, they become positive models that reflect a desire for understanding, intending to influence other nations to seek democracy and freedom of expression and information.

Soft Power

The concept of soft power as a means of promoting First Amendment rights may or may not be a conscious effort, but nevertheless plays an important role in reaching foreign masses. The international reach of Hollywood, for example, is impossible to ignore. Hollywood blockbuster movies are occasionally released abroad before the domestic release. Television shows are often subtitled or dubbed and boast loyal followers abroad. Hollywood may not consciously intend to be a soft power, but the popularity and reach of American mass media is a powerful vehicle that could have the potential to make more of an impact in furthering freedom of expression.¹⁰⁴ Hollywood as a mechanism of soft power often portrays an example of typical American life and society. By illustrating the normalness of free speech, religion, and assembly in every day American life, Hollywood models these values to viewers that may face oppression

of speech and religion. Similarly, commercials or literature can also be used as an outlet of soft power. The indirect dissemination of ideas through U.S. popular media is worth noting in First Amendment foreign policy.

Ultimately however, measuring the direct impacts of soft power is extremely difficult due to the indirect nature of soft power. Soft power is the power of persuasion, the ability to entice and attract.¹⁰⁵ Due to the difficulty of framing an argument or strategy around soft power, its implementation is often ignored. Smart power, as termed by Ernest J. Wilson III, is a fusion of hard power and soft power.¹⁰⁶ In order to serve the country's best interests, smart power must be used because to promote First Amendment values, as the U.S. cannot afford to overlook either hard power, soft power, or the intersection of both. Therefore it is imperative that future foreign policy concerning civil liberties integrates a consideration of soft power.

Digital Media

In light of the Arab Spring, the possibilities of democratic and First Amendment values promotion using digital media have become part of popular awareness. Social media sites such as Twitter and Facebook are popular areas for gatherings of online communities. Citizens of states that lack the values of the First Amendment are able to reach out to members of the free digital community through the Internet. Furthermore in these gathering spaces, citizens can communicate in a way that can evolve the efforts toward establishing a state with the values of the First Amendment. With instantaneous communication, protests can be leaderless, and groups of strangers can assemble with little difficulty.¹⁰⁷ Through family, friends, and strangers, a video or picture of protest can spread among groups and individuals instantaneously, and may trigger large scale movement.³⁰

Censorship has brought into the forefront the issue of First Amendment values in countries around the world. Censorship awareness can lead to discontent from groups and individuals' inability to safely express themselves online, possibly resulting in dissenting physical action. Whereas social media companies are popular platforms for political discourse, this new era has also seen the rise of bloggers. With a large following, bloggers can reach out to many readers by a simple blog post, a personal website to post whatsoever the author chooses. Some of the more politically active bloggers can be called "citizen journalists," discussing current news, controversial topics, and providing access to new ideas and perspectives. However, authoritarian countries also use the Internet as a means to discover dissidence, by tracing blogs or forums that may contain discussion over free expression, or other rebellious conversation.

The United States government has become aware of the potential of the Internet for First Amendment advocacy. Although the Department of State currently does not appear to have digital media outreach dedicated solely to the promotion of First Amendment rights and values, it runs a blog called DipNote, which is regularly updated by officers in various bureaus within the Department of State. Posts reflecting on recent exchanges, talks, workshops and seminars to bring attention to the ongoing discourse on U.S. values are common on DipNote. On February 14th, 2013, Lee Satterfield, who serves as Deputy Assistant Secretary of State for Cultural and Professional Exchanges in the Bureau of Educational and Cultural Affairs, posted about the TechWomen collaboration. In the week prior to the blog post, 50 women from various countries in North Africa and the Middle East gathered in Jordan to brainstorm innovative technology projects and attend workshops on using technology to empower women in all professions. Blog posts such as the TechWomen post demonstrate Department of State efforts in opening communication lines and encouraging dialogue through free expression.

Each U.S. embassy has its own YouTube, Facebook, and Twitter accounts meant to provide people with information on their activities. The pages are clearly targeted to members of their host country, as the majority of posts are in the language of their host country. A Facebook post from the embassy in Bosnia and Herzegovina includes a dedication to Rosa Parks on her birthday including her importance to the civil rights movement. The U.S. Embassy in Beijing utilizes QQ (a Chinese blog platform) in lieu of Facebook to “promote dialogue about American culture and society.”¹⁰⁸ YouTube videos posted by the embassy in Baghdad, Iraq encourage students to participate in cultural exchanges by touting its benefits and potential for unique experiences in American society.¹⁰⁹ By increasing the popularity of the United States government social media pages, users are more exposed to American ideals and activities, in hopes of increasing interest towards values such as those in the First Amendment promoted by the United States.

Credibility of U.S. Efforts Abroad

International Criminal Court Anomaly

The International Criminal Court is an international body given essentially universal jurisdiction over war crimes, crimes against humanity, and genocide. Established under the Rome Treaty during the Bush Administration in 2002, a large majority of United States allies have ratified the treaty. The United States however, at the time of its establishment, did not ratify the treaty despite the number of similar values held by the ICC and the United States. Furthermore, President Bush signed the American Service Members’ Protection Act (ASPA), “limiting U.S. government support and assistance to the ICC; curtailing military assistance to many countries that have ratified the Rome Statute establishing the ICC; regulates U.S.

participation in United Nations (U.N.) peacekeeping missions commenced after July 1, 2003; and, most controversially among European allies, authorizes the President to use ‘all means necessary and appropriate to bring about the release’ of certain U.S. and allied persons who may be detained or tried by the ICC.”¹¹⁰ The ASPA illustrates the belief that United States’ best interest to obstruct any sort of foreign power to gain jurisdiction over United States soil.

In the years since the ASPA was passed, the U.S. government has incrementally increased support for the ICC mission. The United States now participates as an observer in the ICC Assembly of States Parties. As declared by the State Department, “[The United States] is engaging with State Parties to the Rome Statute on issues of concern and is supporting the ICC’s prosecution of those cases that advance U.S. interests and values, consistent with the requirements of U.S. law.”¹¹¹ The United States’ further participation to support ICC appears to be slightly more consistent with the advancement of United States humanitarian values. The debate continues, however, over whether the United States should interfere with other states while it remains staunchly resistant to any potential foreign interference into its own borders.

The jurisdiction of the ICC does not pertain to directly to U.S. First Amendment rights, and does not consider expression rights violations as punishable in its court. However, due to the ostensible inconsistency by the United States over the issue of accountability and membership to the ICC, several countries such as Germany and others from the European Union have expressed concern over U.S. intentions.¹¹² It is difficult to promote the U.S. values of the First Amendment when the United States resists any accountability from the ICC, appearing to hold itself above such international treaties. In recent years under the Obama Administration, the United States has made moves towards cooperation with the ICC that demonstrate the United States’ desire to uphold its values. However, until the U.S. finally becomes a member state of the

ICC, it is likely that the U.S. will continue to receive criticism for its apparent double standard. In the interests of promoting First Amendment rights, and the influence of public diplomacy, the United States must become a member state of the ICC.

Conclusion

The U.S. must continue to support complete freedom of speech, despite the possible aftereffects of hate speech such as the “Innocence of Muslims” film. Instead, hate speech and potential violence can be combated by increasing the value of diversity and understanding through exchanges, relationships, and media. Due to the subjectivity of what may be considered hate speech, there is too much risk in restricting speech. Instigating dialogue and exchanges that directly address the issue of free expression, rather than simply democracy, can disseminate ideas and inspiration in a more peaceful way, targeting countries that have higher degrees of repressed expression.¹¹³ Humanitarian wars, considering the history of unreliable outcomes, should be avoided. However, in order to increase the efficiency of promoting U.S. free expression values, the U.S. can improve its credibility by becoming a full member of the ICC to represent full commitment in its belief of being held accountable for the rights of its citizens. U.S. efforts to promote First Amendment values will undoubtedly continue to transform in this new era.

This report is an effort to bring existing and potential First Amendment promotion efforts to light, across as wide a spectrum of regions and regime types as was feasible. Although most of the policy recommendations in this report focus on these rights, in some areas, such as Libya or North Korea, other needs took precedence. However, even these needs were addressed with the express purpose of bringing the state in question to the level where more direct methods of First

Amendment rights promotion could have a real effect on people's lives and government. The following sections of this report will focus on four regions: East Asia, Southeast Asia, North Africa, and the Middle East. These regions were chosen because we found that they were particularly lacking in First Amendment rights than other parts of the world and would therefore benefit the most from in-depth analysis and subsequent policy recommendations. With that logic in mind, we move on to the body of our report.

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EAST ASIA

Written By: Dena Seabrook and Ben Bomber

CHINA

History

Few nations provide such a problematic counterpoint to the United States promotion and view of the First Amendment as China. As the most populous nation in the world, China's influence continues to grow regionally and globally. Since the end of the Chinese Civil War following WWII, China has been under the single party rule of the Chinese Communist Party. The United States took on an opposing role to China during this time by allying with South Korea during the Korean War and awarding a United Nations seat to The Republic of China (Taiwan). Since the ascension of the Communist Party, multiple high-profile crackdowns on political dissidents have occurred, including the 2010 Nobel Peace Prize winner Liu Xiaobo and the blind writer Chen Guangchen. Such incidents represent problematic cases of how the First Amendment is perceived in China as compared to the United States. However, there is basis for making First Amendment rights more of a focal point in the U.S.'s relationship with China, which until recently has been almost completely based on bilateral trade, ever since official relations were reopened by President Nixon in the early 1970s.

Status of Rights

Freedom of Expression

In Article 35, China's constitution that was first ratified in 1982 provides for freedoms of press and of speech.¹¹⁴ However, China often falls short in following through with the practical provision of these rights, as evidenced by its current rank of 174 out of 179 in the Reporters without Borders index of press freedom¹¹⁵. One of the most evident reasons for this rating is the renewal and expansion in 2010 of the Chinese law on Guarding State Secrets, which defines state secrets as “matters that are classified as state secrets by the state secret-guarding department”¹¹⁶. Such a broad definition of “state secrets” gives the Chinese government carte blanche in terms of censorship.

The white paper about the Internet that followed in May of the same year has only increased disquiet over the state of free speech on the Internet in China, both internally and abroad. It stated “Within Chinese territory the Internet is under the jurisdiction of Chinese sovereignty. The Internet sovereignty of China should be respected and protected. Citizens of the People's Republic of China and foreign citizens, legal persons and other organizations within Chinese territory have the right and freedom to use the Internet; at the same time, they must obey the laws and regulations of China and conscientiously protect Internet security”¹¹⁷, suggesting China's exclusive control over Internet use within its borders.

A recent highly publicized example of the Chinese government's disregard of freedom of speech is the ongoing case of Liu Xiaobo who is a political activist that came to prominence as an advocate of free press and as the writer of Charter 08. Charter 08 was a petition drafted and signed by over three hundred of China's leading academics¹¹⁸. Calling for political change, the document started by recognizing the key “basic universal values” of freedom, human rights, equality, republicanism, democracy and constitutional rule, before going on to outline nineteen recommendations needed to “turn...toward a system of liberties, democracy, and the rule of law,

and toward fostering the consciousness of modern citizens who see rights as fundamental and participation as a duty”¹¹⁹. The Chinese government’s response was instant: Liu and the other authors were arrested. Liu received an 11-year prison term in 2010¹²⁰. The explanation for this ruling was that the charter was “inciting the subversion of state power”¹²¹. Already under house arrest, the Chinese government also forbade all associates of Liu to depart from China for much of that year out of fear that they would represent Mr. Liu and receive on his behalf the Nobel Peace Prize, which he had been awarded for his work on the Charter.

Freedom of Religion

In Article 36 the Chinese constitution provides for freedom of religion.¹²² However, this freedom is not protected in practice. Despite Article 36, only five religions are officially recognized within China: Buddhism, Taoism, Islam, Catholicism, and Protestantism. While these religions receive government recognition and are allowed to openly practice under the law¹²³, others are classified as cults and thus often face political persecution if they are unable to register under the five umbrella religions. However, even the five official religions have had trouble with the government. Tibetan Buddhism in particular has suffered harsh government sanctions and restrictions due to its close ties with the nationalist movement. A 2007 law required that the spiritual leaders of this religious branch of Buddhism had to be approved by the central government, saying that “all living lamas had to be approved by Beijing”¹²⁴. Likewise one of the longest standing political prisoners within China is the Panchen, traditionally second to the Dalai Lama and not seen since 1995, when he was taken into protective custody¹²⁵.

Freedom of Assembly

The Chinese constitution officially protects its citizens' freedom to assemble. However this is not recognized in practice. A historical example of the Communist government's infringement of the freedom of assembly can be seen in the case of the Tiananmen Square Massacre. Triggered by unrest centered on discontent over the economic and free speech policies of China under Deng Xiaopeng's leadership, the protests began after the death of the popular Hu Yaobang in April of 1989. On June 4 the military fired and jailed protestors attempting to exercise their right to protest throughout the capital, and Zhao Ziyang, the member of the Chinese leadership who had primarily backed the protesters, would live the rest of his life under house arrest. A second recent example, the case of Zhao Lianhai in November of 2010, saw Mr. Zhao received a two and a half year prison sentence when he attempted to form a victims group for parents of the children affected by the contaminated milk scandal. Such violations are daily occurrences and rarely receive high profile attention.

U.S.-Chinese Relations

In the current U.S.-China relationship, human rights are arguably the most challenging issue for the United States to make progress on. The United States is essentially at an impasse on the policy level of promoting human rights in China, largely due to conflicting fundamental ideologies. The United States was founded on the Constitution and Bill of Rights, engraving basic human rights as an important element of our national identity. However due to China's long history of Confucianism, unique religious/ideological inclinations, and being a consistent victim of imperialism, China's values and perspectives differ from that of the West. This leads to a different understanding of human rights. The U.S. emphasizes individual and political rights, and giving liberty and justice to all through democracy. The Chinese emphasize what is good for

the collective, are nervous about democracy as a source of chaos, and put high value on their own sovereignty and not allowing other countries to interfere with their domestic affairs; a policy referred to as ‘non-interference. China’s non-interference mindset directly conflicts with the U.S. policy of promoting First Amendment values on China’s government.

To add to the complexity, China recently experienced a significant power transition. Last fall new leaders began their ten-year terms with Xi Jinping chosen as the President. Xi is regarded as somewhat of a wild card due to his background and the relative low profile he has kept¹²⁶. He is the son of a former influential member of the Communist Party who had a falling out with Mao Zedong. The effect his father (a liberal within the party before his banishment) will have on his policy is highly debated; some have suggested it could result in more progressive positions, while others have argued the opposite.¹²⁷ Moody analyst Xu Cheng has suggested that while he does not expect Xi “to poison the relationship”, the U.S. may have trouble dealing with him on what he perceives as China’s internal issues, such as promoting First Amendment rights.¹²⁸ Already being strained due to fundamental differences in ideologies, the recent power transition adds a significant level of uncertainty to the complicated U.S.-China relationship and promotion of First Amendment rights.

U.S. Interests

Apart from the intrinsic value in promoting human rights and democracy in China, it is in our nation’s best interest to see China’s citizens enjoy freedom of speech, press, religion, and assembly. The common rhetoric in U.S. policy towards China is that we wish to see China become a ‘responsible stakeholder’ in the current world order, which entails following international law and demonstrating good governance. This includes following China’s own

constitution and the United Nation's Universal Declaration of Human Rights. As one of our top trading partners, it is in our nation's interest to see China become a responsible stakeholder in the current international system and to maintain a more stable and secure government. Without this security we are putting our economic lifeline at risk. As established in the U.S. National Security Strategy in 2010, "The United States supports the expansion of democracy and human rights abroad because governments that respect these values are more just, peaceful, and legitimate. We also do so because their success abroad fosters an environment that supports America's national interests. Political systems that protect universal rights are ultimately more stable, successful, and secure. As our history shows, the United States can more effectively forge consensus to tackle shared challenges when working with governments that reflect the will and respect the rights of their people, rather than just the narrow interests of those in power."¹²⁹ In regards to China, their current political system is not one that protects its citizens' rights, therefore neither stable nor secure. The current security situation in the Asia-Pacific region is increasingly aggressive, as the Senkaku/Diaoyu island crisis between China and Japan intensifies and as China responds to a growing U.S. presence in the region as per Obama's "pivot" to Asia.¹³⁰ This "pivot" refers to the Obama administration's strategic of refocusing from the Middle East back to the Asia-Pacific region.¹³¹ This entails increasing U.S. military capabilities and managing alliances in the region. China interprets these efforts as a direct threat and seeks to increase their military capabilities to prevent encirclement by the U.S. and its allies.

Being aware of and expressing concern over the China's abuses of First Amendment rights will at least give the U.S. a significant bargaining chip and tool for negotiations to help diffuse the tense regional security environment and secure our economic interests in the future. Though it may cause China to react with hostility, it is a relatively inexpensive method that

requires little effort to maintain. This will also guide China towards becoming a responsible stakeholder in the current international system which will provide greater transparency, enable the international community to observe China's actions, and allow for pressure to be put on the PRC accordingly. In short, it is in the U.S.'s interests to promote First Amendment rights to prevent China or the Asia-Pacific region from becoming unstable, unreliable, or untrustworthy, as it would jeopardize our economic security in the already tense bilateral relationship.

Current Efforts

Domestic Efforts

Due to China's tendency to crackdown on dissidents, grassroots groups in China are fewer than would be expected for a nation of its size but there are a couple reasonably high profile groups. Human Rights in China (HRIC) is a group that was founded during the early stages of the Tiananmen Square protests in 1989. The group's three fold mission consists of: "advance[ing] the rule of law and foster[ing] the growth of civil society in China; Strengthen[ing] the institutional protection of human rights through casework, policy advocacy, and electronic advocacy; and generate[ing] international pressure for social change in China and promot[ing] the Chinese government's compliance with its international human rights obligations"¹³². A second prominent grassroots group is the one the published Charter 08 Chinese Human Rights Defenders (CHRD). The group's "objective is to support human rights activists in China, monitor human rights developments, and assist victims of human rights abuses"¹³³. The organization works both internally to help victims and internationally trying to raise the profile of the state of rights. Other international groups active within China include Amnesty International and Reporters Without Borders.

Just like everywhere else in the world, the use of the Internet has been the main mode of progress for human rights in China. It has proved to be one of the most effective U.S. policy tools for promoting freedom of expression and other ideas in China. It has served as a catalyst to organize protests, spread democratic ideas, and to voice grievances for human rights abuses. For example, recently Chinese citizens have exposed the corruption of government officials using the Internet, which eventually led to their resignation. This internal method of accountability carries much more significance than international pressure as it gives Chinese citizens a method to voice their own concerns¹³⁴. However, the majority of Chinese Internet users are limited by the PRC's censorship technologies. It is estimated that only between 1% and 8% of Internet users in China use available methods such as proxy servers to circumvent the government's firewalls and censorship technologies. With only less than a tenth of Chinese Internet users participating, there has still been relatively significant progress in freedom of expression and exposure of abuses.¹³⁵ Due to the increase of free communication, the PRC has chosen to create controlled forums for political discussion in order to monitor the ideas and prevent organized activities. Though their intentions are controlling in nature, this is still seen as a sign of progress and opening up of society as the government is catering to the people's actions.¹³⁶

U.S. Efforts

Despite the challenge, the U.S. has been making use of a wide range of efforts to promote First Amendment rights. These include “quiet diplomacy” or having private bilateral discussions; monitoring human rights violations through commissions; applying sanctions; openly calling out the Chinese by issuing reports and commissions to bring their abuses to light; using international coordination and systems to apply pressure; increasing assistance and dialogue with human

rights activists in China; promoting internet freedom and access to international broadcasting; and various projects to promote human rights, democracy, and good governance within China.¹³⁷

Despite the attempts, success has been very limited when using these conventional methods.

While much can be attributed to China's cultural differences and the Party's quest for stability and control, there are also factors in the United States that play a part. Due to the strong economic relationship we have with China, the U.S. has a strong interest in maintaining stability and continuing economic activities. In the past, private business interests have trumped some policy makers' goals of seeing human rights progress in China, such as when Clinton failed to link human rights to China's Most Favored Nation status.¹³⁸

In response to this direct linkage failing, the Bush and Obama administrations have established a policy to promote human rights without jeopardizing the U.S.-China trade relationship. This policy has been referred to as "principled pragmatism", "peaceful evolution" and "constructive engagement".¹³⁹ The policy recognizes that the U.S. failing to budge on the human rights issue detracts from the other beneficial aspects of the U.S.-China relationship, such as the economic or security aspects, and focuses on quiet diplomacy. Principled pragmatism has been argued as being both positive and negative. Bill Clinton called it "our best hope to secure our own interests and values and to advance China's". Some policy observers have established that this approach allows for both countries to increase collaboration in mutually beneficial areas of the relationship. Because it keeps the overall U.S.-China relationship less tense, it is more effective in actually making progress in China's human rights situation. Critics of the policy have argued that because this stance is not as aggressive, the U.S. is not making as much headway as possible and not securing enough concessions from China on the human rights front¹⁴⁰.

The effectiveness of open criticism of China in its human rights abuses also remains debated. There are cases for either side, for example speculation that China resumed human rights dialogue due to the U.S. Department of State not including China in a list highlighting the world's worst human rights violators. On the other hand, there is the strong point to be made that often when the U.S. openly criticizes China's human rights situation, they retort angrily by attacking the U.S. on its own abuses and suspending human rights dialogues.¹⁴¹ The effects are similar to that of economic sanctions, being unproductive and even detrimental to U.S. interests.

Currently, the U.S. imposes sanctions on China that remain from the Tiananmen Square incident in 1989. These sanctions include prohibiting all foreign aid except to Tibet, HIV/AIDs programs, support to promotion of rule of law programs, and to U.S. schools and hospitals initiatives. The reason for this, according to the U.S. Agency for International Development, is that China does not "share core American values on human rights, religious freedom, and democracy. The United States and China also disagree on the best policies for Taiwan and Tibet." U.S. representatives in international financial institutions are required to say 'no' or abstain from votes regarding loans to China that do not require improvements in or are tied to human rights.¹⁴² Though the overall effect of these sanctions is questionable, it is difficult to impose hard-hitting sanctions without jeopardizing U.S. economic interests as well.

NORTH KOREA

History

Since the end of World War II, North Korea has been a destabilizing force in East Asia with blatant attempts at nuclear proliferation, provision of assistance and support to terrorist groups and oppressive regimes around the globe, human rights abuses, and the general hostility towards the international community. The country has been under the rule of Kim Il-Sung and his descendants since 1946, during which there have been no fair elections and the population has been subject to systematic ideological indoctrination.¹⁴³¹⁴⁴ The government's past actions have clearly illustrated a hostile attitude towards the United States and our allies, such as the abduction of civilians of Japan and the Republic of Korea, provision of support to Hamas and Hezbollah, and the provision of weapons to Qaddafi Forces in Libya.¹⁴⁵ In 2003, North Korea withdrew from the Nuclear Non-Proliferation Act prompting the United States to propose multilateral talks.¹⁴⁶ The resultant Six-Party Talks largely focused on the issue of denuclearization and stabilization in the Korean Peninsula until North Korea walked away from the talks in 2009.¹⁴⁷¹⁴⁸

Status of Rights

The state of North Korea completely withholds basic freedoms from its populations, including the freedoms of press, speech, religion, petition, and assembly. Citizens exercising these freedoms are labeled as anti-state actors and become political prisoners subject to harsh punishment in labor reeducation camps or execution.¹⁴⁹ In the 2011 International Religious

Freedom Report, the Department of State estimated that 150,000 to 200,000 people were being held in political prison camps. The state also authorizes that citizens attempting to flee the country can be shot on sight by border patrol or transferred to labor reeducation camps.

Freedom of Expression

In Article 67, the North Korean constitution officially assures the freedom of speech and press, but these freedoms are not protected in practice. The government controls all print media, broadcast media, and book publishing and prohibits listening to foreign media broadcasts, except for political elite.¹⁵⁰¹⁵¹ Internet access is also limited to high-ranking officials and other designated elites.¹⁵² The Ministry of State Security (MSS) and Ministry of People's Security (MPS) heavily monitor private correspondence; possessing "antistate" material, making international phone calls, or owning an unauthorized (untapped) cell phone results in harsh punishment¹⁵³. Citizens are routinely arrested for saying anything about the state that could be interpreted as negative, and arbitrary arrests and detentions are a norm.¹⁵⁴

Freedom of Religion

True religious freedom does not exist in North Korea, though Article 68 protects it in the constitution. The U.S. government has designated North Korea as a Country of Particular Concern (CPC) due to its severe violations of religious freedom.¹⁵⁵ The state has punished many people in North Korea for refusing to accept the supreme authority of the leader on religious grounds.¹⁵⁶

Freedom to Petition

Article 69 of the constitution provides citizens with the right to petition their government to stop infringement of their rights and to obtain compensation, but this provision is not respected in practice¹⁵⁷. As previously mentioned, any complaints or negative comments about the North Korean government are interpreted as “anti-state” activity and the involved persons, and often their families as well, are punished.¹⁵⁸¹⁵⁹

Freedom of Assembly

The constitution of North Korea also officially protects the freedom of assembly in Article 67, but the state does not abide by this provision in reality¹⁶⁰. Public meetings are banned unless previously authorized, and the only known organizations are those created by the state.¹⁶¹ Additionally, there are professional associations that exist primarily to facilitate state control and monitoring of organizations members.¹⁶²

U.S. Relations and Current Efforts

U.S. Efforts

Since the establishment of the Democratic People’s Republic of Korea in 1948 as a socialist regime under the Soviet Union, the United States has adopted a policy of diplomatic non-recognition towards the state.¹⁶³¹⁶⁴ This policy has been consistently upheld in response to the provocative, hostile actions of the state of North Korea.¹⁶⁵¹⁶⁶ The U.S. has maintained heavy economic sanctions against North Korea, including a ban against the importation of any North Korean goods.¹⁶⁷

The United States was engaged in multilateral talks with North Korea, South Korea, China, Japan, and Russia in response to North Korea's increasingly provocative nuclear program, but in 2009, North Korea walked away from the talks. The so-called Six-Party Talks focused almost exclusively on the nuclear issue, neglecting the human rights violations. Roberta Cohen, who is a human rights specialist at the Brookings Institute and on the board of the Committee for Human Rights in North Korea, suggested that in order to promote peace and greater stability in the Korean peninsula the human rights issue must be addressed and not disregarded pointing out that "arguments against including human rights in discussions with North Korea are flawed".¹⁶⁸

The U.S. does engage with North Korea for humanitarian purposes. The U.S. has tried to protect North Korean refugees and defectors, by facilitating family reunification and international adoption and by urging the Chinese government to stop the repatriation of North Korean refugees that have fled to China.¹⁶⁹¹⁷⁰ The North Korean Human Rights Act of 2004 and its reauthorization in 2008 allocates resources for a Special Envoy to be sent regularly to assess the human rights situation, for radio broadcasting to North Korea, for the provision of grants to organizations that further democracy and civil liberties in the region, and for programs that increase the availability of sources of information outside of the influence of the government¹⁷¹.

International Efforts

A number of non-profit and non-governmental organizations work to promote democracy and human rights in North Korea, but due to the isolated nature of the state, it is difficult for many organizations to do anything more than discuss and recommend potential next steps for dealing with the issue. Many NGOs, such as Doctors without Borders and Oxfam, have left

North Korea due to the fact that restrictions by the North Korean government hampered their efforts to the point of ineffectiveness¹⁷². Some organizations, such as Human Rights Watch and the Committee for Human Rights in North Korea, are trying to raise awareness and conduct research about the human rights situation and to what extent civil liberties are withheld from North Korean citizens. NGOs that are working in North Korea, many of which are European organizations, are focusing on programs to promote education, build capacity in agriculture and health, and broadcast independent media.¹⁷³

U.S. Interests

Due to the persistent destabilizing impacts that the North Korean administration is having on the promotion of U.S. foreign policy and on affairs in the surrounding region, it is largely within the U.S.'s interests to promote First Amendment rights in North Korea. In the Freedom Promotion Act of 2002, Congress expressed its findings that the U.S. benefits from its deep connections with peoples around the world and that "Misinformation and hostile propaganda in these countries regarding the United States and its foreign policy endanger the interests of the United States. Existing efforts to counter such misinformation and propaganda are inadequate and must be greatly enhanced in both scope and substance."¹⁷⁴ This statement still holds woefully true with regards to North Korea. Recently, North Korea declared the United States the "archenemy of the Korean People" and released an animated video depicting New York burning, conveying their intense animosity towards the U.S.¹⁷⁵¹⁷⁶ The U.S. government has a responsibility to protect its borders against aggressors, and there is perhaps no clearer case of provocation towards the U.S. than that of North Korean state. The U.S. cannot afford inaction with regards to North Korea. To not act conveys a sense of powerlessness on behalf of the U.S.

and would sanction the not only the threat that is expressed in the Freedom Promotion Act but the threat of a nuclear attack.

Excluding the promotion of human rights from the U.S.'s policy in dealing with North Korea does nothing but weaken the current efforts to stabilize the region. As Roberta Cohen of the Brookings Institute points out in an interview with the Council on Foreign Relations "The [Jimmy] Carter and [Ronald] Reagan administrations did not give up human rights goals in negotiating arms control agreements with the Soviet Union."¹⁷⁷ Incorporating human rights discussions can aid the U.S.'s attempts at stabilizing the Korean peninsula by providing a less-volatile issue around which to re-commence talks with North Korea instead of concentrating exclusively on the sensitive issue of denuclearization. In addition, by advancing these civil liberties, the U.S. will increase the transparency and impressionability of the North Korean regime. Increasing the transparency of the regime allows the U.S. government to have more insight into the state structure and economy and draws North Korea further into the international community, making it more open international criticism and to the global flow of information and ideas.

POLICY OPTIONS FOR EAST ASIA

Promote Ways to Help Chinese Citizens Circumvent PRC Censorship Technologies

Currently, only about 1% to 8% of Chinese citizens who have access to Internet are able to get around the government's firewalls. We have seen the most progress in First Amendment rights by China's own citizens holding their government officials accountable and spreading awareness of human rights abuses through their own methods of communication. The U.S. should maintain their current efforts to observe Internet conditions in China and take more action to foster change. The United States' goal should be increase the number of Chinese Internet users who can get around the firewalls and censorship technologies. Increasing these numbers is a factual goal and could be measured to ensure our efforts are working. Specific recommendations include: Focus efforts on finding out exactly how many internet users actively avoid PRC censorship already, and use those numbers to measure progress and determine the success of future U.S. efforts.

- Develop circumvention technologies that are user friendly and can easily be updated, in order to keep up with PRC blocking efforts
- Expand efforts to bring Internet to the rural areas of China, increasing the number of Internet users
- Increase U.S. efforts on Internet freedom programs through the State Department and USAID initiatives in China, specifically promoting awareness of circumvention technologies through programs like Voice of America
- Actively work with Global Network Initiative and its members as well as other media and Internet enterprises to eliminate government censorship capabilities

Increase Internet and Mobile Technology Security

When the spotlight is put on major PRC events, corruption scandals, or other politically sensitive issues the Chinese government will often shut down access to the Internet, or specifically those sites that foster exchange of ideas. The U.S. should empower the Chinese to communicate during these times when interest and ideas are open while the issues are occurring. Additionally, many Chinese cannot communicate anonymously over the Internet, exposing them to possible government persecution. The U.S. should promote technologies to help the citizens remain anonymous and communicate ideas in times of strife.

- Give incentives for U.S. companies to develop technology providing internet users with the ability to circumvent censorship technologies easily while remaining anonymous, and that can be updated regularly to balance against PRC blocking efforts
- Develop communication hardware and software which can be used when the PRC shuts down all internet access, and distribute this hardware/software to activists who are in a position to communicate with the Chinese masses
- Encourage U.S. companies (Facebook) to develop and make easily available technologies to circumvent censored Internet and particularly gain access to U.S. governmental media and education initiatives regarding free speech/uncensored Internet

Approach China with a Broader Perspective of Human Rights

The United States was founded on the Constitution and Bill of Rights, engraving basic human rights as an important element of our national identity. However due to China's long history of Confucianism and unique religious/ideological inclinations, its values and perspectives differ from that of the West. This has led to a different understanding of human rights. The U.S. emphasizes individual and political rights, and views democracy as a source of good. The Chinese are hesitant about democracy becoming a source of chaos, and value their sovereignty and policy of 'non-interference'. China's non-interference mindset directly contradicts U.S. policy of pushing American human rights values on China's government. The U.S. should consider this difference in perspective of First Amendment rights and be open to different types of progress.

- Approach China with a broader perspective of human rights, recognizing that the American idea of human rights conflicts with their historical past of chaos and strong ideology of national sovereignty due to imperialist abuses
- Alter USAID and State Department initiatives to take an approach to promoting First Amendment rights that is tailored to and compatible with China's history and culture

Provide Support for Grassroots Movements within China

Though China does not have as large of a grassroots movement as would be expected for a country of its size due to the heavy crackdown and persecution faced by dissidents there are still a number of high profile groups within China the United States can work with and support such as the previously mentioned CHRD and HRIC. China's

also has a growing network of bloggers many of whom tend to be highly critical of Party policy. The US should help these groups by:

- Offering these groups legal advice and help when there members become targeted by the Chinese government if they should desire it
- Awarding those that currently do not so enjoy tax exempt status in regards to their operations within the United States so as to alleviate
- Helping raise the profile of these groups by helping coordinate talks and discussions about the right situation within China their financial situations

Take a More Active Role in Assisting Chinese Dissidents

Stories about the difficulty that dissidents face not just leaving China, but even more so in returning abroad. The case of Chen Guangdong is the most visible of recent asylum cases involving Chinese dissidents and while his case reached a reasonably satisfactory conclusion other dissidents have not been so fortunate. The United States should:

- Lessen the restrictions and expedite asylum cases based on situations involving First Amendment rights
- Place a greater emphasis on China to allow citizens desiring to return to their homeland the ability to do so
- Accept a greater role in facilitating dissidents desire to leave China even if the United States is not the desired destination by acting as a temporary stopover until asylum can be negotiated for the final desired destination and serving as intermediaries

Promote Freedom of Religion in China

Currently, Chinese citizens can only be involved in religious organizations at high personal cost, socially and economically. The Chinese government officially recognizes only five large-scale religions and even these five face persecution. The regions of Tibet and Xinjiang are especially problematic as the predominant religions in these areas have become stigmatized and persecuted due to their association with independence and anti-government movements. Therefore, the United States should:

- Pressure China to release the current Pechan Lama from house arrest and allow him to travel outside of China
- Engage in discussions with the leaders of the five recognized religions within China about expanding their criteria to allow a wider range of religions to become state recognized under their umbrella
- Seek the elimination of the current requirement that all lama's require the approval of the state

Implement a Cross-Cultural Program between the United States and North Korea

This program would involve bringing North Korean professors to the United States to educate them on subjects such as the international economy, global trade, and the English language. In addition to these subjects, American professors can place a subtle emphasis on the economic and political advantages of having a population that has open access to information through various independent sources, such as the Internet and a free press. This initiative would help to open up North Korea, allowing international knowledge, ideals, and values to diffuse into the country. Long-term, the spread of ideas

will help to weaken the cult of personality and indoctrinated values that hold the system together.

Moreover, the education provided to these professors will help to build human capacity within North Korea and develop their domestic economy, and increasing the economic success of the country could also help to promote First Amendment rights according to Maslow's hierarchy of needs, which illustrates the concept that once a person's basic needs of adequate food are fulfilled, they will start to demand further rights such as personal security. Additionally, this program is not unprecedented. A similar program was implemented in Canada in 2011 called the Canada-DPRK Knowledge Partnership Programme, which so far has hosted six North Korean professors each year. This provides the United States with an example on which to model its own program. However, although North Korea has proven receptive to this type of program in Canada, it will not necessarily be receptive to an American version. Relations between North Korea and the United States have mostly been limited to humanitarian aid missions, and recently this relationship has further deteriorated with North Korea's National Defense Commission naming the United States the "archenemy of the Korean people" in January.¹⁷⁸

- Meet with the directors of the Canada-DPRK Knowledge Partnership Programme to discuss the strategies and logistics of starting a similar program in the U.S.
- Design a curriculum that focuses on international economic issues and practices and that incorporates elements of modernization and increases in freedom of information

- When presenting the idea focus on the opportunities that this cross-cultural program creates to generate common ground, encourage conflict resolution, and cooperation between the U.S. and North Korea

Encourage and Facilitate the Movement of North Korean Defectors to the United States

The North Korean Human Rights Act states that “the Secretary of State shall undertake to facilitate the submission of applications... by citizens of North Korea seeking protection as refugees”, but as of yet, this process still remains largely inaccessible to recent defectors.¹⁷⁹¹⁸⁰ The United States government has already clarified that North Korean refugees are eligible for protection within the United States even if they can get protection from the South Korean government.¹⁸¹ This action would show our support of the refugees who leave North Korea to escape persecution and oppression. It could also help relieve tensions between the United States and China over the issue of North Korean refugee absorption. Facilitating the movement of North Korean refugees to the United States would show the Chinese that they would not have to bear the brunt of the refugees, possibly causing them to be more receptive to absorbing the refugees rather than forcibly repatriating them to North Korea. Having North Korean defectors in the U.S. could also provide the U.S. government with people that are knowledgeable about the situation of human rights in North Korea and who might be very motivated to help their families and communities back in North Korea. However, this policy option could potentially only affect a very small group of people, considering the number of refugees who successfully cross the North Korean border and therefore might not be a cost-effective method of promoting the cause of First Amendment rights in North Korea.

- Establish better lines of communication with consulates in the region, including staff increases, especially those fluent in Korean
- Provide defectors and refugees with opportunities to publicize the human rights violations that they experienced, increasing international awareness
- Increase the awareness in Northeast and East Asia that the U.S. offers asylum to any North Korean defectors or refugees

Encourage and Facilitate NGO Activity in North Korea

Due to the limited level of large-scale interaction between the US and North Korean governments, NGOs offer an alternative means to promote First Amendment rights that is less intrusive and therefore is more likely to be an effective means of change within a state so unreceptive to foreign intervention. This could help to gradually open up North Korea, allowing larger-scale interventions in the future. Increasing journalists' rights could also help to monitor the appropriate distribution of aid, specifically food aid, within North Korea by enabling journalists to circulate information and photographs of the aid being received thereby helping to ensure that aid coming from U.S. organizations is not simply serving to legitimate the current regime. However, given the state of US-North Korean relations, there is no guarantee that the North Korean government would be receptive to making changes that are significant enough to encourage many NGOs to return to work in the country.

- Provide specific grants to organizations that attempt to advance First Amendment rights in North Korea.

- Urge the North Korean government to lift some of the restrictions place on NGOs' activities by linking these concessions to the provision of aid.
Specifically, the provision of aid could be tied to the lifting of the North Korean regulation that all food aid be distributed through its Public Distribution System, which is the means by which the state allocates resources in a hierarchical manner according to social importance of the groups.¹⁸²
- Especially encourage NGOs to promote journalists' rights and freedom of the press, which would increase the transparency of the regime and bring North Korea more into the international community.

Use Economic Tools to Lower Staple Food Prices in North Korea

As a result of the high level of monitoring and scrutiny of foreign organizations by the North Korean government, many NGOs have refused to work in the country and the government has expelled other NGOs that were working to ensure that food aid reached the target populations.¹⁸³¹⁸⁴ Without these groups in place, a means of confirming that any food aid reaches the intended groups does not exist, making the provision of food aid an unviable option of helping the indigent population. Using economic tools could be an alternative way to achieve this goal. By working to provide necessities that actually reach the impoverished North Korean citizens, the U.S. aligns itself with the oppressed population instead of incidentally legitimating the despotic regime. This favorable relationship in addition to the satisfaction of basic needs could make North Koreans more empowered and receptive to grassroots movements for other rights.

However, given its hostility to foreign intervention, the North Korean government could be very resistant to this level of interference with their economy.

- Provide subsidies to food producers in order to lower prices of specific goods, especially grain and rice, in order to lower and stabilize the market prices of necessary foodstuffs, making them more accessible to the general population.
- Halt the provision of food aid until there is a viable means to monitor the appropriate distribution of the food.

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SOUTHEAST ASIA

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INDONESIA

History

Indonesia is a former Dutch colony, suffering from the same ethnic and religious divisions that many former colonies experience when disparate peoples are brought together by force. Since Indonesia gained independence in 1945, the nation largely suffered under an authoritarian regime led first by former nationalist leader Sukarno, and after 1968 by General Suharto.¹⁸⁵ President Sukarno established what he called “Guided Democracy” that in effect led the country away from democracy and consolidated power in his hands. He was targeted during an anti-Communist purge led by then General Suharto that removed Sukarno from power and installed the new President, Suharto.¹⁸⁶

Suharto proved extremely adept at tethering various political factions to himself, as the font of all authority, and he never let any one faction gather enough power to challenge him until his advancing age finally emboldened the opposition to unite in calling for his resignation from politics.¹⁸⁷ He resigned from the Presidency in 1998; in 1999, Indonesia held its first free and fair elections and began the transition to democracy.¹⁸⁸

The new democratic government still struggles to keep the country together, as the regions of Papua, and more recently Aceh, have made attempts to secede.¹⁸⁹ Such attempts go back to Dutch occupation, when Islamic guerilla groups formed to combat the colonial regime.

Later, these groups were accorded a certain amount of legitimacy by civil societies unhappy with the increasingly authoritarian regime under Suharno.¹⁹⁰ Islamic terrorism continues to be an issue in Indonesia and military intervention in particularly fraught areas has brought, and continues to bring, numerous reports of human rights abuses,¹⁹¹ although in recent years as the secessionist movement has faded somewhat, the military violence has also dropped. Indonesia is well on its way to entrenching its already established democratic institutions.

Status of Rights

The Constitution of Indonesia has several provisions guaranteeing citizens' basic rights and liberties. Article 28 of the Constitution states, "The freedom to associate and to assemble, to express written and oral opinion, etc. shall be regulated by law."¹⁹² Article 28E holds that every citizen has the right to choose and to practice the religion of his/her choice, and every citizen has the right to freedom of belief and to express his/her views in accordance with his/her conscience. Article 28I reaffirms these rights by stating that such rights as freedom of thought and conscience and freedom of religion are human rights which "cannot be limited under any circumstance."¹⁹³ While the Constitution guarantees citizens the right to freedom of religion, Article 29(1) declares, "The State shall be based on the belief in the One and Only God."¹⁹⁴

Although the Freedom House World Freedom Report 2013 has classified Indonesia as "Free"¹⁹⁵, Freedom of Press and Internet are classified as only "Partly-Free"¹⁹⁶¹⁹⁷ and Indonesia still faces significant challenges regarding freedom of worship and freedom of speech. Part of this problem stems from the fact that the rights enumerated in the constitution are not necessarily set in stone; responsibility for upholding these rights is delegated to the federal government,

which can make “laws and regulations”¹⁹⁸, resulting in the Blasphemy and Defamation laws (discussed below) and the abuse thereof. Additionally, in accordance with the constitution, the federal government has delegated some power to control civil legislation to some of its provinces, namely Aceh, which has taken the opportunity to institute a form of Shari’a.¹⁹⁹ This civil litigation has at times bled over into criminal law, and so far the federal government shows no signs of reigning in Shari’a.²⁰⁰

Freedom of Worship

Indonesia is a nation “based upon belief in one supreme God” and as such does not have a provision for non-belief.²⁰¹ There are six officially recognized religions, one of which you must declare in order to have it registered on the government-issued ID card. Officially it is possible to leave the religious preference blank, but citizens who attempt to do so have reportedly faced discrimination when trying to obtain their card or otherwise deal with the government.²⁰² Citizens who worship outside the officially sanctioned religions face discrimination from the majority religious groups, mainly Sunni Islam, and sometimes suffer violence for their beliefs.²⁰³ Large mobs often attack communities of religious minorities, burning homes and causing injury or death. Perpetrators are rarely brought to justice, and in many cases the victims are inadequately or simply never compensated for the loss of their homes and the injuries sustained.

Religions outside the six officially recognized may also be brought to trial for violation of the Blasphemy Law, which allows for any citizen to press charges against another for speech or practices deemed “insulting” to one of the sanctioned religions.²⁰⁴ Indonesia is a majority Sunni Islam state, and in practice these cases are usually brought by Muslims against deviant sects of

Islam. These cases almost never end in acquittal and most receive the maximum penalty of five years. Since 1998, 120 people have been convicted under the blasphemy law.²⁰⁵

In addition, for what are almost certainly political reasons, the government has since 2001 transferred more authority over civil legislation to the embattled province of Aceh. This has translated into a set of laws drawn from Shari'a. None of the harsher sentences, such as amputation or stoning, have yet been implemented, although caning is now a legal punishment. Certain rights of women have been abrogated under these new laws.²⁰⁶ Social religious discrimination is evident to an even greater degree in Aceh, even though non-Muslims are exempt from Shari'a law.

Freedom of Expression

In addition to the blasphemy law, there is also a law in Indonesia against "defamation". This law allows citizens to bring cases against one another for any sort of criticism that harms one's "good image". For example, a mother of two was charged by a hospital for complaining through her e-mail list of the treatment she received at the hands of two of the hospital's doctors. She was tried and acquitted twice and spent three weeks in jail leading up to her first trial.²⁰⁷ Similar cases abound, many with prison sentences of up to a year. Media criticism of public officials can and has led to charges under the defamation law. Needless to say, a law of this sort stifles the kind of informed debate that is necessary to the workings of a healthy democracy.

Along the same lines as the defamation law, the blasphemy law purportedly rules out exclusively "offensive" speech against a religion, but it has been brought to bear on such cases as

a teenage boy selling t-shirts with a pro-pluralism message.²⁰⁸ Clearly this is a blatant violation of the right to free expression as well as the freedom of worship.

As well as these two exemplary laws, there is a tangle of laws on Indonesia's books relating to censorship in some form or another, often contradicting and with little in the way of enforceable standards. These laws are often taken advantage of by the rich and powerful, and with so much dependent on a subjective view of a person's intent to commit defamation, there is nothing like a fair and just standard for the accused.²⁰⁹

Rights in the Provinces of Papua and Aceh

The regions of Papua and Aceh have at various times attempted to secede from Indonesia, often coming into conflict with the military. There is since 2005 a cease-fire in Aceh, which seems to have had a stabilizing effect, although it seems likely that the current special status of Aceh's provincial legislation over federal legislation will be a cause for conflict in the future.²¹⁰ In Papua, although the Free Papua Organization (OPM) has perpetrated sporadic violence, it is not a threat proportionate to the heavy Indonesian military presence in the region, which has been the cause of human rights abuses and made Papua a matter of international concern.²¹¹ Papua has been carved into several smaller provinces in an attempt to tamp down rebellious fervor, and one of these new provinces, Papua Barat, has been granted the same special legislative status as Aceh. So far this has not led to any significant changes in Papua.²¹² While freedom of assembly is guaranteed under the constitution and is generally well protected, in areas such as Papua, official permission for demonstrations is frequently refused.²¹³

U.S. – Indonesia Relations

The United States and Indonesia have had a close relationship for most of the nation's history, beginning with the U.S.'s support of Indonesia's transition to independence.²¹⁴ The U.S. continues to be connected to Indonesia through security, economic and trade ties. Our diplomatic connection has recently expanded due to the election of President Obama, who spent part of his childhood in Jakarta and is highly regarded in Indonesia. It is likely that, for as long as President Obama is in office, we will be able to initiate First Amendment rights programs in Indonesia to an extent that will not be possible under a different, less popular president.

In 2010 during President Obama's highly anticipated visit to Indonesia, President Obama and President Yudhoyono agreed to a Comprehensive Partnership as a long-term commitment to expand and deepen bilateral relations between the two nations. The Partnership establishes a Plan of Action regarding three main pillars: political and security; economic and development; and socio-cultural, education, science, and technology. The Comprehensive Partnership also specifies several priority areas: trade and investment; education; energy; climate change and the environment; security; and democracy and civil society.²¹⁵ Overall, this Partnership indicates a blossoming relationship between Indonesia and the U.S.

U.S. Interests

Indonesia is a strategic ally and is critical to stability in Southeast Asia, notably as an anchor of the Association of Southeast Asian Nations (ASEAN). The fourth most populous nation in the world, Indonesia provides an important, democratic counterbalance to the weight of Chinese influence.²¹⁶ Our interests in Indonesia range from geography, to economics, to

counterterrorism, all of which may be better served by the presence of a healthy democratic society. Democracy in Indonesia is important, in and of itself, but also because the strength of our strategic alliances in Southeast Asia have thus far been highly dependent on the level of democracy in a given country. Historical events created this tendency, and present events serve to enforce it. That having been said, we must also recognize that the strength of a democracy is itself dependent on the degree and strength of civil liberties in a country, both in law and in the public's conscience. Indonesia shows enormous promise, but its civil society does not yet fully embrace the values of free speech and religion on the scale that more established democracies do. U.S. help in that regard could be invaluable, and indeed has already done much to urge Indonesians towards a greater degree of rights consciousness. Indonesians can demand greater accountability and freedom from their government to an extent that, coming from the U.S., would be foreign intrusion. Our goal in Indonesia must be to help Indonesians take charge of their own future.

Strategically, we should also not forget that Indonesia is the world's largest Muslim-majority nation, larger than Egypt and Iran together for population. The religious composition of the state is overwhelmingly Sunni Islamic. Good relations with Indonesia, while not on the same symbolic scale as U.S. relations with the Middle East, at the least send a signal to the Muslim world that we are not antithetical to Islam. Furthermore, successful democracy within Indonesia proves that democracy and the religion of Islam are not incompatible. Our position in Indonesia affords us the opportunity both to uphold moderate Islam and combat the actions of radical Islamic terrorist groups. Greater religious freedom in Indonesia would shield religious minorities from the persecution of hardline Islamic groups and would necessarily lessen these groups' legal ability to enforce their own standards of civil liberties. This loss of authority would gradually

lead to a lessening of hardline Islam's ability to exert social pressure and would mean a concurrent lessening of violence, both as acts of terrorism and as acts of persecution against religious minorities. Any significant progress in the global war on terror can only be beneficial.

Lastly, the U.S. has significant economic interest in Indonesia, namely in the Straits of Malacca, Sundak, and Lombok, through which almost half of the entire global merchant fleet passes²¹⁷, and in Indonesia's vast array of natural resources, including oil, natural gas, and minerals. The U.S. has invested billions of dollars in Indonesia and hundreds of U.S. firms are represented within the country.²¹⁸ The promotion of democracy and civil liberties is the most effective way to protect our economic interests because of Indonesia's fragmentation along ethnic lines. Protecting the rights of minority groups is the surest way to avoid repetitions of past attempts at secession and the ensuing bloody conflicts and regional instability. If all peoples within Indonesia, regardless of affiliation, are sure of equality under the law, the motivation for secession is gone, and a healthy democracy and civil society will emerge.

Current Efforts

U.S. Efforts

Although the majority of U.S. assistance and involvement with Indonesia has centered around development assistance and counterterrorism efforts, the U.S. has begun to take steps towards the promotion of civil liberties in Indonesia. The U.S. embassy and consulates have reached a wide audience by producing and airing discussions of the U.S. views of religious freedom and other issues. The embassy has also sponsored fast-breaking meals for Ramadan and invited several speakers, including the U.S. special representative to Muslim communities, who

spoke about her “campaign against violence”. The embassy has also supported religious diversity programs across a broad range of educational levels, including at Islamic schools.²¹⁹

Domestic Efforts

Since Indonesia began the transition to democracy, the nation has seen a healthy growth in civil society. Today there are more than 5,000 active non-governmental organizations within Indonesia (NBR). These NGOs are not afraid to take decisive stances against government intrusion into civil liberties, such as in the previously mentioned case of the mother tried for defamation. Five NGOs, all broadly associated with litigation and/or human rights, wrote a compelling *amicus curiae* for the mother’s trial, in which they argued both for the necessity of free speech in a democracy and that the anti-defamation law is incompatible with free speech.²²⁰ That these five NGOs, some new some old, were able to write and publically submit such a document is evidence of progress towards a more free civil society in Indonesia.

While violations of rights still take place under Indonesia’s increasingly democratic government, the government has taken steps to promote democratic practices and human rights. For instance, in 2008 Indonesia launched the Bali Democracy Forum. This annual intergovernmental forum aims to “promote and foster regional and international cooperation in the field of peace and democracy through dialogue based on sharing experiences and best practices” which demonstrates Indonesia’s commitment to growing and improving its democracy.²²¹

BURMA

History

Burma is a former British colony that achieved independence in 1948, naming itself the “Union of Burma”. Although the state began life with multiparty elections, in 1962 General Ne Win and the military seized power and instituted one-party rule. In 1988, there was a popular uprising calling for an end to the authoritarian system, which resulted in Ne Win, then the leader of the ruling Burma Socialist Programme Party (BSPP), stepping down. However, rather than transitioning to a more democratic system, the military strengthened its hold through a coup and a 19-member junta became the authoritative party, forming the State Law and Order Reform Council (SLORC), which later was renamed the State Peace and Development Council in 1997²²². In response to the 1988 military coup, the U.S. government implemented heavy political, economic, and financial sanctions. In 2008, the ruling military changed Burma’s official name to the “Republic of the Union of Myanmar”; however, many countries, including the U.S., do not officially recognize this name and continue to refer to the country as Burma. Today, Burma is taking small steps towards multi-party democracy, with the backing of President Thein Sein and the outspoken opposition leader Daw Aung San Suu Kyi.

The Burmese military (officially known as the Tatmadaw) has always had low transparency, even by the standards of other Southeast Asian militaries. However, recent changes have shrunk the political role of the Tatmadaw. The 2008 National Constitution, written by a government-appointed commission of 54 people, changed the political system of Burma from military junta to a presidential system with a two-house parliament.²²³ The constitution took away the military commander-in-chief’s authority over many areas of government. President

Than Shwe's new commander-in-chief, Min Aung Hlaing, seems to be aligned with President Than Shwe's reformist views, and has said that he intends for the military to have a narrower scope of power, mainly focusing on defending the national constitution and territory, as opposed to the former role of great authority in administration and governance. That being said, the constitution does stipulate that both legislative houses, the House of Nationalities and the House of Representatives, give 25% of the seats to the military.²²⁴ The House of Representatives is also required to approve the national budget, meaning that the military is more accountable for its expenses, which previously were essentially untracked and came from the black market as well as formal sources.²²⁵ Because of the new budget restrictions, the military's long-held monopolies over certain industries, such as cars, edible oils, and beer, either have ended or will end shortly²²⁶.

Status of Rights

Although numerous rights are guaranteed to citizens under the 2008 Constitution, citizens have consistently faced great repression and violations of these rights. Between 2001 and 2010 Burma received the lowest rating possible, a 7, on Freedom House's flagship World Freedom Report for political rights and civil liberties and has been named in the Freedom House Worst of the Worst Report as one of "The World's Most Repressive Societies"²²⁷. The 2013 World Freedom Report, however, denotes marginal improvements on both political and civil liberties within Burma, as political rights now has a rating of 6 and civil liberties has a rating of 5²²⁸. The case of Burma demonstrates that the law on paper means little without actors who will put it into practice. President Thein Sein and Vice President Shwe Mann appear dedicated to promoting

reform in Burma, which means that the progress since 2008 has moved more quickly than most could have imagined. It is very possible that the 2008 Constitution would have been interpreted in a much more conservative way, but Shwe Mann “has embraced a liberal agenda and given a legislature that on paper looks toothless a strong dash of independence and effectiveness.”²²⁹

Nevertheless, decades of repression and lack of growth cannot be cured so quickly, no matter how enthusiastic leaders are about reform. The legacy of past and ongoing ethnic conflict, a severely underdeveloped economy, resource depletion, almost nonexistent social services, and a weak education system will, until they are resolved, be a challenge to any future government, no matter how liberal their policies are.

Freedom of Expression and Assembly

The 2008 Constitution of the Republic of the Union of Myanmar calls for the protection of various rights for its citizens. Article 354 of the constitution accords citizens the right to freely express and publish their convictions and opinions, to assemble peacefully without arms, to form associations, and to “develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.”²³⁰ These rights only apply however “if not contrary to the laws, enacted for union security, prevalence of law and order, community peace and tranquility or public order and morality.”²³¹

Previously, the Tatmadaw saw any criticism, opposition, or advocacy as a threat to national security. Now under the new 2008 Constitution, implemented by Thein Sein in 2011, the military and the government view many parts of politics, formal and informal, as normal and

not as matters of national security. Protests and the formation of associations are now legal, which is quite a drastic change, considering that prior to the implementation of the 2008 National Constitution, any meeting with more than five people was illegal. Hundreds of political prisoners have been released, the most high-profile case being that of Daw Aung San Suu Kyi, the pro-democracy activist and the leader of the National League for Democracy (NLD) in Burma. Suu Kyi was released on November 13, 2010, after decades of house arrest and, on April 1, 2012, was elected to the lower house of the Burmese parliament. Today cabinet posts are the new power centers, rather than military officer positions, but even cabinet ministers are increasingly limited by legislative oversight.²³²

Over the past few years, Internet cafes were frequently under surveillance by the government and the arrests of bloggers were not uncommon. However, this past year, many of the Internet restrictions have unraveled and the greatest limitations to Internet are now bandwidth and inexpensive access.²³³ Many online forums and organizations have actually been given press credentials by the government. This is a drastic change from the heavy censorship that had characterized Burmese civil society for decades. Additionally, the government is gradually removing restrictions on press such as prepublication censorship protocols²³⁴. In January 2013, the state newspaper, *New Light of Myanmar*, reported that the government decided to dissolve the national censorship board, the Press Scrutiny and Registration Division (PSRD), which was formed by General Ne Win after the 1962 military coup.²³⁵ Since its formation, nothing in Burma could be published without the approval of the PSRD. Over the last few years, restrictions began loosening under President Thein Sein's leadership. The Printing and Publishing Enterprise, a division of the censorship board, had already stopped functioning in August of 2012, but the recent cabinet meeting made the closure of the entire PSRD official.

Since 2011, many new organizations have been formed by journalists, such as the Myanmar Journalist Network, formed in September 2011 by young journalists. The Myanmar Journalists' Association has its own constitution and executive committee, which is selected by the central committee and serves for three years. In order to promote the autonomy and independence of the associations, members of the executive committee cannot be journalists from state-owned newspapers.²³⁶ Many of these new free press organizations have partnerships with each other and also welcome cooperation and support from foreign journalists.²³⁷ Journalists are continuing to call for the government to take more steps in reversing restrictions entrenched in certain laws.²³⁸

The new government has been much more open in acknowledging the credibility of independent news sources; President Thein Sein has given comments to Radio Free Asia²³⁹, and Director General Ye Htut of the Ministry of Information has been interviewed by Democratic Voice of Burma, an independent Burmese media organization based in Oslo.²⁴⁰

Freedom of Religion

Under the constitution, citizens are entitled to freedom of conscience and the right to freely profess and practice religion. However, several limitations are placed on these rights. For instance, the right to freely profess and practice religion is “subject to public order, morality or health and to the other provisions of this Constitution.”²⁴¹ Additionally, the constitution recognizes the “special position” of Buddhism as it is practiced by the majority of citizens, while also recognizing the existence of Christianity, Islam, Hinduism, and Animism.²⁴²

Although violations of religious freedom affect all religions within Burma, the groups who experience the greatest discrimination are ethnic minorities, including Christians and Muslims, as well as Buddhist monks who are critical of the government. Historically, as minority groups, Christians and Muslims have experienced the greatest repression, but following the peaceful anti-government protests by Buddhist monks in the 2007 Saffron Revolution, the government systematically repressed monks who publicly criticize government policy. These minority groups continue to face restrictions on religious activities, mistreatment, desecration of property, intrusive monitoring, and are frequently targets of violence.²⁴³ Thus, the freedom to profess and practice religion guaranteed by the 2008 Constitution exists more on paper than in practice.

Much of the religious discrimination in Burma is divided along ethnic lines; Burma's domestic conflict, which has been ongoing for many decades, has even been characterized by some as civil war.²⁴⁴ Since 2011, there have been several ceasefire agreements in the works between the Burmese government and various armed minority ethnic groups. Among these groups include the Christian Karen people of Southern Burma, led by the Karen National Union (KNU) in a fight for autonomy, as well as the Kachin of Northern Burma, led by the Kachin Independence Army. Conflict between the Kachin Independence Army (KIA), based in the north of Burma, and the Tatmadaw has been ongoing since the time of British occupation. Although there have been numerous ceasefire agreements, most recently in 2009, the fighting between the KIA and the Burmese military has never truly ceased, and the Kachin are largely reluctant to believe the promises made by President Thein Sein.²⁴⁵

The ethnic and religious conflict within Burma is one of the biggest barriers to become a society that truly embraces First Amendment rights. Without the eradication of discrimination

and ethnic violence, Burma will not be able to treat its citizens equally. Currently, the ethnic minorities embroiled in conflict are not being treated as full citizens of the state, and although some Members of Parliament have begun to be more vocal in defending minority groups, there is still a huge amount of work that must be done to end the ongoing violence and to treat all peoples in Burma as equal.²⁴⁶

U.S. Interests

One reason for persistent attempts by the U.S. to become involved with Burma, with highly publicized visits from Secretary of State Clinton and President Obama, is that the U.S. sees Burma as geographically strategic. Burma borders China, and during the decades of being cut off by embargoes from the rest of the world, Burma had, and continues to have, strong ties to China. China provided almost all of Burma's foreign investment, and also supplied weapons to the military junta.²⁴⁷ As the U.S. builds closer ties with Burma, the hope is that Burma can become a U.S. ally and help to consolidate our presence in the region.

Additionally, Burma is home to extensive natural resources such as natural gas, nickel, precious gems, and timber.²⁴⁸ Furthermore, the largest source of U.S. business activity is the Yadana offshore natural gas production. A U.S. based Chevron subsidiary is one of four partners in the Yadana Project and as of 2011 holds 28.3% non-operated working interest in the production of natural gas from the Yadana fields²⁴⁹. Consequently, the U.S. has existing economic interests in Burma and its extensive natural resources provide the U.S. with an incentive to pursue involvement with Burma and promote stability within the country. Although having a free and democratic Burmese society may not directly affect U.S. economic interests in

the country, in general, stronger democratic rights lead to better stability and a healthier economy. Sharing democratic values will also facilitate better cooperation in terms of diplomatic dialogue and business. Embracing First Amendment rights has already helped integrate Burma into the global community, which means it is no longer solely dependent on China.

On the level of diplomatic dialogue, the U.S. and Burma are quite well aligned in their commitment to democratic reform. With Secretary of State Clinton's visit in December 2011 and President Obama's subsequent visit in November 2012, the United States has made it clear that they approve of recent change in Burma and are rewarding the new government for its efforts. However, some have criticized the Obama administration for what may be premature praise.²⁵⁰

On a broader scale, the Burmese people have suffered for decades under a repressive regime that did not value or respect the rights of its citizens. Although the government has made significant progress in transitioning to a more democratic system with greater rights protections, the U.S. must work to promote First Amendment rights within Burma to facilitate the spread of liberties that are crucial to a successful democracy. If the U.S. can successfully promote these rights, simultaneously helping Burma's democracy to develop and improving the lives of its citizens, the U.S. can make an important Southeast Asian ally and valuable economic partner.

Current Efforts

Domestic Efforts

During the first year of his presidency, Thein Sein had four to six ministers and advisors. Since then, more and more cabinet ministers have become more aligned with Thein Sein's

strategy of progressive reform, which includes a stronger civil society and a more narrow role of the Tatmadaw. Thein Sein has hand-selected his closest officials; on August 27, 2012, he replaced nine of the 29 positions.

There are many possible reasons for this sudden and unexpected shift in Burmese policy and practice, after years of static repression. Some suggest that many Burmese leaders wished for their country to gain a better image in the international community and become more economically competitive. It is also likely that Burmese realized the dangers of relying almost entirely on China for investment and weapons supply, and decided it would be more prudent to pursue a policy of multi-alignment.²⁵¹ President Thein Sein attributes the shaping of his reformist attitude to the devastation he saw in the Irawaddy Delta in 2008 after Cyclone Nargis hit in May.²⁵² Despite the dire need for support in disaster relief, the Burmese government, or SPDC (State Peace and Development Council), insisted they did not need assistance. The government imposed the heaviest restrictions on the U.S., France, and Great Britain, which have long held sanctions against Burma due to human rights issues.²⁵³ Thein Sein was astounded by the incompetence and irresponsibility of the Burmese government, and felt the need for change.²⁵⁴

President Thein Sein has publicly advocated abolishing censorship and opening the country to foreign investment. The new government released hundreds of political prisoners before President Obama's visit to Burma in November 2012. Among other changes, private schools became legal again in 2012, and the Ministry of Information, led by Director General Ye Htut, is working on transitioning state media outlets into public service broadcasters. A delegation from the Ministry of Information even traveled to Scandinavia in June 2012 to study their public service broadcasting system.²⁵⁵ In general, progressive leaders such as President Thein Sein and Director General Ye Htut have been open in speaking about the challenges that still remain.

Director General Ye Htut has clearly expressed his goal of providing “free and transparent media outlets that can truly provide information to the people” and has called for people to submit their suggestions for action to the Ministry of Information’s website.²⁵⁶

U.S. Efforts

The majority of the U.S.’s efforts to promote democracy and human rights within Burma have centered around sanctions. The Burmese Freedom and Democracy Act of 2003, which was renewed in 2012, outlines several measures to be taken in response to continued repression and human rights violations committed under the Burmese government and military. Section 3 of the act bans the U.S. importation of any product of Burma. Section 4 directs the U.S. President to freeze the assets of the Burmese regime in the U.S. Section 5 instructs U.S. executive directors to international financial institutions to oppose or vote against the extension of any loan or assistance to Burma by such institutions. Section 6 authorizes the President to deny entry to any former or current leaders of the SPDC. In addition to outlining these actions to be taken against the Burmese regime, the act also supports democracy activists within Burma. Section 8 authorizes the President to “use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy and human rights in Burma”²⁵⁷.

In December 2011, Secretary of State Hillary Clinton made the first visit to Burma by a U.S. Secretary of State in 56 years.²⁵⁸ Clinton’s approach has been to engage in “direct, senior-level dialogue with Burmese authorities” and to bargain with Burma by trading action for action.²⁵⁹ For example, in return for gradual lifting of economic sanctions, the U.S. demands

more freedom of press or assembly in exchange. The lifting of sanctions is both to encourage economic growth and to recognize and encourage political reform. The recent progress toward a legislative government and the strengthening of civil society is an indication that the current strategy employed by the U.S. (and international community at large) is providing the right incentives to Burma. Of course, this also relies on the fact that the Burmese leaders initiated democratic reforms; change was not entirely imposed from the outside. Rather, the U.S. has helped provide further incentives to support the continuation of the progress in Burma.

In September 2012, the U.S. eased the ban on Burmese imports outlined in the Burmese Freedom and Democracy Act of 2003. The waiver on the prohibitions of this act are in response to the Government of Burma's continued efforts at reform, particularly in areas of U.S. concern such as the release of political prisoners, human rights, and national reconciliation.²⁶⁰

Additionally, the U.S. has exerted diplomatic efforts over the past two years encouraging greater civil liberties in Burma, which culminated in President Obama's official visit to Burma, as the first U.S. President to ever visit the nation. The visit followed dialogue surrounding human rights issues and during the visit the Burmese government made commitments to human rights. Overall, the visit served as an opportunity to discuss reform and advancements of rights within Burma.²⁶¹

Furthermore, the U.S. provides funding for speakers on democracy related issues and resource centers that provide open and safe Internet access²⁶². The U.S. also seeks to promote freedom of speech and press through the promotion of independent media, such as Radio Free Asia. The U.S. provides grants and funding to Radio Free Asia, a private non-profit organization

whose mission is to “provide accurate and timely news and information to Asian countries whose governments prohibit access to free press”.²⁶³

POLICY OPTIONS FOR SOUTHEAST ASIA

Diplomatic Dialogue with Burma and Indonesia

Both Indonesia and Burma's governments are currently receptive to diplomatic pressure from the U.S. In Indonesia's case, President Obama and President Yudhoyono have already demonstrated a commitment to bilateral cooperation in the U.S.-Indonesia Comprehensive Partnership, although the U.S. has yet to significantly push for action based specifically on this Partnership. Diplomatic pressure in the form of statements from the President, Congress, and the Secretary of State should work in tandem with Indonesian NGOs and civil society to demand greater civil liberties from their government.

In Burma, the immediate goal of the Burmese government is to lift the sanctions imposed on them, which coupled with the Burmese government's willingness to cooperate, gives the U.S. an important lever in negotiations.

It should be noted that much of the success in diplomatic dialogue is dependent on the personalities of President Barack Obama and, in Indonesia's case, and of President Thein Sein, in Burma. The effectiveness of diplomatic dialogue may fade when these leaders step down. Although there are top leaders in Burma who share President Thein Sein's enthusiasm for reform, the political stability of the country is still in flux, and the future political climate is not predictable.

The benefits of continuing to use diplomatic strategy are that it is inexpensive and relatively easy to carry out. It also allows for a fair degree of discretion in the strength of

statements made. It may also galvanize public groups into demanding greater civil liberties from their government, in tandem with U.S. demands. Of course, this may also backfire and cause solidarity among citizens with their government, against the meddling U.S. Additionally, such statements in no way guarantee compliance. Issuing statements without a credible threat is just so much wasted breath. We strongly advise using diplomatic statements in tandem with other strategies.

- Take advantage of President Obama's popularity in Indonesia through publicized diplomatic efforts. In Indonesia's case, public statements urging protections of rights are likely to be more effective than conversation behind closed doors
- Continue to lift trade restrictions imposed by the Burma Freedom and Democracy Act of 2003 in exchange for demonstrated improvements by the Burmese government in the protection of First Amendment rights
- The U.S. should continue its "action-for-action" policy in diplomacy with the Burmese government, in which sanctions are lifted in return for improvements in human rights
- The U.S. should prioritize addressing the issue of ethnic violence within Burma. For example, the U.S. can place restrictions on Burmese exports into the U.S. unless conditions are met to decrease, and eventually stop, the ethnic conflicts
- Urge U.S. politicians or government officials to make critical statements, in addition to praise, regarding rights violations in Burma when delivering speeches or public statements. The Burmese government must understand that while they have made great improvements they still have a long way to go regarding the protection of citizens' rights

Support Independent Media in Burma and Indonesia

The U.S. should show its support for various types of information access reform, including support for independent and uncensored media in both Burma and Indonesia. Journalist's unions, local media NGOs, and international groups such as Radio Free Asia are all groups that are clamoring for civil liberties and are helping to increase awareness of the value of free speech and press. Supporting these groups' efforts is an effective way for the U.S. to promote freedom of speech and press without opening itself to charges of neo-colonialism, such as the imposition of a purely Western set of values.

Bloggers are becoming increasingly important as a source of independent news across Southeast Asia because the barriers to starting a blog, such as financial costs, are much lower than the costs of forming other news sources. In Indonesia, bloggers have played a role in pressuring President Yudhoyono to delay legislation that would have given Internet censorship capabilities to a government committee. As blogs are low-cost and fairly easy to use, the U.S. should take advantage of this important resource as a means of promoting independent media.

The downside to this strategy is that it can be somewhat expensive, in terms of grants. There is also always the risk that journalists may begin publishing opinions that run counter to U.S. interests. However, this is an accepted risk in all free countries, and should not make us hesitate.

- Increase grants or provide assistance in the form of technological equipment to Radio Free Asia to promote access to this independent media source in Burma

- The U.S. State Department sponsored East Asia and Pacific Media Hub should partner with local independent media across Southeast Asia to provide information on relevant local issues in addition to information on U.S. foreign policy
- The U.S. embassy in Indonesia should continue to reach out to journalists through grants and access to technology. Supporting local language publications particularly is an effective way to spread interest in free media as widely as possible
- Hold workshops in both Burma and Indonesia to apprise journalists of their rights under both local law and international law, especially of those international bodies that their respective countries are a party to
- Increase awareness of, and facilitate access to, resources for journalists such as the Journalist Response Fund, which offers training and emergency assistance to journalists, bloggers, and citizen journalists
- Ensure that journalists from the most repressive countries, such as Burma, are represented at events like the Edward R. Murrow Program for Journalists
- Include Southeast Asia on USAID's Media Sustainability Index in order to increase international awareness, identify challenges, and spur discussion regarding the development of media and free press in this region
- Air public service announcements during American TV shows targeted towards youth that feature popular characters from children's TV shows or movies, to promote values such as religious equality
- Help bloggers connect to each other, gain traffic, and attract followers through the

creation of an accessible online portal that leads to various blogs focusing on a wide range of issues, or encourage existing independent media sources such as Radio Free Asia to promote blogs

- The U.S. Embassy in Burma should establish a public forum that offers free lectures, workshops, and talk shows on a variety of issues, such as First Amendment rights. This could be modeled off of the @America stage sponsored by the U.S. Embassy in Indonesia
- The U.S. should engage in dialogue with Ye Htut, the Director General of the Ministry of Information in Burma. Ye Htut has demonstrated his progressive views and his desire for Burmese media to deliver information to the people.²⁶⁴ There is potential for a good partnership here.

Promote Cross-Cultural Exchanges in Burma and Indonesia

The U.S. should encourage cross-cultural exchanges to foster the development of civil society and an appreciation for First Amendment rights. These can include student exchanges, collaborations between sister schools, and fellowships for Indonesian, Burmese, and U.S. youth who want to work towards increasing civil liberties. The ultimate goal would be to expand the mindsets of the next generation by developing tolerance for peoples of other ethnic groups, social classes, and religions, and by drawing attention to the need for civil liberties and government accountability.

The obvious benefit to this strategy is that young people are much more open to new ideas and often more willing to expend time and energy in pursuit of social change.

Additionally, as these programs are completely voluntary, those who choose to participate have already demonstrated a willingness to expose themselves to new ideas and experiences. This approach would have a long-lasting effect on the participants and, hopefully, on their social circles and later lives. The downside is that the effect of these cross-cultural exchanges might be limited to those immediately involved: that is, we may not see the broader social influence we hope for, which would mean that the U.S.'s ability to influence young opinions would be limited by our resources to be able physically interact with them.

- Increase advertisement of existing U.S. cultural and educational exchange programs to Indonesia and Burma, such as the Kennedy-Lugar Youth Exchange and Study (YES) Abroad Program, the American Council of Young Political Leaders (ACYPL), and Fulbright U.S. Scholar Program, to increase awareness of and participation in these programs
- Share exchange program participants' experiences through blogs, publications, or virtual photo/film exhibitions to increase exposure to the experiences and knowledge participants gained through these programs
- Include course(s) on rights and liberties in exchange program curricula to generate conversation and dialogue about rights issues
- Expand and promote the existing Community College Initiative Program to cover Burma as well as Indonesia. The program provides one year of study at a U.S. community college for technical training, such as agriculture, youth education, business, etc
- Establish virtual conferences or exchanges to connect people from different

countries, cities, or communities, and promote dialogue and conversation about important rights issues without requiring a physical exchange. Such dialogue can allow participants to gain a better understanding of the values of such rights and allow participants to come together to address challenges in promoting rights

- Make it easier for Burmese and Indonesian students to travel to the U.S. to receive education by providing visas to students studying at credible U.S. educational institutions, and for U.S. students to study abroad in Burma and Indonesia. The Institute for International Education reports that in the 2010-2011 academic year, there were 695 Burmese students that enrolled in U.S. universities.²⁶⁵ However, it is U.S. policy to deny visas to Burmese students whose families have direct or indirect connections to the military. The U.S. should remove this restriction, because allowing students to study abroad in the U.S. would be beneficial in fostering First Amendment values and creating more global mindsets. It is not fair or practical to punish students due to their family's military connections. Increasing the number of Burmese students in the U.S. would be an effective way of promoting First Amendment rights because the students would bring back
- Promote English-language learning classes at the elementary school level for Indonesian and Burmese students. This program could include correspondence with sister-city elementary schools in the U.S. and could be taught by U.S. English teaching fellows or Peace Corp volunteers, for additional exposure to U.S. values and perspectives

Tie Developmental Aid to Increased Civil Liberties in Indonesia

Indonesia is a country where tying infrastructural aid to civil liberties could prove to be very effective. The country's infrastructure is not such that it does not need the aid, but it is complete enough to ensure accountability for the aid. Tying civil rights to aid for infrastructure projects such as roads, schools, and Internet availability is likely to seem very attractive to the Indonesian government and people.

The benefit of this strategy is that it would demand real, substantive change to current civil rights legislation, and its success could be measured by the number of laws changed or by the numbers of people affected by civil rights restrictions. However, these projects would also be very expensive and would have to be tightly controlled and monitored in order to avoid corruption and other misappropriation of funds, currently a major problem in Indonesia.

- Programs for infrastructural aid to link underdeveloped provinces to major distribution centers via roads. The funding could come through USAID or the World Bank. This would be especially useful in the Papua provinces, which are rich in natural resources but suffering from years of military control
- Other infrastructural projects could include the following, after careful consideration of need: increased Internet infrastructure; ecologically sound sanitation systems; hospitals and clinics; alternative energy sources such as wind, solar, or hydro; libraries; and institutions of secondary and higher education.

Use Technology to Advance Rights

Technology is rapidly changing the way information is spread by breaking down barriers that formerly impeded communications, such as distance, time, and access. New technology should be used to facilitate the spread of information regarding rights and liberties and to promote dialogue and conversation about these issues around the world. The Internet, in particular, is increasingly important and is beneficial to any society as it allows citizens to hold their governments accountable, spread important information, and generates creativity. However, governments continue to try to limit access to the Internet to prevent citizens from gaining access to certain information. Thus, an extremely important form of technology that can help citizens gain access to rights is circumvention technology, which helps individuals access the Internet and avoid government censorship. This approach is beneficial because it provides citizens and civil society groups with the tools they need to fight for their rights: it empowers the people fighting against repressive regimes.

The greatest downside to using technology to promote First Amendment rights is that access to such technology is not uniform in Southeast Asia. Only those with means of accessing these technologies, which often require some financial abilities, have the potential to benefit from it. In order for technology based strategies of promoting civil liberties to be truly effective, technology must be easily accessible by all groups in society.

- Embassies should fund resource centers to provide Burmese citizens with open and safe access to Internet

- The U.S. has already provided in-person training for more than “7,500 digital activists in hostile Internet environments”²⁶⁶ and it must provide in-person training to digital activists in the most repressive countries, such as Burma
- Online campaigns in twelve different countries have led to more than 500,000 downloads of circumvention technologies.²⁶⁷ The U.S. must continue to facilitate these online campaigns and help them disseminate to other nations, such as Burma, to help citizens gain access to the Internet and avoid government censorship
- Provide information on how to circumvent censorship technologies in local languages
- Initiate a TechCamp workshop in Burma, which is a two-day conference that brings together civil society organizations and technologists to learn how technology can be used to address the local challenges these organizations face TechCamps have had success in other nations around the world, including Indonesia, and in Burma such a workshop can be used to help civil society resolve pressing local issues
- Help civil society groups connect through virtual conferences and online dialogue to increase discussion of relevant issues and help these groups to collaborate and work together to solve problems

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NORTH AFRICA

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LIBYA

History

Originally a remnant of the Ottoman Empire, Libya was ruled by Italy from 1911- 1951 when it gained its independence. However, this independence lasted only until 1969 when military leader Muammar Gaddafi took control of the country. For the next 42 years until 2011, this dictator would suppress freedoms of expression and all forms of dissent in Libya. His reign would come to an end, however in February of 2011 when a wave of revolts spread across North Africa. Amidst this Arab Spring, Libya began its Civil War when revolutionaries began protesting in the street in response to the Benghazi arrest of a human rights activist. International aid soon came to the aid of the rebels in the form of a NATO air campaign, with military contributions primarily by the UK, USA, and France. The assistance paid off, and in August of 2011, the capital of Tripoli was won by the rebels.

During this time, an anti-Gaddafi unelected government known as the National Transitional Council (NTC) ruled Libya. They wrote a temporary constitution for the new Gaddafi-free nation. Shortly after, the NTC was pressured to step down in favor of a democratically elected government body. In July 2012, Libya held free elections, thus creating the 200-member General National Congress (GNC). In October, the GNC appointed human rights lawyer Ali Zeidan to be Libya's Prime Minister. This Congress has been charged with writing Libya's new constitution, the contents of which are still being debated. There are still

many problems to address in the country, notably the weakness of the central government in relation to the widespread unchecked militias around the country, a remnant of the Civil War. Libya is on shaky ground after its Revolution and it is unsure of how long its progress will last and in what direction its new government will take it.

Status of Rights

Freedom of Speech and Press

Under Gaddafi's dictatorship, freedoms of speech and press were suppressed. Criticizing the regime in any way could potentially lead to imprisonment, often without a trial. Since the Civil War, however, there has been a substantial improvement in freedom of speech, most notably in the arena of internet access. Creative use of the internet to communicate with large masses of people was instrumental in the Arab Spring's quick success.²⁶⁸ By having internet access, rebels had access to a large platform to express their anti-Gaddafi views both domestically and abroad. Since Gaddafi's downfall, the Libyan Supreme Court has upheld freedom of speech. For instance, in June 2012, the Court struck down a proposed bill that would have criminalized any "insult to the Libyan people and its institutions."²⁶⁹ This was seen as a good step toward promoting Free Speech.

Libyans have continued to take advantage of the internet in order to spread their messages. One such internet presence is the Libyan-run online newspaper, the Libyan Herald. It provides free articles on Libyan news items as well as opinion pieces. Although Freedom of Expression is now openly allowed by the GNC, in practice, Freedom of the Press has still been suppressed, due to lack of centralized government power. Persecution of human rights has primarily been committed by rampant militias, who the GNC has been unable to control. Several

foreign journalists have been either imprisoned or threatened by “semi-official armed groups.”²⁷⁰

In some of these instances, the government has issued a formal apology or condemnation, and yet there is little action being done.²⁷¹ This is because the GNC has limited power to enforce their humanitarian ideals and has had to rely on these militias to keep order in several regions of the country without any means of controlling them.

Freedom of Assembly

During Gaddafi’s reign, the existence of political parties was expressly illegal since they were seen as a threat to the regime. Following Gaddafi’s demise, however, the 2012 elections for the GNC saw over a hundred parties form “that spanned the political spectrum, from socialists to Islamists.”²⁷² Several human rights groups have been founded in Libya since 2011, including Libyan Civil Society Organization,²⁷³ Libyan Women’s Platform for Peace,²⁷⁴ and H2O Team.²⁷⁵ These groups, among others, advocate for human rights being instilled in the new constitution and for the ideals of the Revolution to continue to be a reality.

Freedom of Assembly is an invaluable right because it allows citizens to protest their government in solidarity with each other. Many critics of the new Libyan government fear that the current assemblies in place may be too powerful over the GNC: namely, the militias. During the Arab Spring, militias around the country sprang up to fight Gaddafi loyalists and successively won. They have since refused to disarm or give up power in several regions of the country.²⁷⁶ This power struggle is further complicated by the fact that the GNC is relying upon these militias to protect the volatile borders of Libya in addition to policing individual cities.²⁷⁷ This lack of central power has led to fears of another coup or insecurity in the country’s borders, as well as breeds doubt in the legitimacy of the GNC.²⁷⁸

Freedom of Religion

Under Gaddafi's reign, religious freedom was controlled in a similar manner to other forms of expression; all organized groups, whether they were religious or not, were required to publicly support the regime.²⁷⁹ In particular, mosques were diligently monitored for any potential signs of political opposition or religious extremism.²⁸⁰ With the arrival of the Revolution, it was uncertain whether or not the country would become more religiously free or more extremist. There is very little religious diversity in Libya; the population of 6.5 million is approximately 97% Sunni Muslim.²⁸¹ The TNC's transitional constitution, which was finalized on August 3, 2011, currently declares Islam as the state religion of Libya, while simultaneously promising freedom of religion for non-Muslims. Article 6 of the temporary constitution declares that "there shall be no discrimination among Libyans on the basis of religion or sect" with regard to legal, political, and civil rights.²⁸² As the current government works on ratifying a new permanent Libyan constitution, the question remains on what degree religious freedom will be promised. Although most major political parties agree that the constitution should be based upon Sharia Law, controversy reigns over how this will specifically be interpreted into the document.²⁸³

In practice, religious freedom in Libya has been difficult to document accurately, due to the still unstable and imbalanced nature of rule of law. Because of the state's weakness in enforcing laws, the localized militias have been able to enforce various degrees of Sharia Law according to their preference.²⁸⁴ In addition, the judicial system in Libya is still being re-established after the Civil War. Thus, any citizens who wish to seek damages for religious persecution would have trouble gaining access to a functioning court.²⁸⁵ Many police forces are depending upon the Supreme Security Committee (SCC) to help them maintain order. This particular body is composed of former revolutionary fighters with little training or background checks, which has

led to abuse and corruption.²⁸⁶ Concerns over religious persecution have come to light lately with recent attacks on Sufi religious sites without any governmental response or justice.²⁸⁷ There have also been various reports of religious persecution against Muslims for not following strict enough moral code. For example, in 2012 there were reports of women being threatened for not wearing headscarves in beauty parlors.²⁸⁸ More recently, four Christians have been arrested for being missionaries in Benghazi. It is still uncertain how this human rights situation will play out.²⁸⁹

U.S.-Libya Relations

The United States has had a long and complicated history with Libya, ever since Muammar Gaddafi took control of the state. Tensions between the countries grew when Gaddafi nationalized Libya's oil assets, in the early 1970s. In that same decade, Libya would be blamed for multiple terrorist attacks resulting in U.S. sanctions in 1981. These sanctions, combined with UN Security Council Trade sanctions hurt the Libyan economy and cut off Gaddafi's regime from much of the world. Beginning in 1999, relations between Gaddafi and the western world began to thaw. Gaddafi accepted blame for many of the terrorist acts and offered "compensation packages" for the victims' families. In 2004, when Gaddafi announced that the government would no longer be implementing its chemical and unconventional weapons programs, the U.S. took Libya off of the official list of terrorism-sponsoring states and reinstated its U.S. embassy two years later.²⁹⁰

Criticism of the Gaddafi regime remained high due to infamous accounts of human rights abuses. When the Arab Spring started to take hold in February 2011 and rebels began protesting en masse in several Libyan cities, Gaddafi loyalists and military forces retaliated, thus beginning

the Libyan Civil War. The United States initially responded by imposing economic sanctions on the dictator, then later joined NATO in a March military intervention to aid the rebels.²⁹¹ The regime was overthrown and the city of Tripoli was taken in August.

Since the fall of Gaddafi, the United States has been providing aid to Libya via USAID to help assist in building a new democracy.²⁹² The relationship between the United States and Libya is currently one of the strongest in the Middle East/North African region despite the Benghazi attack on September 11th. Following the embassy breach, the President Mohamed al-Megariaf and Prime Minister Abdurrahim Keib both publicly apologized for the incident, vowing to assist in finding justice.²⁹³ Following the attack, there were several public peaceful protests in Libya condemning the attack on the consulate.²⁹⁴

U.S. Interests

The United States has invested an estimated \$896 million on the Libyan Military Intervention of 2011.²⁹⁵ In addition to the total sum of finances invested, the reputation of the U.S. was also invested in aiding the Libyan rebels overthrow Gaddafi. Over the past decade, the United States has earned a good deal of international criticism for its interventionist policies in the Middle East. To intervene on behalf of yet another Middle Eastern nation and leave behind a success would be a benefit to public relations and perceptions of the U.S. Because of the strong relations and promising steps taken to turn Libya into a democracy, it is now feasible to have a long-term, stable Middle Eastern ally. An ally in Libya's geographical position is promising. It is located between both Mali and Afghanistan, two dangerous zones. This is an opportunity to stabilize a North African democracy with strong U.S. relations and could very well go to waste if

the country were to be left without aid.

Current Efforts

Domestic Efforts

As seen by the major role Libyans took in overthrowing Gaddafi during the revolution, there have been many domestic efforts to stabilize Libya as a democracy. In the election for the GNC, voter turnout was large, at approximately 62%.²⁹⁶ This illustrates the emotional investment that Libyans feel for their country's future. The GNC was composed of 33 Congresswomen and the prime minister is Ali Zeidan. Zeidan long opposed Gaddafi and worked in Geneva as a human rights activist and lawyer.²⁹⁷ He has vowed to secure the borders of Libya as well as promote human rights. In February of 2013, he met with French President Hollande for a security meeting, saying that they need more "technical cooperation."²⁹⁸

International Efforts

The European Union has committed €25 million in aid to Libya since the Revolution. This money has been financed through several programs aimed at improving regional stability in "Education, Health Care, Security and Rule of Law."²⁹⁹ These initiatives include a €10 million program that specifically deals with "strengthening democracy, good governance and civilian culture in the security and justice sectors."³⁰⁰ According to Andrew Jacobs and Fabienne Bessonne of the European Neighbourhood Info Centre (the program through which the EU distributes its Libyan aid), the Libyan government is in need of more expertise in its government workers, rather than mere cash.³⁰¹

Several Non-Governmental Organizations have been working to maintain public awareness of human rights conditions in Libya. In 2011, Amnesty International wrote a manifesto publicly appealing to the NTC concerning laws which restricted freedoms. In one case, they asked the NTC to “Repeal all legal provisions which criminalize activities amounting to the peaceful exercise of freedoms of expression, association and peaceful assembly.”³⁰² They then list specific Libyan laws which had been enforced under Gaddafi rule.

U.S. Efforts

The United States government is currently implementing the Libya Transition Initiative, at a cost of \$5 million. The intention is to “support critical aspects of the transition process, strengthen reconciliation, and encourage productive linkages between citizens and their government.”³⁰³ The goal is to help solidify Libyan societal infrastructures needed to stabilize society. This includes providing “expertise on governance issues” to government workers as well as helping fund a free media center in Tripoli, complete with an internet café.

TUNISIA

History

In January 2011, Tunisia was the catalyst of the Pro Democracy Movement; a wave of revolts that reverberated throughout the Arab world.³⁰⁴ Prior to the revolution, Tunisia was governed by one of the most repressive regimes in North Africa.³⁰⁵ There were high levels of corruption amongst the ruling elite, contributing to the economic downturn of the country.³⁰⁶ This, coupled with rising unemployment and societal distress under the government of Zine el-Abidine Ben Ali, caused tensions to escalate.

The first demonstration had occurred a year earlier in December of 2010, when civilian Mohamed Bouazizi set himself on fire in Sidi Bouzid, an impoverished town of central Tunisia.³⁰⁷ Bouazizi acted out of protest to demonstrate the lack of opportunity in Tunisia and the lack of recognition for the people by the Tunisian ruling government and the police.³⁰⁸ An explosion of street protests continued, spurring what is now known as the Jasmine Revolution. They continued public opposition eventually ousted Ben Ali, who had ruled the country for 23 years.³⁰⁹ Finally, on January 14th, 2011 Ben Ali left Tunisia after failing to pacify protestors with promises of fair elections.³¹⁰

Status of Rights

Tunisia held its first free election in October of 2011 with the Islamist party, Ennahda, as the winner of the elections with party member Hamadi Jebali elected as Prime Minister.³¹¹ Moncef Marzouki, doctor, politician and human rights activist, was elected as interim president of Tunisia under the Congress for the Republic party.³¹² The Ennahda had a 41 percent plurality rating; in addition the Islamist party made efforts to reassure secularists during the election by

saying the ruling party would respect women's rights and would try not to impose a Muslim moral code on society.³¹³

During the election, millions of Tunisians casted votes supporting the draft of a new constitution. This, according to society, would be the next step in shaping a new and improved government.³¹⁴ On March 26th, 2012, the Ennahda promised that Tunisia's post revolution constitution would avoid mention of Islamic law as legislation.³¹⁵ In addition the Ennahda claim that the new constitution's drafting committee would only preserve the original language of Tunisia's former constitution that refers to Islam as a state religion and Arabic as the state language.³¹⁶

Freedom of speech and Freedom of the press are two developing rights in Tunisia.³¹⁷ As the constitution is under construction, these rights have been acknowledged by the interim government, specifically by President Marzouki but have yet to be fully embraced. Currently, the social democratic development in Tunisia is at a standstill. The Human Rights Watch states that the Tunisian public is playing a waiting game; the Tunisian people want to see governmental promises of democracy coming to fruition.³¹⁸

U.S. - Tunisia Relations

According to the Embassy of the United States in Tunisia, Tunisian-American relations have a strong and diplomatic lineage.³¹⁹ Today, the United States' Embassy claims, "the ties of friendship and cooperation between Tunisia and the United States continue to be strengthened because of the various programs in which the U.S. has invested."³²⁰ The United States, indeed, has assisted Tunisia in various sectors. This includes: commercial and economic development, consular affairs, development assistance and humanitarian aid. In regards to commercial and

economic development, the United States has given Tunisia \$4 million dollars in assistance under USNEA, \$503 million in U.S. imports and \$362 million in U.S. exports in total.³²¹

In addition, the United States government claims to have invested \$748 million in 65 American companies in Tunisia, employing over 18,000 Tunisians.³²² In 2010, the United States Consular Section issued more than 4500 non-immigrant visas to Tunisian Students, exchange participants, tourists and business people.³²³ In regards to Humanitarian assistance, the United States Department of Defense Humanitarian Assistance to Tunisia equals \$6.8 million over the past 10 years, with projects including the construction of an AIDS prevention and testing center, supplies and ambulances for the Tunisian Red Crescent on the Tunisian-Libyan border, and the construction of a school for autistic children in La Marsa.³²⁴ Lastly, in May 2011 USAID opened in office in Tunisia in support of the citizen led democratic movement; the program gives \$7 million dollars in grant money for materials and technical support to civil society, organizations, local institutions and communities.³²⁵

Despite the various efforts to support Tunisia financially through development incentives, the West's initial response to the Tunisian revolution was mild and muted.³²⁶ Western government had a tendency to turn a blind eye to repressive Tunisian regimes so long as American and geo-strategic interests were safeguarded.³²⁷ According to author Stephen Zunes, Ph.D. Professor of Politics and Chair of Middle Eastern Studies at the University of San Francisco, former Secretary of State Hillary Clinton seemed only concerned with whether the impact of the protests would affect American relations with the Tunisian government.³²⁸ The Secretary chose not to praise the nonviolent pro democracy activists nor condemn the repressive Ben Ali regime.³²⁹ In supplement, authors Azadeh and Mullin state in "The Legacy of US Intervention and the Tunisian Revolution":

“President Obama’s condemnation of the Tunisian government’s violence on the day that Ben Ali was finally forced to flee the country and his subsequent praise for ‘the courage and dignity of the Tunisian people’ was seen by many Tunisians as too little too late.”³³⁰

After a popular uprising against the Ben Ali dictatorship commenced, Congress supported the incumbent regime by passing a budget resolution that included \$12 million dollars in security assistance to Tunisia.³³¹ American foreign policy began to shift as the pro democracy movement gained momentum. Secretary Clinton then took a stand by stating, “The people have grown tired of corrupt institutions [...] political reforms will be created so the rights of the people will be granted.”³³² This delayed transposition of allegiance substantiates claims that the United States displayed a last minute response to the events occurring in the Arab Spring.

U.S. Interests

The Tunisian people advocated for democratic and constitutional development autonomously. Zunes states, “rather than Washington controlling the course of events impacting the Arab Street, the Arab street is impacting policies emanating from Washington.”³³³ Therefore, the United States played a pivotal role in influencing Tunisia awareness of democracy and has fueled the country’s progressive determination to achieve First Amendment rights. In order to reinforce and sustain the principles of democracy in Tunisia, the United States must develop diplomatic relations with Tunisia’s interim government, endorse grassroots organizations supporting First Amendment rights and invest in emerging sectors of the Tunisian economy, specifically journalism, broadcasting and social media.

Current Efforts

Domestic Efforts

In a press release on January 14, 2013, President of the European Parliament Martin Schulz issued a statement that during a recent visit to Tunisia; he had witnessed firsthand the progress the country has made toward achieving democracy.³³⁴ Schulz continued to predict that 2013 would be a year of forward movement, as it will bring the adoption of a new Tunisian constitution, more elections and a continuous effort to improve the overall economic status of the country.³³⁵

According to an article by Linda Gradstein of Arab News on January 26, 2013, the National Constituent Assembly (NCA) is in the midst of completing its second draft of the new constitution and is currently consulting the Tunisian public and various groups for additional measures to proceed.³³⁶ According to Eric Goldstein, deputy director of the Middle East and North Africa for the Human Rights Watch, “this second draft of the constitution contains better language on freedom of expression and women’s rights than what was included in the first draft.”³³⁷

The NCA has made significant improvements by dropping language from the newly constructed constitution that would have made it a crime to use phrases that attack the Islamic religion.³³⁸ However, the interim Tunisian Government has yet to ensure that the final drafts of the constitution will contain references to internationally recognized human rights.³³⁹ Gradstein cites the Tunisian public in their concern; they state that without the references to the convention of human rights ratified by the state of Tunisia, there will exist a separation of human rights from their legal reference.³⁴⁰ Although steps toward transparency have been taken, Human Rights

activists continue to state that Tunisia has still has much improvement to be made in regards to First Amendment rights. According to the Human Rights Watch:

“The pace of reform has been very slow in the judiciary, the security sector and the media [...] these are the three pillars of any successful democratic transition. Without an independent judiciary, without security forces which are accountable and which know their limitations in terms of use of force, and without media, we cannot talk about a successful democratic transition.”³⁴¹

Regardless, even as Tunisia struggles to create a new political order, the revolution has begun to reshape politics across the Middle East.³⁴²

U.S. Efforts

The U.S. is currently not as heavily invested in promoting First Amendment rights in Tunisia as it is in other, older states. Zunes argues, “The chances of bringing about a genuine democratic transformation are increased if it comes from a more protracted movement with a comprehensive strategic vision.”³⁴³ The Tunisian people launched an extensive campaign to overthrow the Ben Ali regime and stimulated constitutional, governmental and social change in the country. However, this strategic vision of implementing change in Tunisia must continue to prosper. Therefore, policy recommendations for the United States, in regards to the development of Tunisia, rely heavily on American support for local Tunisian grassroots programs and aspiring democratic institutions. This can include contributing financial support and directional guidance to prospective democratic organizations, establishing a rapport with Tunisia’s interim government to administer judicial reinforcement, expanding Tunisian internet access and

investing in sectors of Tunisia that furnish First Amendment rights, specifically journalism, broadcasting and social media.

EGYPT

History

Two years after the Egyptian revolution that ousted former President Hosni Mubarak and inserted Muslim Brotherhood figurehead Mohammad Morsi into the office of the presidency, the status of rights comparable to the U.S. First Amendment in Egypt remain in flux. A crucial point of contention embodying the precarious status of these rights is the new Egyptian constitution, which is regarded by many as having provisions that will enable governance based on Islamic law at the expense of individual rights. President Morsi granted himself extensive powers in order to quickly draft a constitution through an Islamist dominated assembly and immunizing the assembly from court annulment. The assembly was thus boycotted by liberals and Christians who disputed the methods in which the panel had been chosen; however, these complaints were disregarded by Egyptian elected leadership in the hasty creation of the charter.³⁴⁴ A rushed referendum on the document resulted in the ratification of the constitution, with 64% of the 17 million Egyptians who voted casting their votes in favor.

The U.S. State Department reacted to the news cautiously, saying “democracy requires much more than simple majority rule. It requires protecting the rights and building the institutions that make democracy meaningful and durable.”³⁴⁵ The State Department further urged groups in opposition to the charter to continue engaging in the political process “in good faith,” and for both sides of the political spectrum to “recommit themselves to condemn and prevent violence.”³⁴⁶ However, dialogue has not been forthcoming between President Morsi and Egypt’s National Salvation Front (NSF), a loose coalition of liberal and secular Egyptian forces

who have thus been excluded from the drafting of the Egyptian constitution and are threatening to boycott the upcoming parliamentary elections in protest.

Status of Rights

Freedom of Speech

Freedom of speech in Egypt has been a hot topic for years, as there has never been a stable upholding of such a right. Following the ousting of Mubarak and the instatement of President Morsi, one thing has tended to hold true – that any type of criticism towards the Egyptian government will be punished with fines or imprisonment, and in certain cases, beatings³⁴⁷. The main concerns regarding freedom of speech in Egypt are the suppression of voices critical of the government and of voices that offend religion, specifically the Islamic faith. A particularly sensitive issue concerns the video “Innocence of Muslims” which denigrates the Prophet Mohammad and was successfully blocked last year from the Egyptian version of YouTube with cooperation from Google, which owns the file-sharing site. Although the video had already been blocked, in early February Egypt’s administrative court ordered the ministries of communication and investment to block the site inside the country for 30 days for carrying the film.

YouTube is often used by Egyptian protestors to share videos of police brutality, and some Egyptian rights activists have raised concerns as to whether the court’s blanket ban could reflect a general effort by the new Islamist elements in the Egyptian administration to restrict speech. However, Amr Gharbeia, civil liberties director at the Egyptian Institute for Personal

Rights, has said that the YouTube ban was more likely the result of an over-zealous Islamist judge.³⁴⁸

On February 14th, Egypt's own telecom regulator said it could not viably follow the court order to block YouTube in the country, and is appealing the ruling at the time of this writing. Given that the Egyptian administration's own telecom ministry is appealing the ban, it appears unlikely that this action is part of a coordinated crackdown on free speech by the Egyptian government. This development reflects something encouraging about the current state of Egyptian affairs; for one, Egypt's telecom regulator stated that blocking YouTube in the country would be technically impossible without affecting Google's search engine. Given that Egypt is the second biggest user of Google in the Middle East, the statement concluded that blocking the site would potentially incur huge costs and job losses in the country.

It is unclear whether this rationale is purely pragmatic or perhaps is also reflective of an element within the Egyptian Administration seeking to protect speech. Regardless, the move indicates that Egypt's utilization of online media is regarded by regulators as central to the country's economic development. There is an implicit need for the Egyptian government to cooperate with online entities such as Google, based in the United States and a tool for proliferating First Amendment values, in that such entities have the effect of ensuring the protection of free speech, broadly speaking. Furthermore, Google's willingness to restrict content in given countries deemed illegal by those countries is a positive development that exemplifies one way in which the tenants of the First Amendment may be tailored to specific cultural contexts; in this case, a predominantly Muslim country. While the Administration rejects censorship as a general rule, we regard this as a positive model for improving First Amendment freedoms abroad.

The fact that an Islamist judge in Egypt insisted on banning the site indicates that, at its most polarized, religious ideology is often not satiated by such concessions. However, the response of Egypt's own telecom administration is an example of the dependence that aspirational democracies have on economic tools, such as the Google search engine, that may preclude them from severely restricting rights such as internet access. It also speaks to the power of online media in the Egyptian public.

Freedom of Press

Since the election of President Morsi (according to Human Rights Watch), “one television station was shut down, three issues of newspapers were banned, nine journalists were investigated and a judge was asked to carry out investigations into cases of insulting the judiciary. At least 17 individuals have been charged with defaming the president, and 18 others with defaming the judiciary.”³⁴⁹ A report in January 2013 said that more journalists had been sued for insulting the president during the seven-month presidency of President Morsi than in the entire 30-year rule of ousted dictator Hosni Mubarak.³⁵⁰ This is a troubling development, considering the precariousness of Egypt's transition and the need for a strong independent media to hold the Egyptian government accountable for its actions and to voice dissenting opinions.

Freedom of Religion

90% of the Egyptian population is Muslim, of which most are Sunni, leaving the rest of the population as either Coptic or Christian. While Egypt has no law against converting from Islam to Christianity, the predominance of Muslims in the country and the rise of the Muslim

Brotherhood in the political mainstream have raised alarms for Christians. President Morsi's failure to attend the christening of a new Coptic pope was viewed as hugely disrespectful, and the original scheduling of Egypt's parliamentary elections scheduled during Easter raised the ire of Coptics who saw that they were being excluded from the political process. President Morsi quickly modified the dates following the public outcry³⁵¹, which is a positive development indicating that the Muslim Brotherhood acknowledges the status of Coptics as a significant Egyptian minority, who they may not exclude from the political process.

Freedoms of Assembly and Petition

The last two years of Egypt have clearly shown us the difficulty of administering the right to peaceably assemble and the right to petition for a government redress of grievances in a context of severe political unrest and violent protest. Under the new Egyptian constitution, freedom of assembly and association are restricted in Egypt as declared by the Law of Associations in the country, which prohibits the establishment of groups "threatening national unity or violating public morals."³⁵² However, the Egyptian people have clearly done otherwise and protested despite the government's regulation on assembly. The feedback of violence and criminality between protestors and security forces speak to the disunity and lack of political cohesion on both sides. Both the Morsi government and the National Salvation Front have condemned violent protest and police brutality, but the NSF can not be rightly held accountable for the tactics of Egyptian soccer ultras, nor does the government rightly control the police. When the Morsi government condemned police for the infamous case of a man who was beat and dragged naked on the streets by Egyptian police forces, the police unions responded by

mounting their own protests and shutting down the Interior Ministry in multiple cities. The police resented being scapegoated by the Morsi government for the brutality of the violence, faulting Morsi for his inability to contain political unrest and their need to protect themselves from armed protestors.³⁵³

U.S. – Egypt Relations

The United States historically has had a number of interests in ensuring good relations with a stable Egypt, and Egypt has been the second largest recipient of U.S. foreign aid in the Middle East since 1979.³⁵⁴ This relationship was forged during the height of the Cold War, as Egypt was used as central piece in U.S. foreign policy to counter Soviet influence and act as a regional mediator on behalf of U.S. interest, specifically in upholding the '79 peace charter with Israel and countering the antagonism of neighboring Muslim countries.³⁵⁵ U.S. support of Egypt in order to ensure Suez Canal security and access to Egyptian airspace has also been of historical strategic importance. The inertia of investment that has been put into Egypt over the past three decades is easily taken for granted, given the history of the relationship and Egypt's influence in the region. With Egypt's revolution, the question of how to approach a new era in Egyptian politics is marred by the continued political and economic instability that threatens the country.

U.S. Interests

With the Cold War fading from memory, certain aspects of U.S. policy toward Egypt have become more difficult to justify. A skeptical view of American policy in the region

acknowledges that the U.S. sees Egypt as playing into its larger goals of maintaining a dominant influence in the Middle East, ensuring the flow of oil from the region and helping to protect Israel. In the words of Steven A. Cook, “Egypt – whether it is a democracy or not – is a means to some other end. Washington is interested in Egyptian stability because it is interested in Saudi security, or the Iranian challenge, or Israel's well-being.”³⁵⁶ Given the change in Egyptian politics, some Americans and Israelis are nervous about President Morsi’s controversial anti-semitic rhetoric and his hosting of the Iranian president Ahmedinejad (the first time an Egyptian and Iranian head of state have met since Iran’s Islamic revolution in 1979), especially considering the high volume of military aid given to Egypt.

While some Americans and Israelis are nervous about President Morsi’s controversial anti-semitic rhetoric and his hosting Ahmedinejad, this does not likely signal a significant realignment of Egyptian politics away from the U.S.’s broad interests in the region.³⁵⁷ Egypt’s reliance on U.S. foreign aid, particularly to stabilize the sinking economy, would unlikely be redirected toward an Iranian regime, which is in a weak position to provide both the amount of aid and organizational capital required to stabilize the Egyptian economy, given Iran’s own corruption and economic woes under crippling sanctions. Furthermore, Morsi’s government has proven tougher on Hamas than many expected they would, refusing Hamas’ request to open an office in Cairo and flooding the tunnels that run under the Egypt-Gaza frontier, which have served as a critical Hamas supply line.³⁵⁸ And like the old Egypt, Egypt under President Morsi still has no use for Hezbollah or Syrian President Bashar al-Assad.³⁵⁹

Thus, while Morsi’s ascension to the Egyptian presidency has no doubt altered the way in which the U.S. views Egypt, it arguably has not fundamentally altered what the U.S. expects from the relationship. Admittedly, the hierarchy of U.S. interests in Egypt may first require

stability in the country. The U.S. has had to confront its unease with Islamism in Egyptian politics and continued political violence, while still promoting the establishment of at least an externally legitimate government with which the U.S. may continue to deal on broader security interests. However, to pursue such an agenda at the expense of taking a firm administrative stance, underpinned by political pressure, for Morsi to make tangible reforms such as revising the constitution could be a serious oversight in the U.S.'s long view interests in Egypt. This is especially so considering the current state of political polarization in Egyptian politics, which has worsened in recent weeks with the National Salvation Front (NSF)'s boycott of the scheduled parliamentary elections, and the current head of the NSF, Hamdeen Sabbahi, refusing to meet with Secretary of State John Kerry in his first visit to Egypt as Secretary of State. If the NSF follows through with its boycott of the elections, this would likely lead to an Islamist sweep of the parliamentary elections, with the potential to exacerbate civil unrest or cement Islamism as the rule in Egyptian politics.

Current Efforts

U.S. Efforts

Given the change in Egyptian politics, certain U.S. Congressional leaders are concerned about the political instability in Egypt, and particularly the growth of Islamism in Egypt's government that is potentially hostile to U.S. interests in the region. Those concerned question the rationale behind giving military aid to a country potentially hostile to Israel, as well as general concerns involving the Egyptian government's suppression of First Amendment rights, alienation of Coptic Christians, and the question of women's rights under the new regime & new

constitution. However, the Obama Administration has remained firm on Egyptian aid, both in long-term investment and in getting Congress to appropriate a \$450 million Economic Support Fund (ESF) cash transfer to Egypt in light of its continued instability and plummeting economy.

The ESF was put forth by the administration in September, with \$190 million of the fund to provide immediate relief to Egypt's acute economic crisis. The remaining \$260 million infusion would be contingent on Egypt setting in motion economic and budgetary changes required to secure a \$4.8 billion loan from the International Monetary Fund (IMF). While the ESF has already been appropriated by Congress, House Foreign Affairs Committee Chairwoman Ileana Ros-Lehtinen and House Foreign Operations Appropriations Subcommittee Chairwoman Kay Granger placed the hold on the fund in late September. Rep. Granger cited the unprecedented "scrutiny" over the American relationship with Egypt in the wake of Morsi's election as reason for placing the hold. Unlike the ESF, Foreign Military Financing (FMF) to Egypt has thus been immune to Congressional concerns over Egypt's political transition, as former Secretary Clinton exercised her waiver authority to release the funds based on the national security interest of the United States.³⁶⁰

In January, a delegation of U.S. Senators including Senator John McCain traveled to Egypt and had an audience with President Morsi. After his visit, McCain agreed with Obama that increasing the speed with which the U.S. gives aid to Egypt is essential to stabilize the economy and civil unrest, as the Egyptian economic crisis is a systematic, underlying stress that needs to be patched before political stability can be achieved. "There is a need for an additional \$489m of assistance to Egypt." He added that the Egypt delegation supported this and were "contacting [their] colleagues in the Congress with hope that approval will be forthcoming."³⁶¹

POLICY OPTIONS FOR NORTH AFRICA

Sustain Grassroots Organizations

According to the Human Rights Watch, social efforts toward democracy have been put on pause as Tunisia's National Constituent Assembly has been completing the second draft of their amended constitution.³⁶² Therefore it is imperative that social efforts, to further solidify democracy, are continuously promoted. The Tunis-based Center for Information, Training, Studies and Documentation on Associations revealed that more than 1,300 grassroots democratic associations were created in Tunisia in late 2011, shortly after Ben Ali fled the country.³⁶³ Most importantly, the majority of these budding democratic organizations have expressed a desire to gain further assistance in strengthening internal management, member recruitment and media training.³⁶⁴ In response to this request, the United States Federal Government Agencies can:

- Partner with pioneering programs like the Development Grants Program by building the capacity of nascent institutions in Tunisia and strengthen the country's local development outcomes
- Organize with humanitarian agencies like USAID to fund and administer constructive workshops that cover participant identified needs in regards to marketing, leadership, engagement and Internet proficiency
- Initiate "Cross-cultural Workshops" that building community trust and identify each association's role in Tunisia's democratic process

Invest in the Nascent Sectors of Tunisia

According to MEPI (The Middle East Partnership Initiative) Alumnus and Tunisian Journalist, Khemais Arfoui argues that in order to expand democracy in Tunisia it is essential to embrace all forms of media.³⁶⁵ Arfoui specifically advocates for increased awareness of current and international issues through journalism. He states, “The press [and media] plays an indispensable and crucial role in the promotion and the broadening of the democratic exercise in society.”³⁶⁶ Nascent sectors of Tunisia are journalism, broadcasting and media. Therefore the United States and the Middle East Partnership Initiative can:

- Launch institutional and individual grants to fortify these divisions of Tunisian media
- The United State’s Department can also administer hands-on journalism, communication and media workshops for students at the Université de la Manouba in Tunis
- Broaden the capacity of Tunisian bloggers by creating online “think tanks” to aggregate and analyze current international and local news

Expand Internet Access

Access to the Internet has been an expressed desire by the Tunisian population.³⁶⁷ The Jasmine Revolution, created in Tunisia at the start of the Pro Democracy Movement, relied heavily on the role of the Internet.³⁶⁸ Freedom of Information and Freedom of Expression are two desired rights by the Tunisian public. One way to promote access to

information and Freedom of Expression is to provide accessible Internet in Tunisia. The United States can expand Internet in Tunisia by:

- Adopting former Secretary of State Hillary Clinton's 2013 initiative: The Alliance For an Affordable Internet.³⁶⁹ The project is a public-private partnership between the State Department, The World Wide Web Foundation and technology companies such as Google, Microsoft, and Intel³⁷⁰
- Develop and cement long term ties Tunisian Government both diplomatically and through business enterprise. Create professional partnerships with international entities in Tunisia to expand American business
- Advance business gateways that promote an international market and international patronage in Tunisia for American based technology companies³⁷¹

American and Tunisian Liaise

Early 2012 displayed a decrease in diplomacy efforts between the United States and Tunisia. On September 16, 2012 the United States Department ordered the departure of American diplomats from Tunisia due to rising concerns over Anti-American sentiments.³⁷² Ambassador Faysal Gouia, Director General for the Americas and Ambassador Gordon, former United States Ambassador to Tunisia emphasize that Tunisia has the potential to become a model of democracy.³⁷³ Gouia and Gordon emphasize that they would like to see Tunisia eventually become a voice of moderation and a leader in the North African region, but do not see this happening without a strong relationship with the United States.³⁷⁴ Therefore, in order for First Amendment rights and Democracy to proliferate and transform Tunisia, diplomatic relations between the United

States and the Tunisian government must be restored. The United States can boost bilateral relations with Tunisia by:

- Hosting international political exchanges with American and Tunisian political leaders in order to promote mutual understanding between American and Tunisian policy makers, activists and judiciary representatives
- Partner with the International Legal Assistance Consortium to administer programs that infuse knowledge on law and legal safeguards to Tunisian judges and policy makers
- Initiate annual programs, exchanges and delegations aimed to strengthen the Tunisian judiciary and maintain Tunisian independence against outside pressures

Utilize Media Tools to Promote First Amendment Rights

The Libyan people have already proven themselves innovative when utilizing the internet. There are already publishing opinion pieces and blogs online which support a constitution not founded upon Shariah law but rather upon human rights. All that is needed now is an expanded network so that a larger percentage of Libyans can access the internet and consequent information. This is quite feasible. Work is already being done, it simply needs to be expanded and emphasized.

- Collaborate with the Libyan government and Libya Telecom and Technology to lower prices of internet connections in the country so that it is more widely available
- Work with Hillary Clinton's Alliance for Affordable Internet so that this initiative will cover Libya

- Finance local NGOs and educational professionals in Libya to run educational workshops on web design, internet use, and basic computer skills
- Expand the construction of media centers in more cities in Libya by coordinating with the Libyan government to build more media centers across the country with communal computers

Strengthen Diplomatic Ties between U.S. and Libya

Following the September 11th attack on the U.S. embassy in Benghazi, there has been concern over the future role of the United States in Libyan affairs. If Libya were to lose American support during its post-Revolutionary period, it could very well falter in its path to a strong democracy. This would be a waste of U.S. funds that have already committed and would be a lost opportunity to solidify a North African friendship. Therefore, it is important to continue emphasizing publicly our support for Libya so that Libyan civilians can count on the U.S. as an ally while still relying on their democratically elected government.

- We should abstain from publicly endorsing any one particular political party or individual to avoid the appearance of undermining the GNC
- In our financial packages, we should encourage the GNC to label all of its projects with its insignia so that the Libyan people know that their government is taking care of them

Improve Stability in Libya

Libya's situation is precarious. Although the majority of the Libyan people have expressed support for improved human rights and strengthened democratic institutions, the GNC does not have enough power over its borders. The GNC may vocally promote Freedom of Speech, but if it does not have rule of law then it is at risk of falling the way of Egypt's government, widespread protests being a common occurrence. The largest contributions to instability are the unchecked and dangerous militias. The central government is struggling to gain control over its lands, partly due to citizens challenging its legitimacy. The militias have not surrendered their weapons or regional authority due to a lack of trust. The GNC needs to finish drafting its constitution and consolidate its state military.

- We should encourage the GNC to open up a more transparent dialogue with its people by means of internet discussions as well as open town-hall meetings around the country
- The U.S. should also encourage the GNC to send its own representatives to individual militias to negotiate and compromise on roles in public safety and nationalism
- The U.S. should persuade the United Nations to put pressure on the GNC to finish its constitution with clauses in place to protect First Amendment Rights

In 2009, President Obama gave a speech in Cairo titled "A New Beginning." The aspirations of that speech seem far removed from the current crisis. Increased violence in Egypt, spurred in part by the collapsing economy, threatens to continue destabilizing the country. Worst-case scenario would be a rapid descent into failed-state status, as has been

suggested may be possible by the Egyptian military. Egypt's current political turmoil has thus far elicited caution from the United States, and State Department efforts are continually directed toward encouraging democratic inclusion and engagement and a halt to the violence in the streets. Washington would like to help Egypt secure a badly needed IMF loan, but the approval of such a loan would require tough economic measures by the Egyptian government that would be difficult to swallow for the Egyptian people under normal circumstances, much less in an environment in which protestors battle security forces openly in the streets.

A New Cairo Speech: Driving a Hard Bargain on Egypt's Constitution, Leveraging Egyptian Social Media, and Encouraging Political and Economic Settlement

In an open letter to President Obama, Egyptian human rights activist Bahieddin Hassan asks the U.S. President to have the spokespeople and officials in his administration simply stop commenting on developments in Egypt. "This will no doubt spare your administration much time and effort," she writes, "but more importantly, it may spare more bloodshed in Egypt, as the current regime will no longer enjoy the political cover that the US administration now offers them."³⁷⁵ If the U.S. sacrifices its hard push for the protection of rights in dealing with the Morsi government (on the grounds that a relatively stable Egyptian government is more important to U.S. short-term interests), this may alienate the suffering Egyptian public from the United States' efforts to promote democracy in the country and inspire resentment, rather than goodwill.

The establishment of clearly identified First Amendment rights in Egypt is vital to the U.S.'s long-term interests in promoting democracy in the Middle East that is aligned

with U.S. values and may lead to improved foreign relations. Egypt is a powerful player in the region, and it is important that it become a model for good governance in the post Arab Spring world by tapping into the vast human potential possessed by Egyptians. Enshrining the rights of the First Amendment through a fair and transparent process, represented by a plurality of political parties, is a critical first step to ensuring that Egypt may continue to work toward a climate of protected rights. Translating this aim into a clear and actionable policy recommendation is difficult given the volatility of Egyptian politics, and the constraints on U.S. intervention that may be seen as impinging on Egyptian sovereignty.

Considering these constraints, the U.S. must assess the leverage that it has, particularly in the economic realm and through the power of U.S. diplomacy, to compel democratic changes in Egypt. The question is how severely the Administration wants to test that leverage given the unpredictability of potential political consequences, and whether it is willing to make a bold statement rather than tacitly standing by. One leverage point is that the U.S. Congress holds the keys to the desperately needed IMF bailout package, which could be easier facilitated with the approval of the ESF transfer to Egypt. However, given the U.S. Administration's strategic interest in maintaining Egyptian stability in support of our broader security needs, President Morsi's government may recognize that the Muslim Brotherhood also has leverage to hold the U.S. to its promises of aid for fear of a failed Egyptian state. Finally, the demands of the National Salvation Front threaten to undermine the potential for a healthy democratic transition, threatening to eject themselves from the process of elections entirely so as to rouse fear from the U.S. of an Islamist sweep of Egyptian Parliament.

Thus far, negotiations between the Muslim Brotherhood under Morsi and the National Salvation Front have been zero-sum, as evidenced by the NSF's stubborn play to boycott the parliamentary elections and of its leader refusing an audience with Secretary Kerry. Given the NSF's demands for a redress of the controversial Egyptian Constitution, and our shared interest in establishing the framework of a sustainable democracy in Egypt, it is our position in this report that a hard bargain should be proposed by the U.S. administration that privileges the promotion of First Amendment rights. Such an action would leverage U.S. economic and diplomatic influence to demand a formal redress of the Egyptian constitution as an explicit play to break this political stalemate. The Administration should propose this hard bargain through a multi-pronged process that seeks to incorporate Egypt's oppositional groups, U.S. Congress, inspire the will of the Egyptian public and essentially give President Morsi an offer he can't refuse. To achieve these aims requires a catalyst of huge proportions. It is time for President Obama to make another Cairo speech.

President Morsi's crisis of legitimacy is untenable without some kind of political compromise and economic stabilization to ease popular unrest. There is little recourse for his government to seek financing outside of the international political mainstream, a la a purported offer of an aid package from Iran. Protestors with the memory of toppling Mubarak are still striving for democratic rights and they are awaiting a decisive moment that will transform the political stalemate. As with the NSF, many protestors are bent on the unconditional ouster of President Morsi. Instead, our Administration and President Obama could be brave enough to give a new Cairo speech. This decisive act that could provide the Egyptian public with a new platform of change that is on their terms, yet

possible through peaceful and democratic means. It could inspire trust in the U.S.'s full support of the rights and civil liberties of the Egyptian people by demanding a redress of the Egyptian constitution prior to Egypt's upcoming parliamentary elections.

Due to the prohibitive logistics of conducting a massive speech on such short notice, the President may give such a speech through a coordinated online effort that leverages Egypt's already strong social media. Through such a decisive action, the democratic values of the United States could actually be used as leverage to inspire a collective Egyptian action on behalf of democratic rights, and the strength of Egyptian social media would multiply the effects of such a speech and invite participation that could help inspire coherence among Egypt's political opposition and protestors, as an alternative to fractious arguing and violence. Furthermore, Egyptians could be given an understanding that their plummeting economy cannot be stabilized without U.S. support, and that we want to offer this support and are invested in the conditions of Egyptian rights that should be a basis for economic aid. It would be a departure from the relatively hands-off approach we have had so far in Egypt's political transition that threatens to undermine democracy in the country and the U.S.'s long-term interests in the region. This speech would mark the beginning of a new era in the U.S.'s approach to foreign policy, as the sparkplug of an ongoing negotiation which sides uniformly with First Amendment rights as the guarantor of democracy.

- President Obama makes a new Cairo speech, in a coordinated online campaign, encouraging a formal and legal redress of the constitution through a transparent and participatory process that includes oppositional political groups

- Encourage the Morsi government to delay parliamentary elections until a settlement can be made that will lead the NSF to lift their boycott, run political candidates, and participate in establishing and implementing economic reforms
- Change the administration's stance on the ESF so as to make it conditional based on the implementation of constitutional reform
- Use the redress of the constitution as evidence of progress to convince Congress to release the ESF cash transfer – a precursor to Egypt securing the IMF loan

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MIDDLE EAST

Written by Shahed, Ashley Metcalf, Yair Cohenca,

IRAN

History

In the aftermath of World War II, Iran's transition to democracy and the West's pursuit to stop the spread of communism collided. Iran's democratically elected Prime Minister, Mohammed Mossadegh, nationalized Iran's oil industry from the British in 1951 and increased revenues significantly for the country. Eventually, the British were able to convince the Eisenhower administration to overthrow the Prime Minister because Mossadegh was thought to be susceptible to Soviet influence. Eisenhower obliged, and in 1953 a coup overthrew the Prime Minister and returned the once weakened Shah to his autocratic status. This led to unchecked autocratic rule and the eventual revolution in 1979.

When the Iranian Revolution ended the Islamic Revolution began. Iran went from a secular, Westernized monarchy to a theocracy seemingly overnight. Social norms were changed and freedoms known as First Amendments rights in the United States continued to remain superficial from the Shah's autocratic regime to the new Islamic Republic. Iran's post-revolutionary constitution allowed for simultaneous openings and closures for Iranians to practice individual freedoms. For example, while Islamic women had been marginalized by the Shah's forced secularization of public space prior to the revolution, post-revolution Iran mandated that women veil in public space. The highly contested status of this symbol alone indicates a desire among the Iranian people to have a high degree of personal freedom.

From the crackdown on Green Revolution protesters in 2009³⁷⁶ to the recent prosecution of a Christian pastor,³⁷⁷ Iran has seen numerous events that show its many problems with implementing anything close to a “First Amendment” in the country. Following the controversial reelection of President Mahmoud Ahmadinejad in 2009, Iranians took to the street to protest the election results. They were met with fierce resistance and widespread beatings took place as the Basij militia cracked down on the dissidents. The Basij, a paramilitary wing of the Revolutionary guard, is loyal to Supreme Leader Khamenei and was the group that committed most of the abuses during the crackdown. The Islamic Republic has delegitimized the protests as the work of foreign governments and has said that the protests are against Islam and the Republic. In consequence, they justify the use of their harsh methods through an appeal to the constitution, which says, “Public gatherings and marches may be freely held, provided arms are not carried and that they are not detrimental to the fundamental principles of Islam.” As the government claims authority over the mandate of Islam, it thus empowers itself to violently suppress protest by claiming dissenters to be a threat to Islam.

Status of Rights

A Christian Iranian Pastor, Nadarkhani, was accused by the Iranian government of proselytizing and converting people from Islam in the fall of 2012. After months of court battles, he was freed but his lawyer was subsequently jailed. This is despite the fact that the pastor is Christian, a religious minority that is recognized as deserving religious rights under the Iranian constitution. Pastor Nadarkhani’s fate exemplifies the arbitrary justice that the Iranian government uses through its high degree of discretionary power to suppress dissent, enabled in part by a corrupt legal system and vaguely worded laws.

For instance, Iran's constitution lays the groundwork for religious freedom, but ends up compromising on its words by omitting the name of particular religious minorities. In Article 12 of Iran's constitution,³⁷⁸ Iran establishes Shia Islam as the official religion of the country, but allows for other, non-Shia Muslims to use their own religious laws in areas where they are the majority. The non-Muslim minorities come into play in Article 13, where Zoroastrians, Jews, and Christians are the only recognized minorities. If one is not part of those three religions, you cannot legally practice "religious rites and ceremonies." In practice, this omission invites religious persecution against religious groups outside of the main three. However, Article 14 states, "Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights." It goes as far as saying "this principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic."

Article 14 appears to at least imply religious freedoms for all minorities so long as their beliefs are not used in a conspiracy against Islam. However, the vagueness of that qualification, in practice, permits the Iranian government to persecute minority religious groups at its discretion. A further complication when interpreting the Iranian constitution is Article 23, which states "the investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief." This Article seemingly contradicts with Article 13, which precludes non specified religious groups from performing religious ceremonies, given that Article 23 ostensibly protects the right to religious privacy. The disconnect between various articles of the Iranian constitution exemplifies the complications of writing laws in compliance with Shari'a Law, given that Shari'a is subject to interpretation. At the same time, these ambiguities provide a hopeful opening for Iranian religious minorities, as certain elements of

Shari'a Law could be reinterpreted by a progressive Islamic theocratic establishment so as to accommodate freedom of religion and other rights consistent with international human rights and the U.S.'s First Amendment.

U.S. – Iran Relations

Only two years prior to the Iranian revolution, U.S. President Jimmy Carter had called Iran “an island of stability in a turbulent corner of the world.”³⁷⁹ That turbulence came to Iran on November 4, 1979, when young Iranians stormed the American Embassy and took 52 Americans hostage for 444 days. The Iranian Revolution of 1979 thus not only ended the Shah's autocratic rule, but led to the breakdown of U.S. – Iranian relations amidst a newly forming Islamic Republic. When students overran the American embassy following the revolution, they called it the “den of spies” after what had happened decades before. This mistrust has not subsided since.³⁸⁰ Iranians often bring up the coup, the United States' support for Iraq in the Iran-Iraq war, the accidental downing of an Iran Air flight that Iranians view as suspicious, and most recently, strict sanctions on its nuclear program that have significantly impacted Iran's currency.

Conversely, when Iranians held candlelight vigils in Tehran after the September 11 attacks and subsequently assisted the United States covertly in Afghanistan, President Bush responded by calling Iran part of the “axis of evil,” offending Iranians. The United States cites the hostage crisis, Iran's support for Hezbollah in Lebanon and Shia rebels in the Iraq war, and Iran's nuclear program as obstacles to diplomacy for which Iran is accountable. To engage in dialogue on human rights issues, the U.S. and Iran would have to address their lack of direct diplomatic relations, which are continually blocked in part because of Iran's nuclear program. Unfortunately, dialogue has been slow in coming.

In 2008, President Obama faced criticism for encouraging dialogue with Iran. John McCain accused the President of naiveté. When then President-elect Obama was awaiting his inauguration, Israel's Foreign Minister Tzipi Livni worried that dialogue would project "weakness" and believed in "continuing the pressure... with more intense and effective sanctions on the Iranians." Since then, there has been a significant discrepancy between President Obama's comments about engagement with Iran before his election and what was implemented during his first term, especially with the uptick in sanctions since his inauguration. A quick search on the House of Representatives website for bills passed and brought to the floor during the 112th Congress that involve Iran brings up 218 search results, including tough sanctions that have inflated Iran's currency, the rial, immensely.³⁸¹ U.S. efforts from the "Iran Threat Reduction Act of 2011" to "Credible Military Option to Counter Iran Act" to the sanctions on its crucial oil exports have isolated Iran.

A leaked internal foreign ministry report from Israel argued that "international sanctions... could be destabilizing the [Iranian] government but the measures had yet to persuade the regime to abandon its nuclear program and, therefore, additional sanctions are needed."³⁸² It is unclear whether sanctions are effective, and yet the report concludes that more of the same is the remedy. Unintended consequences, such as a medicine shortage in Iran, have stemmed from these sanctions and hurt American popularity within Iran.³⁸³

A temporary opening in U.S. – Iranian relations occurred when Iran suffered a devastating earthquake in 2003. The United States responded with relief workers and humanitarian aid, which prompted Iran's President at the time, Mohammad Khatami, to thank America and say "humanitarian issues should not be intertwined with deep and chronic political problems... if we see change both in tone and behavior of the U.S. administration, then a new

situation will develop in our relations.”³⁸⁴ Colin Powell, the United States Secretary of State at the time, even praised Iran’s “new attitude.” However, this warming in diplomacy was only temporary, and aid was withdrawn following the crisis.

U.S. Interests

Iran’s historical influence and relative power in the Middle East provides it with special status in the region. From the civil war in Syria, to the development of Afghanistan, to stability in the Levant, Iraq, and the Arabian Peninsula, Iran wields tremendous influence in the region that impacts U.S. foreign interests in the Middle East. Iran has a strong religious bond and reputation among the Shia community. This religious alliance spans Lebanon, the Allawite community in Syria, Iraq, and down through Bahrain and Yemen. This arc of influence can mean the difference between uprisings and stability, Anti-American sentiment or the development of relations. In Afghanistan, Iran also has deep roots that include a shared history and language. Due to Iran’s unique ability to impact numerous hot spots in the Middle East, it is clear to the United States that bilateral relations with Iran are of great importance.

Current Efforts

International Efforts

Today, Iran deals with over 1 million registered Afghan refugees plus an additional 1.5 million who are illegal immigrants, who have been accumulating since the Soviet invasion of Afghanistan in 1979.³⁸⁵ On the subject of refugees, Iran held a conference four years ago in Tehran that included the Iranian Interior Ministry, the United Nations High Commissioner for Refugees (UNHCR), and the International Consortium for Refugees in Iran. In the conference,

Bernard Doyle, the head of UNHCR's Inter-Agency Unit, complemented Iran for its "tremendous support" for refugees and called Iran's request for assistance from external Non-Governmental Organizations (NGOs) "progressive on the part of the government."³⁸⁶ The Norwegian Refugee council was one of the first groups to offer Iran support.

U.S. Efforts

President Obama has made modest steps in improving relations by reaching out to Iranians through social media and setting up a "virtual embassy" online so Iranians can reach out to the United States. He even became the first U.S. president to refer to Iran as the "Islamic Republic" of Iran, which became a symbolic gesture to show that regime change is not the goal. As President Obama said in his Nowruz address to Iranians around the world, "We are familiar with your grievances from the past- we have our own grievances as well, but we are prepared to move forward. We know what you're against; now tell us what you're for."

PAKISTAN

History

Pakistan plays a pivotal role in the stability of South Asia. Nestled between India and Afghanistan, the changes in its government have had direct influence on the stability of the region, and subsequent regional instability has had dire consequences on the progression of democracy within Pakistan and the rights granted to its citizens. Since Pakistan's independence in 1947, its political elite have failed to give the country leadership, as they lack a sense of responsibility toward the public.

Because of its ongoing issues, some scholars say Pakistan is nothing but a poor, fragile, and insecure state. According to Human Rights Watch, "If you are a woman, child, religious or ethnic minority [in Pakistan], rights are rarely if ever granted to you." Pakistani people, especially ethnic minorities, have endured manifold killings and torture. For example, in the largest province of Baluchistan, disappearances are common, but when reported to the civilian government, the lack of mobilization by the military allows the abuses to prevail. Another example is Karachi, one of the largest cities, with 18 million people, or about 10% of the total population. In Karachi, unattended ethnic inequality has led to insurgency and acute ethnic and religious conflicts.³⁸⁷ Almost 60% of the population is illiterate, and a lack of education and opportunity likely contributes to the ongoing conflicts.

Both the Sindh and Baluchistan provinces also suffer from ethnic conflicts and economic stagnations: industrial and commercial activities are void, and capital flight is high. This is due to political confrontation, violence, and subsequently deepening poverty. The Sindhi and Balochi people have retreated to illegal and underground economic activity, such as heroin sales, and gun trading has continued unabated, taking the over the historical role of manufacturing, mining, and

agriculture in regional production. Again, low chances for economic and educational improvement have exacerbated the challenges in these regions.

Although Pakistan is religiously diverse, Islam is the official religion and is practiced by 96.4% of society (Sunni 85-90%, Shia 10-15%). Such a large percentage does not correlate with harmony, however, as religious minority sects within Islam are persecuted daily by the military. Christianity and Hinduism account for 3.6% of the population, and they are victimized and in large numbers flee the country when possible.³⁸⁸ Within Islam, the minority sects of Shia, Ahmedis, Ismailis, and others are visibly targeted, especially the Shia who are regarded by Sunni sectarian militants as non-Muslims.³⁸⁹ Not only are religious minorities fleeing Pakistan, but with instability in the region comes religious and ethnic minority migration throughout Pakistan. Uneven development in the provinces has resulted in massive migration flows between Afghanistan and Pakistan, as well as from less developed provinces into the comparatively wealthy provinces of Karachi, Islamabad and Lahore. The continued presence of over one million Afghanis in Baluchistan has negatively affected job opportunities and development.

Many Pakistani and American journalists attempt to portray these ongoing atrocities to national or international news outlets, but are exiled, threatened, or killed by the military. Nonetheless, the U.S. government has continued to give more than 20 billion dollars in bilateral aid to Pakistan. This aid began during the Cold War era, lasted through the 90s, and has increased after the 9/11 attacks. Anti-American sentiment from the Inter-Service Intelligence (ISI) of Pakistan, the military, and the Taliban are at an all-time high, and many U.S. politicians denounce Pakistan and particularly its Taliban insurgency that has aimed to topple the government, defeat the army, and install an Islamic extremist state. Pakistan today is sometimes known as the greatest security threat to the West.

Status of Rights

Pakistan's constitution has been undermined by a pattern of military coups interspersed with short-lived civilian rule. Not until 1973 was a constitution written by a democratically elected assembly, and even following that, the document has been continually reshaped by coups and the demands of the political elite. Since partnering with the U.S. in the war on terror, Pakistan has made some efforts to rectify the shortfalls in their governance. A package of constitutional reforms passed by the civilian government in 2010 included dilution of the powers of the executive and an expanded representation of provincial interests. The new constitution also emphasizes human security by increasing allocations of capital to education and employment. However, such efforts have essentially faltered, as political opportunism hampers the improvement of deep rooted structural problems.

It is also important to note that, despite constitutional rights and well-meaning intentions, religious conflict is rampant and the rights of minorities essentially do not exist. There is little pressure from anywhere within the country to change the status quo, except perhaps to institute even more stringent Islamic laws and punishments for deviancy.

U.S. – Pakistan Relations

During the Cold War era, the U.S. feared Soviet expansion and began searching for possible allies to strengthen its influence in South Asia. Subsequently, the U.S. government offered Pakistan's government and military billions of dollars in aid money, as well as camps and equipment to train and protect its borders from insurgents in the tribal areas along the border with Afghanistan. In turn, not only did Pakistan's bureaucratic leadership essentially freeze in place, U.S. influence in the short run increased the strength and influence of the tribal insurgents,

giving rise to a Pakistani Taliban. This highly organized group of insurgents infiltrated the government, the military, and politics within Pakistan. Moreover, the Pakistani Taliban was forgotten in the Clinton and Bush eras, which worsened the already dismal relationship with India and weakened the safety of the Pakistani border with Afghanistan. Today, as the U.S tries to minimize terrorism and increase stability in Afghanistan, the Pakistani Taliban grows in numbers and strength.

Because of a number of unfortunate circumstances, not least of which is the Taliban presence, Pakistan is a very unstable region. Decades of internal political disputes and low levels of foreign direct investment (FDI) have caused slow growth and underdevelopment in Pakistan. Currently, U.S. FDI to Pakistan is staggering due to investor concerns related to governance, an uneducated workforce, energy, security, and a slow-down in the global economy. Social upheavals and unrest have been constant in major cities such as Karachi and Islamabad, where business activities should have been amplified with globalization. Instead, such cities have suffered persistent power outages lasting on average 18 hours a day, leading to a 24% decrease in FDI in 2011, according to the Central Bank. However, some Pakistani investors have another outlook on the future of Pakistan, shedding insight and hope about the future of Pakistan's economy. Although the U.S. has not invested much in Pakistan in the way of business capital, this has in its turn created an open playing field for homegrown Pakistani entrepreneurs to create and expand their own markets. One billionaire investor, Arif Habib, started as a stockbroker 40 years ago, and has expanded his Arif Habib Group into a 13-company business, investing \$2 billion in financial services, cement, fertilizer, and steel factories in Pakistan since 2004.³⁹⁰ Another success story is that of billionaire Mian Muhammad Mansha, one of Pakistan's richest

men, who after successfully running MCB Bank, Nishat Mills, and D.G. Khan Cement, is importing over two thousand milk cows from Australia to start a dairy business in Pakistan.

Pakistan's future outlook is bright, and the only thing the civil society is missing is increased capital to bolster job opportunities for the middle class, composed of some 70 million people, or 40% of the population today. Sherani of Macro Economic Insights estimates the middle class doubled in size between the years 2002-2012, and states, "Those who understand the difference between the perception of Pakistan and the reality have made a killing. Foreigners don't come here, so the field is wide open." This perspective is valuable in that it reflects the opinion that although the U.S. may have neglected to pay attention to affairs in Pakistan outside the military sphere, this may have in worked to Pakistan's advantage by leaving the economy open for local businessmen.

Because of this trend, the sovereignty of Pakistan no longer depends on increased aid, but on the abilities of its own citizens to reach a market. In Pakistan, agriculture accounts for more than 20% of output and almost 50% of employment. Although this sector has previously helped Pakistan's middle class, now it acts as a precursor for poverty as earnings remain with the landlords, helping to sustain an agrarian society whose primary means for support and sustenance are agriculture. However, Pakistan's next largest field, textiles, has created opportunities for entrepreneurs to break with the traditional landlord system. With technical and financial assistance from the U.S., Pakistan can increase its textile trade with Western nations, which today accounts for 40% of its industrial labor force and 60% of its exports. Only 15-25% exports are shipped to the U.S., and Waqar Masood Khan, secretary of the Textile Industry Ministry, said that if the U.S. and Europe lifted trade restrictions to Pakistan, it would result in a \$3 billion increase in exports in the short term.

However, the U.S. government has preferred to focus its attention and aid on Pakistan's military-government structure, as more relevant to U.S. strategic regional goals. Since 9/11, American policymakers have significantly increased military and nonmilitary assistance to Pakistan in an attempt to influence strategic concerns, as well as to support Pakistan's nascent democracy. U.S. annual bilateral aid in total went from \$5.3 million in 2000 to \$798 million in 2002 to more than \$4.4 billion in 2010. More than 65% of the \$20.73 billion in total appropriated assistance over the past eight fiscal years has gone to security-related aid.³⁹¹

However, this type of aid to Pakistan has proven to be inefficient for three main reasons. First, the short duration of American staff tenures in Pakistan and the high turnover rate hinders our ability to establish lasting and meaningful relationships with Pakistani partners and government.³⁹² Secondly, there is much difficulty in finding local accounting firms to oversee monitoring and evaluation. The current aid package to Pakistan suffers from a lack of transparency. As the Center for Global Development notes in a recent report on aid to Pakistan, "the United States has attempted to use its development assistance to pursue additional U.S. strategic objectives beyond development outcomes such as reducing anti-Americanism or increasing support for counterterrorism efforts, with little success." This is proven in the amount of civilian casualties each year resulting from Taliban attacks, as well as the fact that militia groups have grown in unprecedented numbers in the last twelve years in Pakistan.

Lastly, the development and humanitarian aspects of the aid that is processed through the civilian government of Pakistan is overshadowed by the military. Currently, U.S. aid is trapped in an impossible trinity: Congress and the administration demand local ownership, rigorous oversight, and speedy results. Under current constraints, the aid program can maximize two of

these at one time, but not all three. The current system of aid encourages and fosters corruption, mismanagement, and waste.

U.S. Interests

Pakistan has a pivotal role in the security and stability of South Asia and the Middle East, as well as that of the U.S. Potentially it can be a catalyst to peace: assistance in ending the Afghani violence, in the peaceful rise of India, and in helping to constrain Iran's bid for Middle East hegemony. Or it can be a major disruptive force in the region, by aiding terrorism and corruption.³⁹³ The U.S. has a vested interest in furthering policies in Pakistan that prioritize eliminating religious extremism and violence because such movements manifest themselves in anti-state violence and sectarian intolerance, leading to the continued rise of such groups as the Taliban. Therefore, it follows that promoting First Amendment rights in Pakistan is essential to ending the hold that violent groups are able to maintain over populations that are willing to blame other religions and ethnicities for any and all problems in the region.

The Center for Strategic & International Studies (CSIS) conducted a net assessment of the threats facing Pakistan's future and they showed the serious implications for regional stability and for core U.S. interests associated with historical patterns of violence. Since 2001, Pakistan has partnered with the U.S. to eliminate regional terrorism, but at the same time pursues its own agenda in Afghanistan, providing sanctuary for Afghani Taliban and Haqqani militants, increasing U.S. casualties and weakening relations. Pakistan's government also gives priority to funding their military to oppose India, and in turn the military supplies arms to internal extremists, increasing Pakistan's sphere of influence in the region. Devoting resources to this struggle not only comes at the expense of welfare to its civilians, but it also means Pakistan's

government is essentially supporting groups that are actively at war with the U.S. Causing a stagnating relationship with the U.S., the Pakistani government is now complicating the prospects for future U.S. aid by strengthening extremists who in the end may rebel against Pakistan. With weak institutions, a poor system of education, dismal job opportunities, and a fraudulent military, the U.S. now needs to minimize the risk that an unstable Pakistan could potentially fall into the hands of terrorism while holding nuclear weapons. If this occurred, the security of the west could be jeopardized.

Although the success of the Taliban is heavily reliant on the support of the Pakistani military, without its ability to sway civilians to its cause, the Taliban would be a much less powerful force in the region. Therefore, in tandem with current U.S. policies designed to enable the Pakistani military and police to disrupt the Taliban's reach, the U.S. has an interest in promoting education for civilians that fosters an active distrust of violence aimed for the purpose of religious hegemony. The best way to do this to try and introduce an active appreciation of First Amendment rights, with a special emphasis on diversity of opinion and expression, in order to create an environment hostile to extremist points of view.

TURKEY

History

Turkey, a multifaceted nation, has served as a global focal point over the last century regarding the social, political, and fiscal interconnectedness among the international community.

Its candidacy as a member state to the European Union represents merely one current example of its engagement and effort to reform its political and religious sectors. Turkey holds an important role in the international community not simply for its consistent political and social changes, but also for its superlative demographic situation. Turkey and the former Ottoman Empire are located in a key region that links Europe and Asia where goods such as spices, fabrics, manpower, languages, and beliefs have historically traveled through.

The early decades of the twentieth century held great significance for Turkey and its future. With ample desire to secularize among the Sunni-majority Turkish, a revolution occurred in 1923 in tandem with the gradual decline of the Ottoman Empire's power internationally.³⁹⁴ This revolution was not simply a change in power or an uprising as has been seen in Egypt recently, but included a much broader change within the Empire.³⁹⁵ The revolution, as a result, acquired significant verbal and physical support for overcoming the nation's challenges. The first signs of the process of change began appearing with the rise of the consciousness of the decline of Ottoman political power. When the idea of a revolution was introduced by the Young Turks movement, they did not experience oppositions or signs of disagreement precisely because there was already existing secular lifestyle under Ottoman rule.³⁹⁶

Secularism as a doctrine evolved out of an approach that sought a new interpretation of religion. By the time Mustafa Ataturk, the founding father of Turkey, led his National Movement to liberate Turkey from its Ottoman past, the majority of the empire was on his side. The

Ottoman Empire was predominantly Sunni and this allowed sufficient freedom for the new government to secularize and adjust to the new age.

Status of Rights

The Ottoman Empire, or Turkey, has long been the “sick man of Europe” as the former Tsar of Russia, Nicholas I, referred to the empire in the early 20th Century. The Ottoman Empire has created a clear political, social, and economic separation with its neighboring Muslim countries. However, the Ottomans were never able to match Europe’s modernization progress, especially in the economic sense, and are thus known as “Europe’s sick man”. Following Turkey’s independence, its financial struggle was not the only issue that “sickened” the new state.³⁹⁷ The nation in the last two decades has shown that it struggles both with the status of its minority rights and in finding a proper balance between the freedom of expression and state-mandated secularism.

Kurdish Minorities

Turkey has had an extensive history with the Kurds in southern Turkey. This ethnic minority community has suffered much discrimination and limited freedom within Turkey. The Kurds have an extensive history as victims of violence and suffer all manner of economic and social discrimination due to their “foreign” ethnicity.³⁹⁸

Status of Women

Until recently, women, too, were subject to limited set of rights in Turkey. “The new women’s movement for the first time however, took the release and rescue of women to the

center of their discussions and actions and began to discuss "personal" topics such as the use of violence against women. Similarly to their Western counterparts, Turkish feminists explained that the personal was political and that the state had to respect the private sphere".³⁹⁹ Following the women's movement in 1975, the nation's women continued to be discriminated in workplaces, suffered from unequal social status, and were treated poorly for wearing Islamic headscarves. The headscarf, worn by over twenty percent of Turkish women, is banned from any office space today.⁴⁰⁰ The 1982 Turkish constitution and a number of treaties regarding women's equality are inadequately enforced.

On the other end of the spectrum, Turkish Airlines is proving to be inclining towards Western influence through the female flight attendants' fashionable and less conservative dress. Additionally, Turkish politicians with more overtly Islamic inclinations are beginning to be elected and, slowly, societal acceptance of both the headscarf and its meaning for Muslim women are beginning to change.

Constitution and Treaties

Writing concise domestic laws and applying vague constitutional documents to specific cases is a portion of the solution for better First Amendment rights. Enforcing laws, such as the Law for the Protection of the Family and Preservation of Violence against Women and the Lausanne Treaty, is the most important step for solving women's rights issues and creating stronger democratic institutions.⁴⁰¹ Recognizing the cause of a national issue is necessary for advancing the matter and, eventually, finding a solution.

The Turkish Constitution of 1982 was written with the goal of secularizing the state on the European model. The Constitutional Court has decided that wearing any form of dress

considered or perceived as religious is incompatible with secularism. The difficulties surrounding the notion of secularism are reflected in the issue of wearing the Islamic veil or headscarf in public institutions and the subsequent attitude of the authorities in this respect. Atatürk's influence on the post-Ottoman era was perceived as positive, yet radical due to his ideological transformation away from the Ottoman's past. Embracing a Muslim identity within the social, political, and economic spectrums prior to the 1923 reformatations became a great obstacle in the way of secularization in Turkey. Eliminating Muslim values, laws, and rituals from the daily lives of the Ottomans may not have been a simple solution, but it was at the time considered crucial to modernization efforts, especially in the economic sphere.

However, Islamist groups such as the National Order Party (MNP, later known as MSP) openly called for the reestablishment of Shari'a in the 1960s and to the reversal of Atatürk's secular reforms. Additionally, until 1995, Turkey was flooded with suggestions by MSP supporters to segregate public transportation systems for men and women, proposals dating back to the Islamic Ottoman Empire.⁴⁰² The AKP party, of which Turkey's current leader Recep Tayyip Erdogan represents, is a splinter party of the MSP Islamic conservative party. As a result of Atatürk's efforts and the conflicting challenges of secularization over the last two decades, granting women rights that match that of men under Article 10 of the constitution are not fully enforced in the streets of Turkey regardless of the strong emphasis within the Turkish constitution.⁴⁰³

Under the same article the constitution grants equal rights to minority groups such as the Greeks and the Jews. However, The Kurds are not considered a minority group in the Turkish constitution;⁴⁰⁴ therefore, the Kurdish issue is the chief minority problem in Turkey. Since the Turkish constitution does not recognize the Kurdish community as a national, ethnic, or

linguistic minority, it is not acknowledged in the Lausanne Treat, the treaty that gave international recognition to the new Republic of Turkey in 1923. Consequently, the Kurdish language is only allowed in non-political communication. As a result of the lack of specification in the constitution, people of the Kurdish community suffer police harassment and mistreatment by the government and remain banned from several public facilities, such as education centers, when they practice freedom of speech and expression.⁴⁰⁵ The lack of specificity and evasion of the Kurdish communities under the official documented set of laws of Turkey allows authorities to manipulate their powers and indirectly disobey the constitution. Such an unfortunate set of events take place in southeastern Turkey in the Kurdish regions due to the threat the Kurdish communities pose to the Turkish government. The Kurds naturally desire independence from such a harsh and arbitrary authority, which has resulted in ethnic clashes.

Furthermore, Turkey has been manipulating its constitutional freedoms against other groups as well. As of August 1st, 2012, Turkey was holding at least 76 journalists in jail while prosecutors were pursuing thousands of cases against other members of the news media.⁴⁰⁶ The nation now has more imprisoned journalists than any other country.

Enforcement of Rights

A major global focal point such as Turkey must maintain a positive international reputation in order to earn the support it desires. As of 2004, Turkey became a leading candidate for inclusion in the European Union. In order to be admitted to this community, Turkey must meet a set of qualifications established by the Copenhagen Criteria. Two main parts of the qualification process is the issue of minority rights and regional stability. The European Union pressured Turkey to enforce its laws concerning minority and freedom rights, which has helped to motivate

the Turkish government to reform its stance towards civil liberties.⁴⁰⁷ In fact, since 2011 the Turkish government under Prime Minister Erdogan has met regularly with member of Kurdish communities and other religious-ethnic communities in order to meet their needs and desires.⁴⁰⁸ Moreover, in a recent interview, Erdogan claimed that democracy is the nation's primary focus in order to strengthen ties with fellow European powers such as the UK and France.⁴⁰⁹ Turkey is aware of the political support that the European coalition can provide and the number of security and immigration agreements that would accompany the membership, all of which creates stronger economic incentives and opportunities for Turkey to reform its minority rights.

In pursuit of its goals, Turkey has been constructing a new constitution over the past two years that would replace the 1982 constitution and, under jurisdiction of the European Council as well, enforce First Amendment rights.⁴¹⁰ A number of American or European facilitators on Turkish ground would also have jurisdiction over these rights and would help to maintain enforcement of the newly-established constitution. Additionally, the U.S. government cooperates with Turkey to assist in the advancement of freedom of expression, respect for individual human rights, and Turkish security by increasing investment and trade agreements to promote counterterrorism and enforcement of democracy and freedom.⁴¹¹

U.S. – Turkey Relations

The United States has played the most vital role in Turkey's secularization development after World War II. The association between the two began in 1947 when the United States designated Turkey, as part of the Truman Doctrine, to be the recipient of economic and military assistance with the intentions to fight off and resist the spread of Soviet Union and communism.

After aligning with the Americans over the Soviets, Turkey expanded from its single-party government under Ataturk and became an official democracy in 1950.

Since the middle of the twentieth century, the U.S. - Turkey relationship has been based on mutual interest and mutual respect, and such interests have focused primarily on economic cooperation, regional security and stability, and the global issue of human rights and further promotion of First Amendment rights. The relationship has extended further when the United States was given the opportunity to operate in Afghanistan and Iraq through Turkish military bases.

U.S. Interests

Turkey lies in a vital geographic location, as was mentioned previously, due to its vicinity to Europe, the Middle East, and to Asia. With Turkey's support, the United States can continue to expand its rejection of former-Soviet communism and can instead promote democracy and First Amendment rights in countries situated in Central Asia and further east. The three nations that are most in need of international attention lie on Turkey's southeastern border with Iran, Iraq, and Syria, once more proving Turkey's strategic geographic significance.

Although formerly known as the "Islamic Republic of Turkey", the nation does not hold the Western stereotypes of fear towards terrorism. Turkey's enormous efforts towards eliminating global terrorism have been a priority for both Turkey and the United States. Their increasing objective of counterterrorism has brought the two nations together. In recent months, Turkey tested its relationship with the United States, Europe, and its NATO allies. Experiencing an attack at the Syrian border, Turkey requested military supports using Patriot missiles.⁴¹² Placement of the Patriot missiles must clearly indicate that their sole purpose was self-defense

and not to attack the neighboring state, as Prime Minister Erdogan said. Furthermore, avoiding casualties and damage could keep Turkey from further worsening the humanitarian crisis at the Syrian border. Approaching the conflict with a first-world mentality and investing solely in a defensive mechanism rather suggests to the world that Turkey is taking appropriate measures by refraining from declaring more severe methods of solving the issue at the border. Turkey's Western-like approach towards the conflict and its support towards Syrian refugees demonstrate early signs of support and practice of human rights and more broadly, First Amendment rights. Aiding homeless refugee families from Syria sets Turkey in the path towards a possible democratically reformed nation such the U.S. and Europe.⁴¹³

Current Efforts

Domestic Efforts

Turkey, as any other country, is set for democratic development when its government is engaged in international agreements and conventions with Western nations. As past attempts prove, a nation's responsibility and accountability grows drastically when it is engaged in international treaties due to the reliability and trust, and the fear to lose the advantages that such pact provides. Such agreements include the Custom Union Agreement, the Free Trade Agreement, the European Monitoring Centre for Drugs, and other minor agreements.⁴¹⁴ Similar to Turkey's attempts at restructuring the 1982 constitution and joining the European Union, Tayyip's administration has made several efforts to secularize Turkey and further promote First Amendment rights. Ever since NATO admitted Turkey as a member to its alliance in 1952, NATO has played a central role in Turkey's security and contribution to its integration with the European community.⁴¹⁵ In return, Turkey has successfully adapted its responsibilities in

defending the common values that the alliance holds, such equal rights and democratic reforms. Additionally, Turkey has adapted the Swiss Civil Code which covers basic family matters, civil laws, and discusses briefly the rights of individuals.⁴¹⁶ Furthermore, in 1959 Turkey joined the European Court of Human Rights (ECHR) in order to show the world the progress it has made since its independence in 1923. However, over forty percent of ECHR cases dealt with the freedom of expression within Turkey among all other ECHR member states.⁴¹⁷ With this example, it is clear that Turkey struggles with the enforcement of human rights and First Amendment rights; however their efforts have clearly demonstrated the world that Turkey is on the right path toward democratic reforms. This is in great contrast with Pakistan, a young country that has yet to establish its democratic bona fide. To strengthen Turkish democratic development or to jump-start a democratic reformation in Pakistan, the international community should place a strong importance on education and health concerns in regions of Turkey (and Pakistan) where human rights laws are not enforced. Turkey's remote regions and Pakistan prove to have a low literacy rate and short-termed educational programs.⁴¹⁸ The U.S. has stressed the importance of international pacts and trades with Turkey, however has not made significant efforts in recent years to promote First Amendment rights due to the factor of time that plays into the development of the already-existing democratic system in Turkey.

POLICY OPTIONS FOR MIDDLE EAST

Engagement through Third Party States

In 2010, the United States had an opportunity to engage in dialogue with the Iranian government through intermediaries. President Luiz Inácio Lula Da Silva of Brazil and Prime Minister Recep Tayyip Erdogan arrived in Tehran in May of that year and made a deal with the Iranian government about its nuclear program. The deal consisted of exporting half of Iran's nuclear fuel to Turkey for a year, where it could be monitored by the International Atomic Energy Agency (IAEA), which would significantly reduce Iran's capability to produce a weapon. Nonetheless, the Obama administration responded by pushing for additional sanction at the United Nations Security Council (UNSC) the following day. Hillary Clinton, President Obama's Secretary of State at the time, commented: "This announcement [to push for additional sanctions at the UNSC] is a convincing answer to the efforts undertaken in Tehran over the last few days as any we could provide."⁴¹⁹ The United States could have taken advantage of the moment to support the diplomatic efforts of its two allies, Brazil and Turkey, given the opportunity for diplomatic rapprochement. Even so, the efforts established a precedent that may be built upon if the U.S. wishes to engage Iran through intermediaries.

- Establish countries that both Iran and the United States trust to negotiate between the two countries in the nuclear arena. Possibilities for choosing the mutually agreed upon countries could be upcoming negotiations between Iran and the P5+1 or through the Swiss embassy (in which the United States communicates through).

Work through NGOs

Now that Iran's economy has been suffering due to sanctions, Iran has been forced to encourage refugees to return to Afghanistan despite Iran's comparably stable state. This is a great opportunity for the United States to offer friendly support to the Iranians by either encouraging American NGOs to help Iran or by supporting Iranian NGOs, like the Imam Ali Charity Institution,⁴²⁰ that work with the Afghan community. Other NGOs, like Nobel Peace Prize Winner Shirin Ebadi's "Society for Protecting the Rights of Children" and former President Khatami's "International Institute for Dialogue among Cultures and Civilization"⁴²¹ provide other avenues to help Iranian society directly and at the same time have the political weight to help mend diplomatic relations. By helping Iranian NGOs, specifically ones that deal with problems Iran has reached out to the International community directly (i.e. Afghan refugees), the United States can implement a strategy that continues the kind of thaw that barely lasted after Iran's earthquake back in 2003.

- The State Department should assist Iranian Non-Governmental Organizations (NGOs) such as the Ertegha Salamat Jame-e Organisation (women development and healthcare), Noavaran Pars (NGO development), International Institute for Dialogue among Cultures and Civilizations, and Baran Foundation (general domestic development), which are trustworthy and the Iranian people could benefit from.

Cultural Diplomacy

Diplomatic rapprochement does not have to be limited to direct governmental talks. Social and cultural cooperation, perhaps with the involvement of the State Department, can be a positive way to create positive interactions between Americans and Iranians. In 1998, wrestling became a constant source of cooperation between the two countries.⁴²² Wrestling is Iran's national sport and is immensely popular, and American wrestlers have taken advantage of the environment there with relatively frequent visits.

After last month's decision by the International Olympic Committee to drop wrestling from the 2020 Olympics, Rich Gardner, the executive director of USA wrestling, decided to travel to Tehran to strategize with Iran's wrestling federation to get the sport back into the Olympics.⁴²³ Iran will also be hosting the United States in the wrestling world cup in 2013, where Iranian crowds are expected to pack the wrestling arenas and recognize American and Iranian wrestlers alike. Such an exchange need not be limited to wrestling. Other sports, like soccer, which is also very popular among Iranians, can be another avenue for sporting relations. Hamed Haddadi, a star on the national Iranian basketball team, currently plays for the Toronto Raptors here in the United States and Americans have played in Iranian basketball club teams as well.⁴²⁴ However, the basketball federations of both countries have limited interactions.

Sporting relations may have grown, but endless opportunities still remain. The United States could set up a committee of sporting relations that would communicate with Iranian sporting institutions and even create high profile events like soccer matches between national soccer teams. The future of Iran, like in any country, depends on the youth. Therefore, if we can use sport to invest in future relations with Iran, not only are

we helping diplomatic relations today, but we can increase our opportunities for the future.

- The United States should increase cultural/ social exchanges. This could begin with sporting matches. The Department of State could utilize the Bureau of Educational and Cultural Affairs' SportsUnited office to organize major events and increase communication.

Increase Ease of Access a U.S. Education for Iranian Students

The experience of Iranian students today will shape Iran's political and economic future. This is why it is crucial that Iranian students have access to American and western academic institutions. Unfortunately, sanctions have caused Iranian students hardship when studying overseas. Problems have included frozen bank accounts, student loan denials, applications denials (including reversals), financial issues (with the dramatic drop in currency value, Iranians have been forced to return to Iran), and general discriminatory policies that have stemmed from political relations between Iran and the West.⁴²⁵

Access to western Universities is not only positive in an academic respect, but it encourages dialogue between Iranians and Americans and other positive experiences Iranians can take back to Iran. By witnessing First Amendment rights here in the United States, Iranian students will want to take that experience back home and could potentially create a movement in the Islamic Republic. President Obama himself said "we will sustain our commitment to a more hopeful future for the Iranian people, for instance by increasing opportunities for educational exchanges so that Iranian students can come to

our colleges and universities and to our efforts to ensure that Iranians can have access to the software and Internet technology... without the fear of censorship.”⁴²⁶ It is time to implement such a policy, while keeping the negative impacts of sanctions in mind.

Allowing Iranian students greater access to the United States so they are exposed to a freer society could have a trickle-down effect on freedoms in Iran. Also, exposure to Americans may improve negative portrayals of one another that are often displayed on the news in the respective countries.

- The United States should step up and provide Iranian student greater access to American banking institutions and encourage cooperation between Universities and Iranians.

Building Trust through Eliminating Sanctions

The eventual success of diplomatic policies will require the approval of Ayatollah Khamenei, Iran’s Supreme Leader. The Iranian government is split by reformists and hard-liners, one group who sees the Islamic Republic as an adapting concept and the other that sees the Islamic Republic as one that needs to strictly adapt to Ayatollah Khomeini’s Islamic Republic. The Ayatollah falls into the hard liner camp. While the President of Iran does the typical tasks of the Presidency, it is the Ayatollah who makes the final decision on major issues⁴²⁷ and is commander and chief of the Armed Forces. While the media focuses on the words of President Ahmadinejad, what is really significant is what the Ayatollah is thinking. In fact, in one limited act of engagement, President Obama responded to Ahmadinejad’s congratulatory letter after the inauguration

by sending a letter to the Ayatollah. This is because the President of Iran is going to need the permission of the Ayatollah before making any major moves.

President Khatami of Iran made overtures to the United States over a decade ago, but was unable to accomplish anything significant because of the disapproval of the Ayatollah. When Vice President Biden made a small diplomatic gesture to Iran, Iran's Foreign Minister Ali Akbar Salehi replied by saying talks with the United States are not in the "forbidden zone."⁴²⁸ Unfortunately, the Supreme Leader denied the overture by saying "[Americans] are pointing the gun at Iran and say either negotiate or we will shoot – the Iranian nation will not be frightened by the threats."⁴²⁹ This is why we need the friendly gestures; they are necessary before jumping into negotiations. Trust needs to build first.

The contrast between the comments of Iran's foreign minister and the Supreme Leader show that this is a point of contention within the Iranian government. With the support of friendly maneuvers, it will make the voice of those with Iran's government who support talks even stronger and legitimize our direct diplomatic efforts. Hopefully, with upcoming elections in June, the Ayatollah will fear another Green Revolution and take a more moderate stance and welcome a reformist President, which will open a new window of opportunity. Once diplomacy has begun, Iran's rights issues can finally be taken up in a legitimate fashion, rather than becoming another bill passed through the U.S. Congress that is perceived as another example of aggression by Iranians. By taking steps toward admitting Iran to the mainstream in International Relations, rather than shutting Iran out uniformly through sanctions, then Iran's approach to its people will be adequately examined and exposed.

- Reassess the value and impact of sanctions. Sanctions have hurt the high popularity of the United States in Iran and have hurt the humanitarian situation there. The Treasury Department should do a review of the sanctions that have passed and provide a report to Congress and the Department of State of their effectiveness and to whom it has been directed.

Divert CSF Funds to a New Fund for Educators

We propose that the U.S. eliminate 50% of a specific type of aid called the Coalition Support Funds (CSF) to begin a new funding towards subsidizing education for Pakistanis who want to pursue a teaching degree. CDF has been used to reimburse Pakistan for their operational and logistical support of U.S. led counterterrorism efforts: these funds currently account for half of U.S. financial transfers to Pakistan since 2001,⁴³⁰ and it has been admitted by the Bush administration that Pakistan diverted much of this funding to military buildup pointed towards India.

Violence is often driven by demographics, and if we can increase graduation rates and school attendance by offering children higher quality educators, violence in rural areas may decrease. As long as Pakistan is funding 400 teachers yearly (100 in each province), by subsidizing their education and living expenses, the government will continue to receive aid from the U.S. We will monitor this aid on a quarterly basis, assessing the effectiveness and proper financial controls against waste and fraud. 89 million per year is given to Pakistan under current CSF. We propose that the U.S. cut that to 44.5 million and give another 44.5 million to the education sector in the form of BTBF funding. We will supply higher quality infrastructure, text books, teachers' subsidized

education and living expenses, and any additional costs involved. Unused money at the end of each quarter will be deposited into an account to assist students who want to pursue a business idea or degree.

Create a New Funding Program Called Entrepreneurs for a Better Tomorrow (EBT)

Entrepreneurs for a better tomorrow (EBT) combines the idea of microfinance and education by offering technical and financial support to Pakistani's youth age 16-26, who want to pursue a degree in business and start their own business. Social services are inadequate in Pakistan, including the provision of core goods such as education. With the help of BTBF, students will gain access to higher quality education, and will also have the chance to earn free education once entering college. With the extra funds from BTBF, each College Board will accept 5-10 students from each province each year who want to pursue business in Pakistan, and offer these students free education, free room and board, as well as technical assistance after college offered by microfinance institutions imported by the U.S. This should eliminate contentions between provinces and aid the business sector in major cities, as well as other provinces as students return home to begin their venture.

Reevaluate Existing Bilateral Trade Agreements with Pakistan

Increasing trade with Pakistan will raise the economic environment, thus granting a higher proportion of the population opportunities to join the middle class. Large segments of the population are alienated due to their location outside of the major provinces, and the government's lack of economic management and development of

these regions has spurred extremism and warfare. We recommend that the U.S. offer duty free, quota free access to the U.S. market, modifying our current trade agreements to be contingent on ease of access to U.S. textile demand. We also recommend that the U.S. government give technical and financial assistance to rural areas and fund a more developed mode of transportation between provinces and throughout each province.

Increase Foreign Investment and Foreign Direct Investment Into Pakistan

With BTBF and EBT, investors will begin seeing the benefits of investing into startups and existing businesses within Pakistan. But to hurry this process, the U.S. will increase investment into infrastructure such as roads and electricity, to build a more unified Pakistan and environment to conduct business. Again, we will lower military funding and increase funding into other areas that focus on infrastructure. To tackle the issue of oversight and fraud the U.S. will send 100 U.S. officials into Pakistan for a two-year tenure to assist with the beginning stages of development. We will conduct quarterly reports to be sent to Washington to ensure we are on schedule. Moreover, we will give U.S. based businesses tax incentives to invest in Pakistan by offering a 5% corporate tax rate, and for each graduating student the business hires the U.S. government will donate \$5,000 to research and development for that business.

Cooperate with Europe to Promote Multi-Party Government System in Turkey

Maintaining a political monopoly will lead to a corrupt government, a reversed outcome of the democratic reformation, and will allow reestablish political instability and rise of conflict at the Syrian border by rebels and possible small terrorist groups.

Therefore, U.S. government actors should cooperate with European forces to promote a multi-party government system that would disagree on austerity measures in Syria, as well as relationships with the EU, Israel, and other Middle Eastern countries. Developing disputes within Turkish leaders on issues such as the above mentioned, will create the necessity for a multi-party government that will indirectly and gradually reach the appropriate democratic standards that Europe and the U.S. desires. American-led efforts through Europe should approach NGOs and religious and secular leaders and fund them to increase reputation and support within Turkey to overcome the political monopoly.

Press for Membership in the European Union

To preserve the peace, tranquility, stability, and Turkish democratic efforts, the U.S. is recommended to fix generic expectations for democratic development in Turkey that would be followed closely by the European community. Requesting follow-up reports of human rights, especially in southern Kurdish regions, once the expectations are installed would force Turkey to meet multiple checkpoints to satisfy the Europeans, more specifically. Demanding consistent reports on the development of less enforced regions will be in Turkey's interest to alter their approach within a respective region in order to portray a more "European" image towards the EU and the U.S.⁴³¹ Placing Turkey on a pedestal could have negative consequences due to the strict nature of the demand. For instance, Turkish citizens might grow an anti-American approach due to the close and stringent laws as in the case in Pakistan and Iran, and thus gradually develop into a mirror of Russia in terms of the nature of the relationship. In order to avoid American hatred as a result of their consistent demand and pressure, the United States should demand for the

human rights expectations and follow-ups alongside European powers, to emphasize the importance. Gaining the support of the British, French, Germans, Swiss, and other European nations will create a stronger urgency for change. In recent interview Erdogan declared that his political priority still lies with its goal to join the European Union, regardless of the contemporary Euro Crisis. Erdogan “stressed that Turkey's membership in the EU will present a good example and bulwark against racism as well as the theory of a clash of civilizations between the Western and Muslim worlds.”⁴³²

- Expand European public transportation into Turkey and loosen immigration policies. Extending the railway system into Eastern Europe and Turkey will establish a better flow of capital and labor in and out of Turkey, which in its nature will develop a more democratic and secular Turkey. Furthermore, such ease on transportation will establish a stronger integrated community with the Europeans and will develop a democratic “culture” as more European immigrants will enter Turkey.

Press for Greater Minority Rights’ Protection

Additionally, in a case where the above option would not function accordingly due to unexpected obstacles, The U.S. should send financial aid directly to the Turkish government to in order to end the abuse the Kurdish minority and other religious minority groups. Performing such action will eliminate the fear of weakening the Americans’ relationship with the Erdogan and the Turkish government, as the above option mentioned. The fear of simply sending American dollars to the hands of Prime Minister Erdogan is the concept of power, corruption, and shift to a totalitarian regime. However,

such payment to end the abuse of Kurdish communities by indirect government actions and Turkish thugs and would function with the condition to send American groups to facilitate the transition. Furthermore, Obama's administration would send the "aid" on bimonthly basis following a report by the American groups on-site that the abuse indeed is gradually deteriorating from the regions where First Amendment rights were not enforced. Following such procedure, will allow the international community to watch closely the progress rather than continue to pay for a cause that worsens the situation. The temptation of compensation for Turkey will help better enforce human rights in the southern regions and Turkey in general.

- The U.S. should pay the Turkish government to end the abuse the Kurdish minority and to send American groups facilitate the transition. Payments to Turkish government will be made under specific conditions: 1) Bimonthly reports by American facilitators indicate weakening levels of abuse, and 2) If the Kurdish communities agree to not bear arms or establish violent riots against neighboring Turkish communities as a compromise with the Turkish government.
- Request full implementing the 1923 Lausanne Treaty the Universal Declaration of Human Rights by granting full legal recognition for all religious communities in Turkey.
- The U.S. should demand Turkey to abolish Article 301 of the Turkish Penal Code, which restricts the freedoms of thought and expression and negatively affects the freedom of religion or belief.
- The U.S. should urge the Turkish government to rewrite a more modern and accurate constitution. Under the constitution revision, the U.S. should urge

Turkey to replace their existing domestic violence law and improve the social order by providing protection against domestic violence and offer enhanced support for victims.⁴³³

Press for Membership in International Bodies

Simultaneously, the United States should continue to support Turkish accession to the EU, by encouraging Turkey to continue its international integration with West politically, socially, and economically. The Obama Administration should strive to argue that a Turkey that meets EU membership criteria would be good for the United States, for the EU, and for Turkey. More specifically, encouraging Turkey to join international agreements such as GATT, FTA, and GAT should be a priority for the U.S. to indirectly promote First Amendment rights in order to strengthen its ties and grew dependency on Western powers. An admission to international agreements can undoubtedly hurt the international community especially with Turkey's current financial struggles due to the Syrian conflict. However, with American and NATO support at the border to preserve its security, Turkey has an extremely high economic growth rate that will benefit the U.S. and Europe greatly from its contributions and simultaneously further enforce economic and political reforms in Turkey, as historical attempts exemplify.

- Allow Turkey to join international agreements such as GATT, FTA, and GAT in order to strengthen its ties and dependency on Western powers.

Promote Education and Healthcare Expansion in Rural Turkey

Poverty remains a major issue in remote regions of Turkey. In several cases poverty overlaps with the regions of minority groups, yet many rural Turkish cities experience high levels of illiteracy and overall poverty. Four months ago Kurdish minorities violently expressed themselves to the Turkish government due to an on-going hunger strike.⁴³⁴ Among the strikers are several leaders of the leading Kurdish party, the Kurdish Peace and Democracy Party. The Kurdish political figures are accused of close ties to the banned rebel Kurdistan Workers' Party, which has for decades pursued sovereignty for the Kurdish community. The strike was deteriorating to a level that threatened the social stability in the greater regions of Turkey, thus imposing a serious political issue to Turkey's leaders.⁴³⁵ In order to avoid violent reactions and cases of starvations, the U.S. should mediate the regions and avoid a similar occurrence as in third-world countries and recently in Mali. The United States should find it vital to send health teams to remote, poorer regions in Turkey on regular basis in order to maintain political stability and avoid an uprising by poor communities; an effort that has yet to take place on behalf of the American government. Likewise, investing in the education is equally important for stability concerns. The U.S. should invest in poor children's education at early levels of their education by send Peace Corp groups and American teachers to teach English and general education subjects. Undertaking such task is important in order to implement a productive routine at an early stage of life, which will perhaps continue post-secondary schooling once the funding is over, rather than allow the youth to drown in poverty. Removing health concerns from the lives of poor Turkish families and not failing to educate children from a young age, will allow them to spend

less time on the streets and avoid initiating crimes; it will also motivate individuals to prioritize and invest more determination and opinion in the nation's development.

- Send American teachers to invest in poor children's education at early levels of their education funded by the American government
- Send health teams to remote, poorer regions in Turkey on regular basis in order to maintain political stability and avoid an uprising by poor communities

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CONCLUDING REMARKS

In our Task Force exploration of promoting First Amendment rights in the East Asian, Southeast Asian, Middle Eastern, and North African regions, several lessons have become apparent. One lesson that has become clear is the complexity and difficulty of implementing policies that promote First Amendment rights across different countries, with respect to their specific historical, political, cultural and economic contexts. In studying these complexities, it became evident in our policy formulations that there is a hierarchy of needs in certain countries that need to be addressed to facilitate rights promotion. As a result, many of the recommendations contained in this report speak to more fundamental challenges in U.S. foreign policy. Some of the obstacles addressed include how to navigate and overcome diplomatic barriers, political and economic instability, and more broadly, the difficulties of changing the nature of our pre-existing relationship with certain countries.

A similar obstacle we have faced in generating U.S. foreign policy stems from a general wariness that external influence will lead to a violation of national sovereignty. This especially becomes an issue if U.S. interests do not align with the interests of foreign governments. Though the U.S. is still considered a world power, it is important to recognize the increasingly interrelated nature of global power structures and the challenges this poses in implementing U.S. foreign policy.

Because of the U.S.'s global prominence, our policymakers have the chance to promote First Amendment rights through the modalities we present in our report. These modalities recognize the challenges facing the U.S. with regards to First Amendment rights promotion.

Specifically, policy framers and members of Congress must overcome distrust of U.S. influence, particularly in regions where democracy is not already enjoyed. Therefore, several soft-power mechanisms that enhance democratic values without enforcing them with military or other hard-power processes will serve as core modalities in the framework of generalized policy options presented below. These soft-power choices are both unobtrusive, especially when compared to the astronomical economic and political costs of military intervention, and positive-sum in the sense that they serve long-term U.S. interest while simultaneously benefiting the recipient nations.

With this consideration, our Task Force has outlined three modalities - cross-cultural exchange, independent media, and popular culture - that we believe are broadly applicable and adaptable to local, cultural, political, and historical contexts. These three policy modalities emphasize education and empowerment as primary vehicles for the promotion of First Amendment rights. These policies aim to provide people with the resources to become agents for change rather than simply demanding changes through a top-down approach. In this manner, citizens may reconstitute the inherent values of the First Amendment in their respective countries.

Cross-Cultural Exchange

Cross-cultural exchanges are an underutilized means of promoting First Amendment rights abroad. They are unique in their potential effectiveness for several reasons. First, they are completely voluntary. Individuals choose to participate in these programs and engage in new experiences; no one forces them to do so. Thus, those who participate in cross-cultural exchanges

are inherently more likely to be open to new ideas. Similarly, cross-cultural exchange programs are generally targeted towards students, rising professionals, and young leaders who may not have the power to change society at the present, but will be the ones paving the way for future decision-making. Consequently, cross-cultural exchanges offer a method of promoting First Amendment rights in the present that will have long-term effects by affecting the future leaders of nations.

Additionally, these programs are a means of promoting values without imposing them forcefully on individuals or groups. Instead, cross-cultural exchanges encourage participants to develop their own ideas in tandem with other ideas from other cultures, and then to share their experiences and the knowledge gained in their own way. Furthermore, exchanges can be an effective means of promoting values and perspectives in a neutral setting, such as through programs focused on sports, music, or arts. While such programs could include specific rights-focused components, exposure to U.S. values and ideas about our unique rights provides an indirect means of promoting civil liberties.

Increase participation and exposure to existing programs

There are currently a number of valuable cross-cultural exchange programs that exist for students and young professionals. However, there needs to be greater advertising and promotion of the existing programs to encourage participation and generate interest. It is fairly uncommon for individuals to participate in these programs, but given the invaluable experiences they provide there needs to be greater commitment to portray these programs as feasible opportunities for students and young professionals everywhere. The major fault with cross-cultural exchange

programs is that their effects are limited primarily to the participants. Thus, there also needs to be greater exposure to the results of these programs at the community level.

An advertising campaign for existing programs, especially at the high school level, will be instrumental in helping to increase awareness of the availability and effects of these programs. Students need to know that these programs exist in order to take advantage of them, which means that increased accessibility is crucial to implement for democratization efforts. Programs for young professionals and rising leaders should be advertised online so as to take advantage of this age group's exposure to the Internet and the various information-sharing platforms that exist in that space.

Additionally, we believe it is important to prioritize sharing the knowledge and experiences that participants gain during an exchange program so that the impact of these programs covers a wider area. Participants' experiences could be shared through blogs, publications, or virtual exhibitions featuring photos or videos to increase exposure to the diplomatic takeaways of these programs, and to potentially increase social acceptance of U.S. values.

Center exchange programs around culturally-shared activities

Given the often sensitive nature of rights issues, it would be beneficial to adopt programs that focus on activities or subjects that are enjoyable and provide a neutral ground for cultural exchange. These programs would indirectly allow the exchange of values and perspectives in a friendly setting. Exchange programs based on sports, music, and arts, even within the most repressive countries, would serve to expose participants on both sides of the programs to new

perspectives and mindsets in a neutral setting. The inclusion of workshops or courses on First Amendment rights in U.S. exchange programs would therefore not impose U.S. values and views, but encourage dialogue and conversation about rights issues along with other culturally-based agendas that would help to make these dialogues more approachable and create a more receptive audience.

Increase cross-cultural exchange through sister-school programs

Sister-school programs are a relatively easy means of exposing students in the U.S. to different cultures, and students abroad to U.S. culture and values. These programs create cross-cultural bonds between students even if students are unable to physically travel to their sister-school abroad. The use of in-class technology which is becoming widely available in today's day and age means that face-to-face connections could be made via computer screens and projected images without the cost of international travel. The benefit of sister-school programs is that they expose students to new values, viewpoints, and mindsets while doing so in a friendly atmosphere that encourages solidarity and partnership, while simultaneously providing a lower-cost alternative to physical exchanges that would require airfare, lodging, and other financial expenditures. Beginning at the elementary-school level and encouraging U.S. schools to adopt sister-school programs with schools abroad and including either a physical-exchange component or direct communication through written or virtual correspondence would help to promote this modality. In addition, schools could hold events that focus on the culture of their sister-school to increase cross-cultural awareness and understanding while also promoting dialogue on civil liberties and First Amendments freedoms from a young age.

Prioritize English Teaching by U.S. Volunteers

English language learning is a highly-valued skill abroad. Many programs are taught by young American volunteers who go abroad through U.S. governmental grants specifically for teaching English. These volunteers are often college graduates and have highly developed senses of their own rights as Americans. They bring these values with them to overseas classrooms and, to some extent, impart them on their students. This tendency is extremely valuable when we consider how neutral the setting of English teaching is. Because U.S. volunteers are not present specifically to lecture about U.S. values, they are more likely to be welcomed by host governments. The cross-cultural exchange that results from English teaching volunteers is thus triply valuable: It generates interest in U.S. lifestyles and values; it is more likely to be welcomed by host governments than other forms of cross-cultural exchange; and it teaches a valuable skill to young, foreign populations

Two programs we believe we should promote are Peace Corps and Fulbright. By increasing the presence of Peace Corps volunteers in rural, English teaching situations, and increasing awareness of and access to the Fulbright grant program and prioritize teaching missions to younger students, the road will be paved to promote U.S. democratic values as part of a larger cultural exchange experience. It will also be beneficial to discreetly prepare U.S. volunteers by making it clear to them that are representatives of the U.S. and its values during their time abroad so as best to address and proliferate the ideas behind the First Amendment freedoms we find so necessary to promote.

Independent Media

Independent media is the lifeblood of a free civil society. It both expresses and shapes public opinion on every issue, not least of which is government effectiveness. In a healthy democratic society, citizens are exposed daily to differing viewpoints through news sources in print, radio, and on the Internet. Through the free exchange of ideas and information, citizens in a democracy are able to more effectively make choices about their government and how they want their lives to be run. This is especially true in the case of the Internet. The Internet is a tool that can spread information, ideas, and even revolutions faster than ever before. It allows citizens to hold their governments accountable, provides access to crucial information, and encourages creativity and entrepreneurship. Naturally, repressive governments are wary of such a tool, and just as naturally it is in the U.S.'s best interests to protect a free and open Internet.

Assist existing organizations that support freedom of press

There are various non-profit organizations that currently exist to provide people from around the world with access to independent media and to assist journalists working to promote freedom of speech and freedom of press. While the U.S. currently supports many non-profit organizations through small grants, it must increase the amount of assistance it gives to the most successful of these organizations that are invested in the promotion of free speech and free press. Increasing small grants or providing assistance through technological equipment and training to independent media organizations such as Radio Free Asia or Radio Free Europe will also serve this purpose. It is also necessary and beneficial to ensure that journalists from the most repressive places have access to, and are aware of, existing resources such as the Journalist Response Fund.

These resources could be advertised through U.S. foreign media or through existing independent media organizations.

Use media to advance discussion and promotion of First Amendment rights

The U.S. State Department currently sponsors various media sources both within the U.S. and abroad that focus on U.S. foreign policy. The State Department should make an effort to present greater discussion of First Amendment rights through these existing media sources. Additionally, sources like the State Department blog, DipNote, which frequently presents information regarding the U.S. and human rights, should be offered in different languages for foreign audiences. Overall, the U.S. needs to take advantage of media sources in generating discussion of First Amendment rights abroad. Simultaneously, the State Department's Regional Media Hubs should engage foreign audiences on issues directly related to First Amendment rights. The creation of regional counterparts to the State Department's blog, DipNote, that are presented in local languages to increase global awareness of U.S. foreign policy, particularly of that related to rights, will also help to serve this purpose.

We believe an effective and important modality exists with the opportunity to create a space for people around the world to talk about issues that are important to them, with a particular emphasis on rights. This could be modeled off of the TED Talks online platform, dedicated to "Ideas Worth Spreading," which presents discussions by people in the technology, entertainment, and design industries⁴³⁶. These talks could be presented in different languages so that they are accessible by people from around the world, as they are currently usually offered in English without subtitles.

Embassies should sponsor events to assist local development of First Amendment rights

Embassies should hold workshops to make journalists of their rights under both local law and international law, especially of those international bodies that their respective countries are a party to, so as to increase security for those engaged in dialogues about issues concerning freedom and democratic rights. Embassies should also sponsor events, such as a human rights film or music festival, that encourage local artists to explore rights issues in creative ways and to present their work to their communities. By offering rewards to finalists or encourage artists to participate by providing tools and equipment, embassies would help promote civil liberties and engagement by civilian populations at the same time.

Disseminate information on how to circumvent government censorship

Given the growing importance of Internet to a free and open society, the U.S. must continue and increase efforts to disseminate censorship circumvention technologies and information on how to use these technologies. The U.S. had already made great leeway in helping people around the world overcome censorship, but it is crucial that these technologies reach the most repressive regimes. Online campaigns on digital risks and anti-censorship technology must spread to these countries. It is also necessary and beneficial to provide information on circumvention technology in local languages to increase awareness of this technology and enable more people to access this resource.

Popular Culture

American popular culture is arguably the largest U.S. export and, as such, this serves as a highly useful vehicle for the promotion of First Amendment rights abroad. The U.S. is internationally renowned for its entertainment industry, and American pop culture has permeated even the most closed countries. Pico Iyer, the author of “Video Night in Kathmandu,” describes his encounters with American pop culture abroad in an interview with the *Baltimore Sun*: “300 million Chinese watch the Super Bowl on television....Last year, he watched the video “Jaws” in Tibet, listened to the Village People in Pyongyang, North Korea, and found a pirated version of “Coming to America” on sale in Bhutan.”⁴³⁷ The international popularity of American pop culture makes it an incredibly valuable medium that is currently under-utilized and must be used more to promote First Amendment rights. Popular culture is a particularly useful tool to employ with countries that have tense relations with the U.S., as it can serve as a relaxed basis around which to develop a dialogue and build good relations.

Broadcast public service announcements that promote First Amendment rights

The U.S. should create short public service announcements that support the ideas inherent in the First Amendment, such as religious tolerance and equality. These announcements can be shown during American television programs that are popular internationally. This option is extremely versatile and flexible, allowing for custom adaptation on a country-by-country basis so that announcements can focus on key issues and be aired during specific programs known to be popular within a country. Communication with regional experts to determine specific television programs will help to narrow down the scope of this project, involve international actors and

agencies in First Amendment rights proliferation, and determine which programs are popular within key countries. On a similar note, collaboration with professionals within the entertainment industry to film and air public service announcements that promote First Amendment rights will also help involve citizens of the countries in question where the U.S. wants to promote democratic values. Finally, enhancing the influence that the messages will have with the target population can involve popular actors from the television programs in the announcements in order to create a familiar basis and identification with well-known celebrities and the democratic cause of their home country of the U.S.

Implement a celebrity ambassador program that promotes First Amendment rights

Due to the pervasiveness of American pop culture, U.S. celebrities can have a huge amount of influence abroad. In many cases, these individuals represent an image and a lifestyle to which people aspire. Given that their fans look to them for inspiration, celebrities can serve as powerful vehicles through which to promote First Amendment ideals, such as equality and tolerance. The U.S. government can take advantage of this by organizing public events featuring popular celebrities that are customized to the countries' specific human rights issues. Reaching out to actors, actresses, athletes, comedians, and other iconic individuals to involve them in events in key countries to promote First Amendment rights will help to increase popularity of civil liberties and the values to which they pertain.

CONCLUSION

All of the proposed policies and recommendations, be they regional or generalized, propose continued and even increased engagement with foreign governments and non-governmental actors. This cannot be taken for granted - in a U.S. governmental environment in which fiscal responsibility is a primary concern, Congressmen and women across the board have expressed a desire to make cuts in foreign aid. With sequestration looming, members of Congress have asked for greater discretion in choosing which programs are cut, and many agree that humanitarian aid is one area that can be reduced.⁴³⁸

The President and Secretary of State have taken the position that we need to redress the way we think about aid. By investing in relatively low-cost programs now, we could prevent destabilizing situations that result in crises which become very costly to address down the road.⁴³⁹ It cannot be stressed or highlighted enough that convincing Congressmen of the importance of funding for foreign policy programs is paramount in our policy recommendations. Congressmen and –women need to take a greater initiative in making foreign affairs important for them and their constituencies. If members of Congress can gather public support for these initiatives, it will translate into a more engaged policy environment. Congressional travel will also be beneficial in fostering a dialogue on rights promotion between our government agents and their counterparts in foreign agencies.

Another platform of public encouragement is engagement with future generations. Exploration of new media forms in disseminating cross-cultural awareness and building a consciousness among young people will aid in increasing diplomatic dialogue with our foreign counterparts. We recognize that future generations must be engaged at a young age, as they are

the ones who will have the potential to influence decision-making processes in their respective countries.

As the U.S. continues to fight for economic ascendancy in an increasingly competitive global system, human rights and civil liberties cannot be neglected as part of our foreign policy. The rights embodied in the First Amendment are of particular importance as they inspire free agency, empower populations, and advance free and open societies. These qualities result in a global environment that fosters social tolerance, good governance, and economic growth. The U.S. has largely disregarded the promotion of First Amendment rights in its engagement with the international community. The benefits of a society that respects and upholds these rights are indisputable. As a model for good governance and open society, the U.S. has a responsibility to take a stronger stance in the advancement of First Amendment rights around the world.

⁴³⁶ “About TED,” *TED*, accessed March 3, 2013, Web, <http://www.ted.com/pages/about>

⁴³⁷ Mike Feinsilber, “Exporting American Culture,” *The Baltimore Sun*, 15 March, 1992.

⁴³⁸ “As Sequester Deadline Looms, Little Support for Cutting Most Programs,” *Pew Research Center*, February 22, 2013, Web, <http://www.people-press.org/2013/02/22/as-sequester-deadline-looms-little-support-for-cutting-most-programs/>.

⁴³⁹ John Kerry, “Address at the University of Virginia”, (address presented at the University of Virginia, Charlottesville, Virginia, February 20, 2013).

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