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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 the civil, political, and worker rights set forth in the Universal Declaration of Human Rights (adopted by the United Nations General Assembly in 1948) and other international human rights agreements.

The most recent reports cover calendar year 2019 and were issued on March 11, 2020. They provide individual narratives for nearly 200 countries and are available on the Department of State website. As with prior reports, the 2019 reports do not compare countries or rank them based on the severity of human rights abuses documented. Although the reports describe human rights violations in many countries, in introducing the reports Secretary of State Michael Pompeo specifically noted violations in China, Iran, Venezuela, and Cuba. Some critics contended that the Secretary's singling out of these nations, generally perceived as U.S. diplomatic adversaries, risked politicizing the reports. In response to a related media question, Robert Destro, the Assistant Secretary of State for Democracy, Human Rights, and Labor, stated that the reports were "hard-hitting across the board." Some changes in emphasis and terminology in the 2019 reports were also noted in U.S. and international media coverage.

Categories Covered in the 2019 Reports

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

Legislative Mandate

The 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. In 1974, Section 502B of the FAA (22 U.S.C. 2304) was enacted to withhold U.S. security assistance from governments that engage in "a consistent pattern of gross violations of internationally

recognized human rights." The following year, Section 116 (22 U.S.C. 2151n) was added, introducing similar restrictions for recipients of U.S. development assistance. Accompanying these provisions was language requiring that the Secretary of State transmit to Congress each year a "full and complete report" concerning the human rights conditions of recipient countries; this language thus served as the legislative basis for the annual human rights reports. An amendment in 1979 further broadened the reporting requirement to cover all U.N. member states. Despite the legislative origin of the reports in connection with U.S. foreign assistance, the role that the reports should play with regard to foreign assistance decisions or in U.S. foreign policy generally has been the subject of continued 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 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 (countries whose human rights conditions are criticized in the reports, however, often publicly defend their record and/or dismiss the reports as biased). The modern reports are cited by lawmakers, foreign governments, human rights organizations, scholars, and others. The scope of the reports has also broadened as Congress has amended legislation to add or expand human rights topics in response to evolving situations and contexts. Topics that now receive increased coverage include worker rights, the rights of sexual minorities and persons with disabilities, and corruption, among others. In addition, the reports now reference separate congressionally mandated reports on international religious freedom (IRF) and trafficking in persons (TIP).

Relevant Legislation in the 116th Congress

Numerous bills introduced in the 116th Congress would mandate coverage of particular issues within the reports. For example, Senate appropriators in their committee report for FY2020 State Department appropriations directed that the reports include information on discrimination and human rights abuses against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; S. 3004/H.R. 3874 and S. 861/H.R. 1857 would amend the FAA to require such coverage. Similarly, S. 1777 and H.R. 3212 would require coverage of sexual and gender-based violence and information on war crimes, crimes against humanity, and evidence of genocide. S. 707 and H.R. 1581 would require information on respect for reproductive rights.

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** below). Near the end of the process, country reports of particular public interest or scrutiny may be reviewed by the Secretary of State's office and the National Security Council (NSC) staff. Information sources for the reports are wide-ranging and include nongovernmental organizations (NGOs), 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, but in practice this issuance is often delayed until March or April. In October 2010, the State Department's Office of the Inspector General (OIG) identified the reports as among the most personnel-resource intensive of the department's congressionally mandated reports. According to the OIG, the breadth of the reports and the extensive consultative

drafting and review process has contributed to the State Department failing to meet the annual statutory deadline for issuing the reports. State Department officials have described the extensive review process as aimed at ensuring the reports are both comprehensive and objective.

Human Rights in the United States

The State Department human rights reports do not cover human rights conditions in the United States. Countries whose human rights practices are criticized in the reports sometimes accuse the United States of human rights challenges of its own. State Department officials have pointed out that the United States participates in other mechanisms that evaluate domestic human rights conditions, such as the U.N. Human Rights Council's Universal Periodic Review (UPR). The U.S. government submitted its most recent report on U.S. human rights conditions through the UPR process in 2015. It is due for its next review in May 2020.

Relationship to U.S. Foreign Policy

The human rights reports have more often served as an information source for U.S. policy than as a direct instrument for restricting U.S. foreign aid, as findings from the reports appear to have rarely been used to restrict aid in accordance with Section 502B or Section 116 of the FAA. The FAA does 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 from other similar congressionally required annual reports, such as those on IRF and TIP, which feature mechanisms to publicly designate problematic governments for potential punitive action. The IRF report, for example, is the basis for the President's annual designation of "countries of particular concern" due to particularly severe violations of religious freedom, while the TIP report categorizes countries into tiers based on their effort to curb human trafficking; the worst-ranked are subject to potential foreign assistance restrictions.

The State Department has generally argued 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. Furthermore, being identified as a human rights-abusing nation by the U.S. government is likely a stigma most nations seek to avoid. Some NGOs have argued that the reports should nonetheless have a more concrete role in influencing U.S. relations with foreign governments that are found to have failed to protect the rights of their citizens. State Department officials have previously contended that the reports' focus on the facts, without consideration to U.S. policy interests, help ensure their objectivity.

More generally, 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; others contend that human rights promotion serves a broad range of U.S. interests over the long term. In the preface to the previous year's reports (covering 2018), Secretary Pompeo stated that the Trump Administration's approach is to "engage

with other governments, regardless of their record, if doing so will further U.S. interests,” but also stated that U.S. interests in “enduring stability, prosperity, and security...will only be served if governments respect human rights and fundamental freedoms.”

What role the reports should serve, and the role of human rights in U.S. foreign policy more broadly, have been

contested since the reports began in the 1970s. Congress has played a key role 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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