

Opinion – The Path Beyond Trump in US Human Rights Policies

Written by Andreas Yiannaros

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<https://www.e-ir.info/2021/01/11/opinion-the-path-beyond-trump-in-us-human-rights-policies/>

ANDREAS YIANNAROS, JAN 11 2021

Foreign policy issues resulting from the actions of the Donald Trump administration over the years are multi-faceted and touch upon a broad spectrum of areas including the domestic and international protection of human rights, humanitarian aid and diplomacy. Trump's provoking rhetoric during his pre-election campaign and his presidency became a cause of concern to human rights activists and civil society organisations across the globe. So, what does the election of Vice President-elect Kamala Harris and President-elect Joe Biden mean for international law and will the new administration mark a monumental shift in US foreign policy.

US human rights foreign policy has suffered from a series of damaging decisions taken by the Trump administration in the last four years. The United States withdrew from the UN Human Rights Council and UNESCO in 2018 and from the World Health Organisation in 2020, amid the Covid-19 pandemic, withdrawing all financial aid at the same time. Only recently, the United States, a country representing approximately 15% of global greenhouse gas emissions, formally withdrew from the Paris climate agreement – the first country in the world to leave the treaty – one of the most significant international agreements brought into force to strengthen the global response to the threat of climate change. For the international community, Trump's actions did not only represent a blow to attempts to tackle global climate change but raised questions as to the effectiveness and, arguably, the fragility of international agreements.

Reproductive rights came under attack by the Trump administration in 2017. Under the Mexico City policy, otherwise known as the "Global Gag Rule", financial aid given from the United States to foreign NGOs working in the field of family planning was prohibited, even if services merely provided information about abortions. This was described by the Centre for Reproductive Rights as a 'dangerous, ideological proposal' that would 'threaten essential programs for women and families and target vulnerable populations'.

The actions of the Trump administration were criticised heavily during his term and particularly when it emerged that migrants were subject to detention for longer periods of time during the Covid-19 pandemic. Amnesty International, in its April 2020 report focusing upon the inhumane treatment of detainees at US Immigration Detention Facilities during the pandemic, claimed that "US authorities are fully responsible for all individuals in the custody of Immigration and Customs Enforcement, and therefore may be liable for any preventable deaths under their watch. Immigration and Customs Enforcement has the authority and obligation to grant humanitarian parole to immigration detainees, before any more people in its custody contract Covid-19 and suffer irreparable harm." In October 2020, a lawsuit was filed by the American Civil Liberties Union amid concerns that immigrants in civil detention were at high risk for serious illness or death in the event of COVID-19 infection; the organisation's Freedom of Information request to obtain key documents that would cast light on the Immigration and Customs Enforcement (ICE) response to the pandemic was not responded to.

The omission of widespread human rights violations in the State Department's annual Country Reports on Human Rights Practices, providing details regarding human rights abuses abroad, is one of the most striking examples of an "unprecedented and alarming level of politicized editing", as described by Amnesty International USA. Research undertaken by the Asylum Research Centre revealed serious omissions in the reports compared to those published

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by the previous administration. The State Department's Country Reports specifically excluded reference to human rights violations in foreign states, particularly in relation to violence experienced by LGBTI persons, prolonged solitary confinement and sexual humiliation, sexual violence against women and torture. Iran, Iraq, Sudan, Eritrea, Pakistan were some of the countries where such references were removed.

While it is still early days to assess the impact of the US election result, Joe Biden's presidency raises hopes that the new administration will aim to reverse the damaging effects of the Trump administration on multiple levels. For the first time in US history, an influential and highly respected black female Vice-President, Kamala Harris, will serve alongside Biden. Although foreign policy will largely be driven by Biden himself, Harris' past as a prosecutor and her strong stance on environmental issues is likely to play a significant role in the US coordinating and perhaps leading global efforts to combat climate change. Joe Biden, during his election campaign, promised to spend more funds in tackling environmental issues and targeting greenhouse emissions with a series of pledges, in the range of approximate 2 trillion dollars for this purpose, one of them being to provide funding to the Green Climate Fund. Biden had also stated that the US would re-join the Paris climate agreement following his election. It is worth noting in that in her election campaign, Harris was also of the view that the US should re-join the Paris climate agreement.

Biden pledged during his campaign that the US would re-join the World Health Organisation and that it would also restore funding. He also promised to end the Mexico City Policy.

Changes to immigration rules may also be imminent under Biden. In 2017, Donald Trump issued a series of executive orders to prevent nationals from predominantly Muslim countries (Libya, Somalia, Sudan, Iran, Iraq, Yemen and Syria) from entering the US on prevention of terrorism grounds, the so-called "Muslim ban". In 2020, the Trump administration added six more predominantly Muslim countries to the ban, Nigeria, Myanmar, Eritrea, Kyrgyzstan, Sudan and Tanzania. Biden promised to end this ban during his election campaign.

Biden's election is not alone the cure for the damage caused by Trump. Yet, it is fair to argue that the arrival in office of Biden and Harris provides an opportunity for the United States to begin along the path of restoring trust in its global human rights response and influence.

About the author:

Dr Andreas Yiannaros is an Associate Professor in Law (The University of Law) and the author of "Legal Research, Planning and Skills: A valuable guide for your legal studies" (published in 2024). He is a Senior Fellow of the Higher Education Academy, the Society of Legal Scholars and various professional bodies in the UK and in Europe. He has authored numerous publications and academic journals in the areas of human rights law, freedom of movement and human rights accountability for multinational corporations. His PhD thesis explored the development of legal standards and practice in the Council of Europe for individuals who refuse to carry out military service or duties on grounds of conscience. You can find most of his publications on conscientious objection to military service on Academia.