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Global Human Rights: The Department of State's Country Reports on Human Rights Practices

Introduction

The State Department's *Country Reports on Human Rights Practices* are an annual U.S. government account of human rights conditions in countries around the globe. The reports characterize countries on the basis of their adherence to "internationally recognized human rights," which generally refer to civil, political, and worker rights set forth in the Universal Declaration of Human Rights and other international human rights agreements.

The most recent reports cover calendar year 2021 and were issued on April 12, 2022. They provide individual narratives on countries and territories worldwide and are available on the Department of State website. As with prior reports, the 2021 reports do not compare countries or rank them based on the severity of human rights abuses documented. In a preface to the 2021 reports, the State Department referred to "ongoing human rights abuses and violations in many countries, continued democratic backsliding on several continents, and creeping authoritarianism that threatens both human rights and democracy." In remarks introducing the reports, Secretary of State Antony Blinken described "alarming" trends, including governments "growing more brazen in reaching across borders to threaten and attack critics" (sometimes referred to as *transnational repression*) and imprisoning domestic critics, citing "more than a million" political prisoners being held in over 65 countries. Blinken referred specifically to human rights violations in Afghanistan, China, Cuba, Egypt, Ethiopia, and Russia, among other countries, as well as "widespread atrocities" connected with Russia's invasion of Ukraine (the reports themselves cover only events that occurred during calendar year 2021).

Categories Covered in the 2021 Reports

Integrity of the Person
Civil Liberties
Political Freedoms
Corruption and Government Transparency
Governmental Attitude toward Human Rights Investigations
Discrimination and Societal Abuses
Worker Rights

Legislative Mandate

The foundational statutory requirement for the human rights reports is found in Sections 116 and 502B of the Foreign Assistance Act (FAA) of 1961 (P.L. 87-195), as amended. Both of these provisions were first enacted via congressional amendments in the mid-1970s and have been broadened and strengthened over time through additional amendments.

The 1970s was a formative period for human rights-related legislation as Congress sought to enshrine human rights as a priority in U.S. foreign policy. Section 502B of the FAA (22 U.S.C. §2304), added in 1974 and substantially strengthened in 1976, sought to withhold U.S. security assistance from countries the governments of which engage in "a consistent pattern of gross violations of internationally recognized human rights." Section 116 (22 U.S.C. §2151n), added in 1975 and also strengthened in the years following, imposed similar restrictions for recipients of U.S. development assistance. Contained within these provisions was language requiring that the Secretary of State transmit to Congress each year a report on the human rights conditions of recipient countries; an amendment to Section 116 in 1979 broadened the reporting requirement to cover all other foreign countries. This language thus served as the legislative basis for the State Department's annual human rights reports. Despite the legislative origin of the reports in connection with U.S. foreign assistance, the role that the reports should play with regard to assistance decisions or U.S. foreign policy more broadly has been the subject of debate (see "Relationship to U.S. Foreign Policy" below).

Evolution of the Reports

In the early reports, there was concern within the State Department about publicly characterizing the human rights conditions in other countries, particularly that of U.S. allies. The first reports were criticized for being biased and thin on substance. Over time, with improvements in the breadth, quality, and accuracy of the reports, many observers have come to recognize them as authoritative. At the same time, countries whose human rights conditions are criticized in the reports often publicly defend their record and/or dismiss the reports as biased.

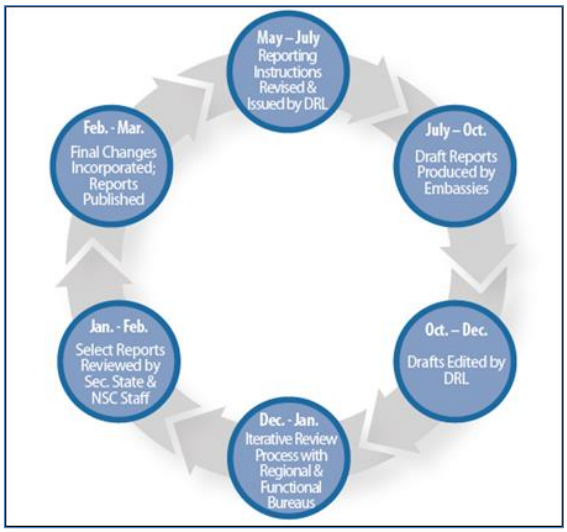
The State Department has gradually broadened the scope of the reports to add or expand coverage of certain topics, sometimes due to congressional amendments to the statutory requirements or other directives, such as those accompanying State Department appropriations bills. Topics that now receive increased coverage include, for example, press and internet freedoms, corruption and government transparency, and human rights abuses based on sexual orientation and gender identity. In addition, the reports now reference separate congressionally mandated reports on international religious freedom (IRF) and trafficking in persons (TIP). Most recently, topics that have received new or increased coverage in the 2020 or 2021 reports include country actions in response to the Coronavirus Disease 2019 pandemic that negatively affected human rights, threats and violence against human rights defenders, transnational repression, and the use of technology to arbitrarily or unlawfully surveil or interfere with the privacy of individuals. The most recent reports also contain information on reproductive rights that was not included in the reports produced during the Trump Administration, but was included during the Obama

Administration. Some bills introduced in the 117th Congress would amend the FAA to require new or additional coverage related to these or other specific issues (or permanently mandate coverage that is currently included in practice), such as attacks and surveillance against journalists, or discrimination related to sexual orientation, gender identity, or sex characteristics.

Drafting and Review Process

The State Department's Bureau of Democracy, Human Rights, and Labor (DRL) coordinates the drafting and issuance of the human rights reports. Embassy officers use reporting guidance, issued annually by DRL, to formulate initial drafts for each country. The reports are then edited by DRL staff and further refined in consultation with other relevant State Department offices and the embassies (see **Figure 1**). The Department of Labor also contributes to the portions concerning worker rights. Information sources for the reports are wide-ranging and may include nongovernmental organizations, press reports, academic and congressional studies, international organizations, governments, and alleged victims of human rights abuses.

Figure 1. Overview of the Report Drafting Process



Source: Created by CRS based on GAO-12-561R (May 2012), p. 8.
Note: Timelines are for illustrative purposes and may vary.

By law, the reports are to be issued by February 25 each year, but in practice the issuance is often delayed until March or April. According to GAO, preparing the reports "involves a significant commitment of State time and resources" within DRL and at embassies. In an October 2018 report, the State Department Office of Inspector General (OIG) found that DRL had "established generally effective processes" for report production.

Human Rights in the United States

The FAA requires that the reports cover foreign countries, and does not mandate coverage of human rights conditions in the United States. (The aforementioned annual report on IRF similarly covers only foreign countries, while the annual report on TIP is required to cover U.S. domestic efforts to combat the practice.) An appendix to the 2021 reports also states that the reports "do not describe or assess the human rights implications of actions taken by the U.S. Government or its representatives." State Department officials have at times noted that the United States participates in mechanisms that evaluate domestic human rights conditions, such as the United Nations Human Rights Council's Universal Periodic Review (UPR). The United States underwent its third and most recent review in 2020, and the council adopted the United States' UPR report in March 2021.

Relationship to U.S. Foreign Policy

Given that most nations may seek to avoid being identified as a human rights-violating nation by the U.S. government, the human rights reports may help incentivize improvements in human rights practices in some cases. Beyond this possible "name and shame" dynamic, the reports have in practice more often served as an information source for U.S. policy than as an instrument for restricting U.S. foreign aid. Findings from the reports appear to have infrequently been used to restrict aid in accordance with Section 116 or Section 502B of the FAA, and these provisions do not require that the State Department characterize in the reports which, if any, governments have met the statutory standard of "a consistent pattern of gross violations of internationally human rights." This differs somewhat from other similar annual reports that Congress mandated in later years, such as those on IRF and TIP, which feature mechanisms to publicly designate problematic governments for potential punitive action.

The State Department has generally contended that the reports serve as a valuable tool in informing U.S. policy on human rights as well as decisions on foreign aid, asylum, and other matters. Human rights advocates have at times argued for the reports to play a more concrete role in influencing U.S. relations with foreign governments, with some pointing to what they view as historically insufficient adherence by the executive branch to the above-discussed provisions requiring the withholding of assistance from consistent gross violators of human rights.

Some analysts and policymakers argue that tying U.S. policy too closely to human rights can overly constrain the U.S. government's flexibility to address other challenges affecting U.S. interests. In contrast, supporters of robust human rights and democracy promotion argue that doing so serves U.S. interests over the long term. In his remarks introducing the 2021 reports, Secretary Blinken argued that "respect for human rights is a fundamental part of upholding the international rules-based order," contending that governments that violate human rights are typically those that engage in malign activities that undermine other aspects of this order.

The scope and content of the reports and the role they should serve, as well as the role of human rights in U.S. foreign policy more broadly, have been contested since the reports began in the 1970s. Congress has been a key actor in these debates, often as a source of pressure on the executive branch to place greater emphasis on human rights when formulating foreign policy.

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