

**The Limits of Hegemonic Power: The United States' Failure to Change International  
Human Rights Norms During the War on Terror**

by

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# **The Limits of Hegemonic Power: The United States' Failure to Change International Human Rights Norms During the War on Terror**

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Traditionally, hegemons have enjoyed a level of overwhelming power and influence within the international order. As a result, the United States, the current global hegemon, was able to shape the development of the modern international system to reflect its goals and reward agreement with its objectives and values. During the War on Terror, the US used its hegemonic power to attempt to change legal physical integrity norms in the form of the terrorist exception and the redefinition of torture. However, it was unsuccessful at effecting this change. Thus, this poses the question: why was the US, functioning as a hegemon, unable to change physical integrity norms during the War on Terror? This paper provides six possible explanations for US failure: the privatization of human rights oversight mechanisms, limited US participation in the international human rights regime, the double standards of US domestic and international conduct, US belief in the sufficiency of domestic rights protections, regional human rights regimes, and the ineffectiveness of US norm revisionism tools. This failure likely indicates a limit to hegemonic power more broadly as well as the resilience of the international human rights regime. It also indicates that hegemonic exceptionalism can result in a loss of influence and thus create a limit to power.

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## Preface

First and foremost, I would like to thank my thesis advisor, Dr. Luke Condra, for his incredible amount of patience, support, and guidance throughout this process. Without him, and his willingness to mentor an undergraduate student interested in doing research, this thesis would not have been realized. I would also like to thank the other members of my committee, Dr. Michael Goodhart, Dr. Melinda Haas, and Dr. Kathleen Cavanaugh, for their valuable insight and for taking the time to help me decipher this puzzle. Additionally, I want to thank Melissa Ruggiero for helping me to make connections and providing me with direction as I started out in this endeavor.

I would like to thank all of my friends for their unwavering support and kindness every step of the way. To Sarah, thank you for your constant understanding and encouragement. I am so proud of all we have accomplished. To Jo, thank you for consistently providing me with space to conceptualize my ideas and for always believing in me.

Finally, I would like to thank my parents for their endless support and for providing me with the tools to pursue my dreams.



## 1.0 Introduction

The United States has long enjoyed a large amount of power and influence within the international system. Its status as a hegemon has been evident to scholars since as early as 1945. During its rise to hegemony and the period thereafter, US power and the definition of hegemonic power have evolved in tandem and in accordance with the development of a new international order after World War II. As the postwar order developed in a way that was heavily dependent on international institutions, the ways in which states could exert and possess power shifted from sheer hard power to a combination of hard power and influence over these new institutions. Hegemony has allowed to influence to US to retain overwhelming influence in the evolution of this world order, including over its norms and policies. Therefore, one might expect this power to be consistently efficacious throughout all arenas in the international system. However, during the War on Terror, the United States attempted to revise legal physical integrity norms within the international human rights regime by redefining torture and imposing a "terrorist exception." The attempt itself is evidenced through the rhetoric and actions of the Bush Administration and through their efforts to convince other states of the validity of their changes. An analysis of empirical data, state rhetoric, and international perceptions shows that the attempt was unsuccessful. This is not to argue that there was absolutely no change in state behavior as a result of the War on Terror, but rather that the work of the US as a norm revisionist did not create any lasting changes in international legal norms related to physical integrity. The failure of a state with hegemonic power to change a set of international norms leads to the following questions: What are the limits of hegemonic power? Are international human rights norms more resistant to change due to their supposed inalienability? Does the international human rights regime present a unique set of

circumstances that is more resistant to hegemonic power? These questions are all quite broad and provide the opportunity for a wide variety of research.

To contribute to this research, I pose the question: why did the United States, functioning as hegemon, fail to change physical integrity norms during the War on Terror? I provide six possible explanations for this failure: the privatization of human rights oversight mechanisms, limited US participation in the international human rights regime, the double standards of US domestic and international conduct, US belief in the sufficiency of domestic rights protections, the rise of regional human rights regimes, and the ineffectiveness of US norm revisionism tools. Each of these factors does not occur in a vacuum and it is likely that a combination of these proposed explanations provides the answer to the question of US failure. Additionally, through an analysis of these possible reasons for failure, it provides insight into the limits of hegemonic power and the possible exceptional quality of the international human rights regime.

The stake of this question lies in the future of hegemonic power in the international system. As scholars have argued previously, the definition of hegemonic power and the way that it manifests itself changed after World War II. The international order has continued to develop since then and the international human rights regime has also evolved. Therefore, as hegemons continue to exist in the modern international system, new ideas regarding their power might be uncovered. While we do not expect hegemons to have unlimited power, it is of interest to the study of hegemony where hegemons might find limits to their power in the international system and why those limitations might exist. The case of the United States during the War on Terror represents a situation where hegemonic power alone, for whatever reason, was not enough to achieve a goal. More specifically, it represents a case in which the tools available to hegemons were simply not persuasive enough to sway the opinions of other states and make changes in international legal

norms that were beneficial to the hegemon at the time. Examining this case and the failure of the US in this capacity provides a better understanding of the limits that hegemons may face in the international system and of how different regime types may affect those limits.

The rest of this thesis proceeds with a discussion of hegemony, found in Chapter 2, that reviews relevant literature, provides a definition of hegemony, establishes the US as a hegemon, and discusses why one might expect hegemons to be able to change international norms, specifically within the international human rights regime. Chapter 3 discusses norms through a review of literature regarding norm creation and revision and examination of the specific type of norm that is relevant to this case: legal norms. Additionally, it provides a definition of norm change as well as relate to the previous chapter by considering the ways in which hegemons interact with norms in the international system. Chapter 4 introduces the international human rights regime at length, describe the US attempt at legal norm revisionism during the War on Terror, and provides the argument for US failure to change the legal norms regarding physical integrity rights. The following chapter provides answers to the research question by proposing six possible explanations for US failure to exert its influence and revise physical integrity norms. The final chapter provides implications for these findings on a broader scale by discussing what US failure means for the limits of hegemonic power, the limits of the US as a hegemon, the strength of the international human rights regime, and the resilience of human rights legal norms.

## **2.0 Hegemony**

In order to effectively explore the limits of hegemony, I first turn to a discussion of the definition and research regarding hegemony itself. This chapter discusses relevant literature and parameters of study surrounding hegemony, as the US' status as a hegemon is crucial to the way in which it interacts with international norms and law. First, this chapter provides this paper's definition of hegemony which draws specifically on the work of Susan Strange and Joseph Nye in terms of structural power and soft power, respectively. Second, it addresses how hegemons establish and impose their power. The manifestation of this power leads into discussion about the extent of hegemonic influence over a variety of ideas, including international human rights norms, and the support hegemons need in order to pursue their goals. Previous literature on the extent of hegemonic power and influence has manifested itself in terms of hegemonic stability theory, fostering cooperation, and specific economic impacts. This paper aims to add to this discourse by exploring the limits of hegemony more broadly, but also specifically within the international human rights regime.

### **2.1 What is a hegemon?**

The meaning of hegemony has taken on many forms over the years since it was first introduced in the early 20<sup>th</sup> century. Its definition also varies by field of study. In the field of international relations, states can take on the role of hegemon, used as a noun, and possess hegemonic power. IR literature presents a discourse over the conditions required for a state to be

a hegemon. After reviewing the history of the term within international relations, I largely rely on the work of Susan Strange and Joseph Nye to define hegemony in a way that reflects the realities of power in the contemporary international system.

Hegemony in the international system is defined as state possession of a preponderance of power. Before and throughout the Cold War era, international hegemony was largely viewed through the lens of hard power. Necessary conditions of hegemony were related to economic power and output, control over trade, and military strength. Robert Keohane discusses these conditions in his book, *After Hegemony*, published during the Cold War era.<sup>1</sup> Keohane uses the definition of hegemony found in Hegemonic Stability Theory (HST) which states that hegemony is a “preponderance of material power”.<sup>2</sup> HST is further discussed in Chapter 2.2, but the four main requirements to attain hegemonic power include: control over raw materials, control over sources of capital, control over markets, and competitive advantages in the production of highly valued goods. Although this definition clearly focuses on the economic aspects of hegemonic power, Keohane notes that “sufficient military power to protect an international political economy from incursions by hostile powers is indeed a necessary condition for successful hegemony”.<sup>3</sup> Thus, Keohane’s definition of hegemony is one that relies heavily on hard power as it manifests itself in economic and military power.

Susan Strange introduces a new concept of hegemonic power toward the end of the Cold War in 1987. Strange states that the evolution of the international system has led to a shift in

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<sup>1</sup>Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J: Princeton University Press, 1984.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

conditions for hegemony. She outlines four aspects of structural power, which she claims are necessary conditions for hegemony and are better reflective of power in the current international system. This is largely due to the rise of international institutions. Hegemony shifted from simply being the largest economic power to controlling the global financial institutions. Structural power lies with states that possess the ability to defend others from violence, control the system of production of goods and services, determine the structure of finance and credit through which it is possible to acquire purchasing power, and influence or control the acquisition, communication, and storage of knowledge and information.<sup>4</sup> Given that this paper examines the actions of the US during the War on Terror, which occurred in this newer version of the international system, this paper draws heavily on the ideas of structural power to form its definition of hegemony. The conditions proposed by Strange are more reflective of what defines power and influence in our current system, which is supported by the work of Joseph Nye.

As discussed in the work of Susan Strange, after the Cold War ended, there was a shift in the manifestation of hegemonic power toward an emphasis on soft power. Strange herself notes that this shift is necessary due to a change in international dynamics during the latter half of the Cold War that gives a greater weight to structural power rather than the traditional ideas of economic hegemony.<sup>5</sup> Joseph Nye builds on this idea in his paper, “Soft Power”. Succinctly, he states, “The definition of power is losing its emphasis on military force and conquest that marked earlier eras. The factors of technology, education, and economic growth are becoming more

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<sup>4</sup> Strange, Susan. “The Persistent Myth of Lost Hegemony.” *International Organization* 41, no. 4 (1987): 551–74. <https://doi.org/10.1017/s0020818300027600>.

<sup>5</sup> Ibid.

significant in international power, while geography, population, and raw materials are becoming somewhat less important”.<sup>6</sup> This provides a succinct explanation of how the definition of power is changing in the postwar era. The change in the definition of power influences the way in which we think about hegemonic power as well. To reflect this, the definition of hegemony utilized in this paper gives more weight to structural power but acknowledge and address the relative importance of the tenets discussed by Keohane.

In sum, a hegemon is a state that utilizes hard and soft power in order to maintain economic, military, and cultural dominance over states in the international system.<sup>7</sup> This dominance and pervasiveness of ideas is what constitutes hegemony. In order to be considered a hegemon, a state must meet the conditions proposed by Strange: the ability to defend others, control over the system of production, control over the structure of finance and credit, and influence over mechanisms related to knowledge and information. These conditions ensure that a state maintains a high level of military power, as evidenced by their ability to defend other states; economic power, as evidenced through control over finance structures and the system of production; as well as cultural power, which is evidenced through influence over the spread of knowledge. Thus, a state that is considered a hegemon uses hard and soft power to exert control over structures of power in the international system. I discuss the US’ role as a hegemon during the War on Terror in Chapter 2.3 and demonstrate how the US continues to meet these requirements.

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<sup>6</sup> Nye, Joseph S. “Soft Power.” *Foreign Policy*, no. 80 (1990): 153. <https://doi.org/10.2307/1148580>.

<sup>7</sup> Thi Thuy, Hang Nguyen. “The United States: Still a Global Hegemonic Power?” *Journal of International Studies*, 2020. <https://doi.org/10.32890/jis.8.2012.7924>.

## 2.2 How Do Hegemons Establish and Impose Their Power Internationally?

Given that the definition of hegemony has now been established, it is useful to examine how hegemons function and how hegemonic power manifests itself in the international system in order to understand where limits might exist. This section first discusses Hegemonic Stability Theory, since it has formed a large part of previous research on this topic. It then discusses the tools that hegemons have at their disposal to impose this power on other states and the role that international institutions have played in allowing hegemons to legitimize their influence. The way that hegemons impose their power can also extend to international norm change, as they influence states to achieve their goals. In the ability to change norms is where this paper examines the limits of hegemonic power.

Hegemonic stability theory is a central and well-developed topic in the field. Although its definition of hegemony focuses more on economic power, as mentioned in the previous section, it still plays a role in this paper's study of hegemony. In short, it states that having a hegemon in the international system makes states more likely to cooperate with each other, and the more dominant that power is, the more cooperation occurs.<sup>8</sup> This occurs because the hegemon is willing to create and enforce the rules of interstate relationships. Although an underlying assumption of the original theorem was that cooperation could not occur without a hegemon, both Keohane and Snidal slightly revise this theory by noting that cooperation can occur without a hegemon. This is not an argument against the validity of HST, but rather a refinement of the theorem. Snidal argues, and

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<sup>8</sup> Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press, 1984.



empirically shows,<sup>9</sup> that this original assumption is false. The international system can foster cooperation without a hegemon, although some asymmetry in state power may be beneficial.<sup>10</sup> In Keohane's revision of HST, he goes on to discuss the level of consent that hegemons need to govern the international system. He states that "successful hegemonic leadership itself depends on a certain form of asymmetrical cooperation" and that a hegemon "cannot make and enforce rules without a certain degree of consent from other sovereign states".<sup>11</sup> Although it is unlikely that a hegemon can operate alone, they are expected to maintain a higher level of power and influence in the international system, especially given the number of tools at their disposal to influence international opinion. The expectation aspect is further discussed in Chapter 3.3 and helps us to understand why the US' failure to change physical integrity norms during the War on Terror is worth researching.

Hegemons have a variety of tools at their disposal to sway state opinion and foster cooperation. Given their level of dominance, they possess unrivaled power to enforce rules and policies. There are two main categories of methods that hegemons can use to assert control and achieve compliance. The first is material incentives, such as the use of threats and promises like inducements and sanctions.<sup>12</sup> The second category works at the level of substantive beliefs. The

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<sup>9</sup> Snidal, Duncan. "The Limits of Hegemonic Stability Theory." *International Organization* 39, no. 4 (1985): 579–614. <http://www.jstor.org/stable/2706716>.

<sup>10</sup> Ibid.

<sup>11</sup> Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press, 1984.

<sup>12</sup> Ikenberry, G. John, and Charles A. Kupchan. "Socialization and Hegemonic Power." *International Organization* 44, no. 3 (1990): 283–315. <http://www.jstor.org/stable/2706778>.

process of coercion is carried out by elites of the secondary state buying into and internalizing norms articulated by the hegemon. In turn, these elites then impose and uphold these norms in their own states.<sup>13</sup> The process of socialization by hegemons is important to this discussion and is further explored in Chapter 3, where relevant norm literature is reviewed.

The rise of international organizations has provided a global stage for hegemons to further legitimize their influence, but also a unique platform for states to join forces to dispute hegemonic opinion. As stated by Robert Gilpin, the leadership of the hegemon in part maintains the governance of the international system.<sup>14</sup> This is evident through recent case studies of US hegemony. Returning to Susan Strange's tenets of structural power, she writes that control over the system of finance is a source of structural power.<sup>15</sup> The International Monetary Fund (IMF) and the World Bank are great examples of this. The United States, whose status as a hegemon is further discussed in the next section, is a primary donor and leader of both organizations. In the case of the IMF, the closer a state moves "toward the US in a defined international political space", the more likely it is to receive a loan from the IMF.<sup>16</sup> This sentiment was discussed by many scholars before being shown by Strom Thacker in an empirical analysis in 1999. Such control over one of the major international systems for money lending provides the US with a great deal of

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<sup>13</sup> Ibid.

<sup>14</sup> Gilpin, Robert. "The Theory of Hegemonic War." *The Journal of Interdisciplinary History* 18, no. 4 (1988): 591–613. <https://doi.org/10.2307/204816>.

<sup>15</sup> Strange, Susan. "The Persistent Myth of Lost Hegemony." *International Organization* 41, no. 4 (1987): 551–74. <https://doi.org/10.1017/s0020818300027600>.

<sup>16</sup> Thacker, Strom C. "The High Politics of IMF Lending." *World Politics* 52, no. 1 (1999): 38–75. <http://www.jstor.org/stable/25054100>.

structural power and can be used as a tool to get states to share US interests and goals. Another way that the US leadership maintains governance is through the UN and the Security Council.

In the current international system, hegemons are also able to easily impose and avoid sanctions, both through international systems and unilaterally. Returning to the example of the US, it has veto power on the United Nations (UN) Security Council. This not only allows the US to veto possible resolutions that may impose sanctions against it, but also gives it a great deal of soft power within the organization itself. Thus, while the US may have the economic power to unilaterally impose hurtful sanctions, it can also leverage its influence in the UN to get a resolution passed to impose sanctions against a state working against US interests. Hegemons are able to take advantage of spaces such as the UN in order to pursue their interests, even more so if they are given an asymmetric power similar to that of the Security Council veto. It is also important to note that hegemonic states may be able to shape international systems during their formation in order to better serve their own interests, specifically if these systems arise after a period of international conflict. John Ikenberry, a scholar of international politics, states that in the aftermath of war, hegemons are more easily able to impose their idea of international order and that elites of other non-hegemonic states are more susceptible to socialization.<sup>17</sup> He uses examples of the US creating the post-World War II international order to support this idea.

Certainly, following the definition of a hegemon provided by Keohane and HST, hegemons wield enough economic power to offer a number of benefits or impose a number of punishments to states that are or are not willing to cooperate. Additionally, the pervasiveness of their cultural

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<sup>17</sup> Ikenberry, G. John, and Charles A. Kupchan. "Socialization and Hegemonic Power." *International Organization* 44, no. 3 (1990): 283–315. <http://www.jstor.org/stable/2706778>.

and ideological influence can allow them to push others to share their goals and interests. Hard and soft power gives hegemons a variety of ways to pursue their interests. By using these tools to influence state opinion, the hegemon gets states to share their goals and encourage cooperation with them, which in turn, allows them to affect international structure and norms. This is a useful tool for norm revisionism, which is discussed in Chapter 3.

In the exploration of the manifestation of hegemonic power as well as the tools hegemons use to pursue their interests, this project is interested in studying hegemonic influence on human rights legal norms and law. There is a developing body of research dedicated to examining whether hegemons can simply manipulate the international system, including in the realm of human rights, to suit their interests. This manipulation would also extend to norms and international law. Given the extreme level of power possessed by hegemons, we would expect retention of this power in all areas of the international system. However, the US failed to change physical integrity norms during the War on Terror, as I argue in Chapter 4, which calls into question the limits of hegemony. Thus, this paper explores the implications of this failure on the strength of the human rights regime and the extent of hegemonic power and influence more generally as well as in the specific case of the United States.

## 2.3 The United States as a Hegemon During the War on Terror

As discussed in Chapter 2.1, this paper's definition of hegemony dictates that the state possesses both hard and soft power. It combines Keohane's<sup>18</sup> definition of economic and military hegemony with Susan Strange's<sup>19</sup> work on structural power, as well as Joseph Nye's<sup>20</sup> work on soft power more generally. This creates a well-rounded, modern definition of hegemony, one that describes the international climate of the post-Cold War era. This paper relies on the assumption that the United States remained a hegemon throughout the duration of the War on Terror, thus, I will briefly discuss why this is a valid presumption.

Scholars generally agree that the United States attained the status of hegemon after World War II and retained its hegemony in the following years. However, some scholars argue that the US lost its status as a hegemon with the decline in its economic output and share of world exports in the early 1970s. Immanuel Wallerstein, an American sociologist best known for his contributions to world systems theory, gave American hegemony the bounds of 1945-1967.<sup>21</sup> Robert Keohane, in his book *After Hegemony* extended the boundary to 1971.<sup>22</sup> The reason for this

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<sup>18</sup> Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press, 1984.

<sup>19</sup> Strange, Susan. "The Persistent Myth of Lost Hegemony." *International Organization* 41, no. 4 (1987): 551–74. <https://doi.org/10.1017/s0020818300027600>.

<sup>20</sup> Nye, Joseph S. "Soft Power." *Foreign Policy*, no. 80 (1990): 153. <https://doi.org/10.2307/1148580>.

<sup>21</sup> Wallerstein, Immanuel. "The Three Instances of Hegemony in the History of the Capitalist World-Economy." *Comparative Sociology* 24, no. 1 (1983): 100–108. <https://doi.org/10.1163/156854283x00071>.

<sup>22</sup> Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press, 1984.

boundary and their description of American hegemony as brief is largely due to the manner in which they define hegemony itself. As I described in Chapter 2, the requirements for Keohane's definition of hegemony are mainly economic and military power through a traditional lens.<sup>23</sup> Wallerstein himself also notes that he means for his definition to be "relatively restrictive"<sup>24</sup> and that the power system must be extremely imbalanced. Both of these definitions rely heavily on hard power dominance, but I have argued that in the contemporary international system, soft power is at least as important. Thus, I dispute the arguments for lost hegemony by Wallerstein and Keohane and side with scholars who recognize the US as a hegemon today.

There is also a group of scholars that argue that the US hegemonic power is currently on the decline. David Lake addresses this in his paper comparing British and American hegemony. He states that the peak of American hegemony was in the 1950s, and as early as the 1970s and 1980s, it started to decline as the American economy weakened relative to its trading partners.<sup>25</sup> However, I argue that the US maintains an acceptable level of economic, military, cultural, and political influence into the 21<sup>st</sup> century in order to continue serving as hegemon. The declinist school relies too heavily on economic conditions of power and quantitative data in order to provide a complete picture of US hegemony and therefore misdiagnoses the decline.<sup>26</sup>

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<sup>23</sup> Ibid.

<sup>24</sup> Wallerstein, Immanuel. "The Three Instances of Hegemony in the History of the Capitalist World-Economy." *Comparative Sociology* 24, no. 1 (1983): 101. <https://doi.org/10.1163/156854283x00071>.

<sup>25</sup> Lake, David A. "British and American Hegemony Compared: Lessons for the Current Era of Decline." Essay. In *International Political Economy: Perspective on Global Power and Wealth*, 4th ed., 127–39. Routledge, 1999.

<sup>26</sup> Hama, Hawre. "Is the United States Still a Global Hegemonic Power?" *International Journal of Social Sciences and Educational Studies* 3 (December 7, 2016).

Many scholars, such as William Wohlforth,<sup>27</sup> Christopher Layne,<sup>28</sup> and Martti Koskeniemi,<sup>29</sup> reinforce the idea that the US remains a hegemon. Given this paper's definition of hegemony, I review Susan Strange's conditions of structural power in the context of the United States, and then turn to political and cultural hegemony. Hawre Hama also puts together quite a succinct argument that provides evidence that the United States still meets each of Strange's conditions,<sup>30</sup> but I expand on that argument here.

The first condition is that the state can protect other states from violence, which corresponds quite heavily to military power. US involvement in the North Atlantic Treaty Organization (NATO) as one of the only states that possesses nuclear weapons is indicative of this sort of power. As reported by Politico in 2015, the US maintains over 750 bases in more than 70 countries, whereas Russia, Britain and France only maintain 30 foreign bases combined.<sup>31</sup> In 2021, the US spent \$801 billion on defense, which is more than the next 9 of the highest spending nations

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<sup>27</sup> Wohlforth, William C. "The Stability of a Unipolar World." *International Security* 24, no. 1 (1999): 5–41. <http://www.jstor.org/stable/2539346>.

<sup>28</sup> Layne, Christopher. "America as European Hegemon." *The National Interest*, no. 72 (2003): 17–29. <http://www.jstor.org/stable/42897479>.

<sup>29</sup> Koskeniemi, Martti. "International Law and Hegemony: A Reconfiguration." *Cambridge Review of International Affairs* 17, no. 2 (2004): 197–218. <https://doi.org/10.1080/0955757042000245852>.

<sup>30</sup> Hama, Hawre. "Is the United States Still a Global Hegemonic Power?" *International Journal of Social Sciences and Educational Studies* 3 (December 7, 2016).

<sup>31</sup> Vine, David. "Where in the World Is the U.S. Military?" *POLITICO Magazine*, 2015. <https://www.politico.com/magazine/story/2015/06/us-military-bases-around-the-world-119321/>.

combined and more than 2.5 times as much as China, the next leader in defense spending.<sup>32</sup> Overall, this demonstrates a clear military dominance and ability to protect other nations.

The second tenet of structural power is controlling the system that produces goods and services, which includes not only proportion of world production but also enterprises headquartered in said state. Although the US has fallen behind China in terms of percentage of global manufacturing (only 18% to China's 20%),<sup>33</sup> it maintains control over some of the largest companies in the world. Each year, Forbes comprises a list of companies that they deem the Forbes Global 2000, which "ranks the largest companies in the world using four metrics: sales, profits, assets, and market value".<sup>34</sup> Of the top 20 companies in 2022, 11 are headquartered in the US. Those 11 companies make up about 72% of the market value held by the top 20. Of the top 100 companies, 38 are headquartered in the US. By comparison, China, the nation with the next largest amount of top 100 companies, only has 14.<sup>35</sup> Thus, the US maintains a large advantage compared to other states in terms of control over production.

The third facet of structural power is control over global financial institutions and purchasing power. The US enjoys a high level of control and involvement over the International

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<sup>32</sup> "U.S. Defense Spending Compared to Other Countries." Peter G. Peterson Foundation, May 11, 2022. [https://www.pgpf.org/chart-archive/0053\\_defense-comparison](https://www.pgpf.org/chart-archive/0053_defense-comparison).

<sup>33</sup> West, Darrell M., and Christian Lansang. "Global Manufacturing Scorecard: How the US Compares to 18 Other Nations." Brookings. Brookings, March 9, 2022. <https://www.brookings.edu/research/global-manufacturing-scorecard-how-the-us-compares-to-18-other-nations/>.

<sup>34</sup> Contreras, Isabel, and Andrea Murphy. "The Global 2000 2022." Forbes. Forbes Magazine, 2022. <https://www.forbes.com/lists/global2000/?sh=56a824865ac0>.

<sup>35</sup> Ibid.



Monetary Fund and the World Bank. I expanded on this briefly in Chapter 2.2, where I state that the United States is a primary donor and leader in both organizations. Additionally, Strom Thacker proves US influence over the IMF in his 1999 empirical analysis of IMF spending, where he is able to conclude that states are more likely to receive loans from the IMF if they share US positions and goals politically.<sup>36</sup> This influence over financial lending mechanisms is a manifestation of US hegemony.

The final condition of structural power is control over knowledge. The US boasts some of the best universities in the world and has a large number of international students that enroll as a result. Of the top 50 universities in the world as ranked by the Center for World University Rankings, 29 are American institutions.<sup>37</sup> US law has also had a large influence on patents, property rights in medicine, and pharmaceutical research which demonstrates its far-reaching influence.<sup>38</sup> The US invests a significant amount of money in research and development more generally. In 2000, the US spent \$269.5 billion on R&D, making up 37.1% of the global total.<sup>39</sup> Although this percentage has decreased in the past two decades due to the rise of China's

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<sup>36</sup> Thacker, Strom C. "The High Politics of IMF Lending." *World Politics* 52, no. 1 (1999): 38–75. <http://www.jstor.org/stable/25054100>.

<sup>37</sup> "World University Rankings 2021-22: Global 2000 List." CWUR. Accessed February 12, 2023. <https://cwur.org/2021-22.php>.

<sup>38</sup> Hama, Hawre. "Is the United States Still a Global Hegemonic Power?" *International Journal of Social Sciences and Educational Studies* 3 (December 7, 2016).

<sup>39</sup> Burke, Amy, and Abigail Okrent. "The State of US Science and Engineering 2022." NSF. National Science Board, 2022. <https://nces.nsf.gov/pubs/nsb20221/u-s-and-global-research-and-development>.

investments in R&D, the US certainly maintained this advantage throughout the War on Terror. In 2019, the US trailed only China in R&D spending.<sup>40</sup>

The United States is also a cultural epicenter. Through mediums such as film and literature, the US exports its ideals to other states. Byungju Shin and Gon Namkung provide an example of this in their discussion of the James Bond movie franchise. The films are financed by American money and are used to promote American values and ideals. They write that “between the lines in the scripts, filmgoers are urged to link the United States with positive - hence legitimate - values and accept American's dominant position”.<sup>41</sup> As it relates to hegemony, they also argue that the franchise “satisfies certain conditions to diffuse and reproduce American hegemony”.<sup>42</sup> Pew Research Center also found evidence for the prominence of American film. As of 2012, 66% of those surveyed liked American music and television.<sup>43</sup> This example demonstrates the ways in which American media, which is consumed globally, can promote American values and ideas, and therefore, further American hegemony. The US government also exports ideas, specifically regarding democracy, using programs and agencies, such as USAID. Politically, the US enjoys veto power on the UN Security Council and played an integral role in the creation of international

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<sup>40</sup> Ibid.

<sup>41</sup> Shin, Byungju, and Gon Namkung. “Films and Cultural Hegemony: American Hegemony ‘Outside’ and ‘inside’ the ‘007’ Movie Series.” *Asian Perspective* 32, no. 2 (2008): 115. <https://doi.org/10.1353/apr.2008.0025>.

<sup>42</sup> Ibid.

<sup>43</sup> “Chapter 2. Attitudes toward American Culture and Ideas.” Pew Research Center's Global Attitudes Project. Pew Research Center, June 13, 2012. <https://www.pewresearch.org/global/2012/06/13/chapter-2-attitudes-toward-american-culture-and-ideas/>.

political structures after the Second World War. Through these avenues, the US maintains cultural and political hegemony in the international system.

In sum, the US truly maintains well-rounded influence in all global spheres: militarily, politically, economically, and culturally. For these reasons, I maintain that the US remains a hegemonic power throughout the War on Terror.

### 3.0 Norms

The next section of literature that I review includes a smaller, but relevant, piece of the field of research regarding international norms and legal norms. Although this area of study is very broad, I focus specifically on the work regarding the norm life cycle, the definition of norm change, and the ways in which hegemonies specifically interact with international norms. This review provides a better understanding of how hegemonies relate to norms in the international system and therefore create a picture of the ways in which we might expect hegemonies to change and influence them. This understanding informs the questions we might ask about the US' failure during the War on Terror. This chapter concludes with a discussion of why hegemonies are expected to retain their influence in the realm of human rights norms specifically, and an explanation of legal norms, given that this is the area of international norms that this paper is studying and the type of norms that the US attempted to change.

Firstly, the definition of a norm should be established. As noted by Finnemore and Sikkink, there is a general agreement that a norm can be defined as “a standard of appropriate behavior for actors with a given identity”.<sup>44</sup> This is a broad definition of a norm, although many specific forms of norms exist socially, legally, and politically. In the international system, the existence of legal norms provides a more refined category of norms. Additionally, recognized practice, part of what makes a norm, is a source of international customary law. This creates a unique relationship between the two and can make norms more binding, specifically in regard to human rights.

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<sup>44</sup> Finnemore, Martha, and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52, no. 4 (1998): 887–917. <http://www.jstor.org/stable/2601361>.

I focus on legal norms in this paper, as it is the medium through which the United States pursued its goals of creating the terrorist exception and the redefinition of torture during the War on Terror. Although more details of this attempt at legal norm change are provided in Chapter 4.2, I introduce legal norms here. Legal norms create a standard for behavior and still exist even if states do not comply with those standards. They differ from law in the sense that law is changed when exceptions are found, but legal norms are not.<sup>45</sup> Legal norms are largely influenced by “principles of morality, politics or manners” among other factors.<sup>46</sup> They can stem from a number of different sources, including legislation and judicial decisions. Bankowski notes that there are two main theories. The *practice* theory states that legal norms are an expression of behavior, while the *interpretive* theory is more concerned with how that behavior is understood.<sup>47</sup> As discussed above and is expanded upon in Chapter 3.2, this paper holds that behavior is an indicative factor in the status of a norm or legal norm and therefore is also a good indicator of changes in legal norms. Some additional nuance is provided to this view in Chapter 3.2, specifically regarding the legal norms surrounding torture. Additionally, a lengthier discussion of the relationship between norms and law can be found in Chapter 4.

Furthermore, Finnemore and Sikkink caution norm researchers against generalizing categories of norms too broadly when discussing them and suggest that scholars should be careful

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<sup>45</sup> Bankowski, Zenon. “Norms, Legal.” *Routledge Encyclopedia of Philosophy*, 1998. <https://doi.org/10.4324/9780415249126-t021-1>.

<sup>46</sup> Kelsen, Hans. “Legal Norms and Legal Principles: Esser's Transformation Theory.” Essay. In *General Theory of Norms*, 115–22. Clarendon Press, 1991.

<sup>47</sup> Bankowski, Zenon. “Norms, Legal.” *Routledge Encyclopedia of Philosophy*, 1998. <https://doi.org/10.4324/9780415249126-t021-1>.

in maintaining the distinction between a singular norm and an institution, or a way in which behavioral rules interrelate and structure together.<sup>48</sup> This paper avoids this trap by selecting a specific category human rights norms, physical integrity norms-which are defined in Chapter 4- and examining their resilience in a specific case-the War on Terror. By studying this category of norms at a specific point in time, it should avoid too broadly generalizing a norm over time that Finnemore and Sikkink warn against.

Students of norm relationalism might recognize the above language regarding norms as being overwhelmingly substantialist. This is by design. I recognize the claimed analytical and meta-theoretical benefits of studying normative activity as a norm configuration, in that viewing norms as “ongoing interactive processes that establish action specific regulations” rather than entities allows the researcher to better study rapid institutional change<sup>49</sup> and develop endogenous theories of change.<sup>50</sup> However, this study refers to norms using typical substantialist grammar. While Patrick Jackson and Daniel Nexon outline methods in which to study norms through this lens and grammatical structure, it remains rather unclear as to the procedure for a more quantifiable measurement of norm change within this interpretation. This paper sets out to provide evidence

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<sup>48</sup> Finnemore, Martha, and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52, no. 4 (1998): 887–917. <http://www.jstor.org/stable/2601361>.

<sup>49</sup> Pratt, Simon Frankel. “From Norms to Normative Configurations: A Pragmatist and Relational Approach to Theorizing Normativity in Ir.” *International Theory* 12, no. 1 (2019): 59–82. <https://doi.org/10.1017/s1752971919000095>.

<sup>50</sup> Jackson, Patrick Thaddeus, and Daniel H. Nexon. “Relations Before States: Substance, Process and the Study of World Politics.” *European Journal of International Relations* 5, no. 3 (1999): 291–332. <https://doi.org/10.1177/1354066199005003002>.

that the US failed in its effort to change legal norms regarding physical integrity and the way in which it defines norm change regards quantitative behavior, rhetoric and consequences, rather than through a processual approach. Thus, it certainly may be beneficial for the field to study norm change through a normative configuration approach, but it is not feasible for this project. If such an angle is of interest, I would recommend the aforementioned papers as well as other work by those respective authors.

### **3.1 Norm Life Cycle**

The fundamental piece of literature regarding the norm life cycle and norm emergence is that of Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change”. Their work in this paper creates a life cycle of norms that contains 3 parts: norm emergence, norm cascade, and norm internalization. Norm emergence is pursued by actors that they designate as “norm entrepreneurs”, who have a measure they would like to see normalized. Those norm entrepreneurs then spearhead the movement for the norm and attempt to sway others to agree with them. Finnemore and Sikkink note that once a tipping point is reached, which they suggest being 1/3 of states supporting and adopting the proposed norm, the norm cascade begins. It is at this stage that the norm begins to spread rapidly, and the number of states that accept the measure as a norm increases exponentially. After the norm cascade or at some point during it, stage 3 occurs: internalization. At this point, states begin to take for granted the norm which makes compliance almost automatic. This is the final stage, as the norm is now implemented and accepted

into international society by the vast majority of states and given internalization, they will likely continue to abide by it with little to no resistance.<sup>51</sup>

Even after norm internalization, states may violate a norm. To what extent does violation of norms negate their existence? In his paper “How International Norms Die”, Michael Glennon argues that “negating behavior occurs when the benefits of violation outweigh the costs for a sufficient number of states”.<sup>52</sup> Additionally, he proposes a theory that “gives asymmetric weight to disconfirming evidence - violation-over two types of evidence that confirms it - behavior that is consistent with the rule, and rhetoric”.<sup>53</sup> Thus, excessive violation of a norm causes it to be replaced or negated. To this, I argue that while it is possible for norms to be negated and changed through violation, excessive violation by a state does not negate the norm so long as the norm remains internalized within the international community, and states continue to believe that the norm exists. A similar sentiment is shared by Finnemore and Sikkink when they argue that state justifications of norm violation solidify the idea that the norm itself exists.<sup>54</sup> After all, if a state did not believe it was bound by a norm, why would it attempt to justify a violation or claim no violation even occurred?

It is also important to establish this paper’s assumptions on what constitutes being bound by a norm, specifically in a context where the norms that will be examined relate so closely to international law. Primarily, norms can become binding when they become a part of customary

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<sup>51</sup> Ibid.

<sup>52</sup> Glennon, Michael. “How International Rules Die.” *Georgetown Law Journal* 93 (July 6, 2005).

<sup>53</sup> Ibid.

<sup>54</sup> Finnemore, Martha, and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52, no. 4 (1998): 887–917. <http://www.jstor.org/stable/2601361>.



international law. The relationship between norms and law is discussed at length in Chapter 4. However, it is important to note other research regarding the binding nature of norms in the international system. Michael Glennon puts it best in his work, where he argues that although many neopositivists view international law and norms as voluntary, states are in fact obliged to respect international norms and law. This obligation is contingent on their participation in the international system and belief in the validity of the legal system.<sup>55</sup> Thus, when a state makes the decision to engage in the international system, that serves as the consent to be bound by international rules. Juan Antonio Carrillo Salcedo also argues in his paper that being governed by international law is no longer strictly voluntary given the rise of jus cogens laws and norms.<sup>56</sup> The link between norms and law is discussed more in Chapter 4, which will further the understanding of how international norms can be binding.

Another large portion of norm research is dedicated to the effects of norms on state behavior. Authors such as Glennon,<sup>57</sup> Rosemary Foot,<sup>58</sup> Andrew Walter,<sup>59</sup> Sonia Cardenas,<sup>60</sup> and

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<sup>55</sup> Glennon, Michael. "How International Rules Die." *Georgetown Law Journal* 93 (July 6, 2005).

<sup>56</sup> Salcedo, J. A. "Reflections on the Existence of a Hierarchy of Norms in International Law." *European Journal of International Law* 8, no. 4 (1997): 583–95. <https://doi.org/10.1093/oxfordjournals.ejil.a015608>.

<sup>57</sup> Glennon, Michael. "How International Rules Die." *Georgetown Law Journal* 93 (July 6, 2005).

<sup>58</sup> Foot, Rosemary, and Andrew Walter. "Global Norms and Major State Behaviour: The Cases of China and the United States." *European Journal of International Relations* 19, no. 2 (2012): 329–52. <https://doi.org/10.1177/1354066111425261>.

<sup>59</sup> *Ibid.*

<sup>60</sup> Cardenas, Sonia. "Norm Collision: Explaining the Effects of International Human Rights Pressure on State Behavior." *International Studies Review* 6, no. 2 (2004): 213–31. <http://www.jstor.org/stable/3699591>.

Thomas Diaz<sup>61</sup> discuss this more succinctly. This is not what this paper aims to study. The purpose of this research is to examine the limits of hegemonic power within the realm of international norms. Thus, I will not go into depth here about the effects of norms on state behavior more generally, as it is not particularly relevant to the ability of hegemons to change norms. The relationship between hegemons and international norms is discussed in Chapter 3.3.

### 3.2 How Do Norms Change?

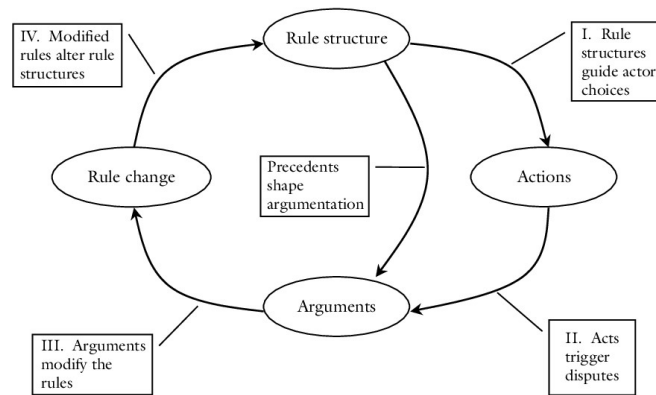
A number of authors have contributed to the conversation of norm change and have proposed various frameworks with which to evaluate and conceptualize the process. I use the work of Ryder McKeown, Wayne Sandholtz, and Simon Pratt to create the conception of norm change that is used in this paper. Most heavily, I rely on the language of Ryder McKeown to describe the role of the hegemon when attempting to change a norm.

To complement Finnemore and Sikkink's work on norm creation and the norm life cycle, Ryder McKeown published a paper on norm revisionism in 2009. He details a cycle of norm change and death that builds on the original life cycle. In place of Finnemore and Sikkink's norm entrepreneurs, McKeown proposes the idea of norm revisionists, who advocate for a specific change to be made to an existing norm. Once the revisionist has enough states in agreement and supportive, a reverse cascade occurs both privately and publicly. This cascade then results in norm

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<sup>61</sup> Diez, Thomas. "Normative Power as Hegemony." *Cooperation and Conflict* 48, no. 2 (2013): 194–210. <http://www.jstor.org/stable/45084720>.

change or death.<sup>62</sup> The change to the norm or death of the norm is internalized by states and the old norm ceases to exist, as the cycle has been completed. The term norm revisionist is henceforth used in this work to describe the state that attempts to make change in existing norms.



**Figure 1: Wayne Sandholtz's Norm Change Cycle**

Wayne Sandholtz presents a slightly different viewpoint of norm change. He describes norm change as a cycle with four stages: rule structure, actions, argument, and rule change. This process is depicted in Figure 1. It shows how actions of states then trigger arguments about the definition and content of certain rules. This can lead to rule change and a modification of rule structure.<sup>63</sup> As an example of this, in the case examined by this thesis, a previous rule structure for legal norms regarding physical integrity existed and US actions during the War on Terror created disputes over these norms. The US made an argument to attempt rule change, for example, a new definition of torture, while other states and human rights organizations made counterarguments. This could have resulted in a rule change, or a new torture definition, which would also change

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<sup>62</sup> McKeown, Ryder. "Norm Regress: US Revisionism and the Slow Death of the Torture Norm." *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.

<sup>63</sup> Sandholtz, Wayne. "Norm Contestation, Robustness, and Replacement." *Journal of Global Security Studies* 4, no. 1 (2019): 139–46. <https://doi.org/10.1093/jogss/ogy042>.

rule structure, meaning that states would be operating under a new torture definition. But, as I argue in Chapter 4, the US was unsuccessful in changing this legal norm and therefore, the rule change never occurred.

As discussed by Pratt, it is important to examine the line between norm change and death. Some scholars are of the opinion that norms cannot be changed, old norms simply die, and new ones emerge, no matter how small the adjustment is to the content. Although both sides of this debate could function within McKeown's cycle, I argue that norms are able to be changed, rather than entertaining the idea that when a state successfully contests a norm it dies and a new one emerges. The case study in this project largely deals with definitional changes and a push for exceptions to existing norms. Slight adjustments to content such as these lend themselves to norms being viewed as changeable. Otherwise, the norm is too rigid and unadaptable. Thus, for the purposes of this paper and research, norms will simply be viewed as changeable.

Lastly, how do we determine if a norm has changed? As McKeown states in his work, it is closely related to the conditions that indicate a norm has been created, such as the number of states in support of the change and the level of internalization by states.<sup>64</sup> Additionally, although not the same as legal norms, I argue that the ways used to assess and measure social norms can also be applied here. Plan International, in their study of social norm change, defines a social norm as “a pattern of behavior which people prefer to conform to because: they believe others who are important to them conform to it, they believe that others who are important to them expect them to conform to it, and there are rewards and sanctions associated with conforming/not conforming

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<sup>64</sup> McKeown, Ryder. “Norm Regress: US Revisionism and the Slow Death of the Torture Norm.” *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.

to the expected behavior”.<sup>65</sup> On the other hand, international norms and international legal norms are a group of expectations and standards about what constitutes appropriate behavior for states with the knowledge that there are rewards and consequences for compliance or noncompliance with said expectations. However, the core elements of international and social norms are resoundingly similar because all norms are formed by shared expectations and beliefs about what actions are expected and what constitutes appropriate behavior. These ideas are then reinforced by a system of rewards and consequences. Although these rewards and consequences manifest themselves differently in the social norm context and the international context (because the actors themselves are different), they serve the same purpose. In the international context, these rewards and consequences are enforced through law. In social norm frameworks, such as one used to measure female genital mutilation norms provided by UNICEF, norm change indicators include beliefs about what other actors in the system do or find acceptable, actions themselves, and perceived benefits or consequences of their actions regarding the norm.<sup>66</sup> Due to the similarity between the core elements of international and social norms, those norm change indicators can be applied to international legal norms as well.

I argue that norm change is made evident by a combination of factors: state action, state rhetoric regarding what is acceptable, and perceived benefits or consequences of norm compliance. Additionally, as suggested by McKeown, norm change requires a level of internalization of the

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<sup>65</sup> “Measuring Changes in Social and Gender Norms.” Plan International, December 19, 2019. <https://plan-international.org/publications/measuring-changes-in-social-and-gender-norms/>.

<sup>66</sup> Sood, Suruchi, Sarah Stevens, Kelli Kostizak, and Maho Okumura. Rep. *The ACT Framework Package: Measuring Social Norms Around Female Genital Mutilation*. UNICEF, 2020. <https://www.unicef.org/media/100776/file/JP%202020%20ACT%20framework.pdf>.

updated norm, which also implies a lasting change. Thus, a norm changes when a reverse cascade occurs, and states have internalized the rule change. This internalization will be evident through states acting in accordance with the updated norm and state rhetoric that reflects this change. There will also be no perceived consequences for actions that would have violated the previous version of the norm but not the existing one. For example, during the rise of the election monitoring norm, norms regarding state sovereignty were changed.<sup>67</sup> While previously individuals from the UN or other international organizations monitoring elections within a country would have been a breach of state sovereignty, the norm changed in order to make the entry of monitors an exception and not a breach of sovereignty. This change was evident because it is now widely accepted by states, and election monitors are able to enter countries largely without incident. Additionally, state rhetoric reflects a general acceptance and allowance of this practice. These factors - state rhetoric, state action, and perceived rewards and consequences as well as the longevity of the change - will determine if the norm has indeed changed. Chapter 4 provides the argument that the US failed to change international legal norms relating to physical integrity rights during the War on Terror by the norm change standards laid out in this section.

It is important to recognize that these three indicators - state behavior, state rhetoric, and perceived rewards and consequences - can hold different weights and levels of importance in the context of different norms. For example, the international legal norm regarding torture relies less heavily on the indicator of state behavior. Although there is an absolute prohibition of torture (the details of the law surrounding this are discussed in Chapter 4.1), states routinely practice torture.

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<sup>67</sup> Kelley, Judith. "Assessing the Complex Evolution of Norms: The Rise of International Election Monitoring." *International Organization* 62, no. 2 (2008): 221–55. <http://www.jstor.org/stable/40071866>.

However, “this widespread practice of torture does not call into question the rationale of the universal norm”<sup>68</sup>. This is evident through the heavy reliance on rhetoric of states to indicate the robustness and health of the norm. As Michelle Farrell puts it, “The prohibition on torture is, by and large, uncontested; that is to say, no state argues that the use of torture ought to be generally permissible. The near-universal consensus in favour of the prohibition, reflected in its status as a peremptory norm of international law, a norm of customary international law and in numerous international and regional human rights treaties, shows a commitment to the normative rejection of torture”.<sup>69</sup> Therefore, it is clear through state rhetoric that the legal norm prohibiting torture continues to exist, although routine violation of the norm has existed since long before the War on Terror. This is an example of a case in which one of these indicators of norm health and norm change is much more representative than the other two. Nonetheless, all of these indicators still play a role in determining whether a norm exists, if the norm has changed, and the health of the norm.

### **3.3 How Do Hegemons Interact with Norms?**

As discussed in Chapter 2, hegemons cannot operate alone and need a level of support from other states in order to achieve their goals. Thus, hegemons use the international system, and international norms, to their advantage in this mission and to further legitimize their influence

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<sup>68</sup> Farrell, Michelle. *The Prohibition of Torture in Exceptional Circumstances*. New York: Cambridge University Press, 2013. Accessed April 9, 2023. ProQuest Ebook Central. (6)

<sup>69</sup> *Ibid.*

globally.<sup>70</sup> By working through institutions that present stability and create a feeling of involvement among states, hegemons are able to make their power and goals look more legitimate. As I also argued previously, hegemons have a number of tools at their disposal to shape the international system including using the international institutions themselves, controlling finance distribution, alliances, sanctions, threat/use of force, collaboration among elites, and economic rewards, among others. Ikenberry also argues that hegemons are able to maintain world order without constant threat of force through material incentives and manipulating substantive beliefs among elites that then trickle down to the population.<sup>71</sup> Thus, although hegemons possess unrivaled power in the international system, there are still benefits to changing international norms.

Given the sheer amount of power possessed by hegemons and the number of tools at their disposal, hegemons clearly maintain a large level of influence in the international order. Furthermore, hegemons may expect to easily influence international norms and institutions. The conditions of structural power make it clear that hegemons are expected to maintain power over financial institutions, means of production, and means of knowledge production. Power over these institutions, by default, also extends to power over the norms that they enforce and create. In Chapter 2, where the US' status as a hegemon is discussed, it is evident that the United States retains power over these institutions and that states who side with the US in terms of foreign policy

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<sup>70</sup> Strange, Susan. "The Persistent Myth of Lost Hegemony." *International Organization* 41, no. 4 (1987): 551–74. <https://doi.org/10.1017/s0020818300027600>.

<sup>71</sup> Ikenberry, G. John, and Charles A. Kupchan. "Socialization and Hegemonic Power." *International Organization* 44, no. 3 (1990): 283–315. <http://www.jstor.org/stable/2706778>.



are more likely to receive benefits, such as money from the IMF.<sup>72</sup> Thus, states can expect that accordance with the US, or the hegemon, in terms of ideas and goals will lead to rewards in the international system. This system of perceived rewards is a critical part of how norms are developed and changed, and so we can expect that hegemons maintain influence over international norms. A part of this expectation, specifically in terms of the US and the international human rights regime, is formed by the United States' role in the creation and development of the regime. This role is discussed more at length in Chapter 4.1.

Ultimately, the sheer amount of power and influence wielded by hegemons in all aspects of the international system creates an expectation that they should maintain this level of influence over the norms in the system that they help to create and enforce. Although hegemons still need support from other states to change norms and impose their will in the international system, they have a larger number of tools and power at their disposal in order to achieve their goals. Thus, hegemons use the system of international norms to maintain legitimacy and to assist in enforcement, and they should still expect to enjoy their power and influence within this realm.

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<sup>72</sup> Thacker, Strom C. "The High Politics of IMF Lending." *World Politics* 52, no. 1 (1999): 38–75. <http://www.jstor.org/stable/25054100>.

## 4.0 The International Human Rights Regime

Legal norms related to human rights are expressed within the international human rights regime, part of international law. The link between norms and law is strong in the international realm, given that customary law is one of the main sources of international law and is considered to be at the core of the international legal system.<sup>73</sup> Customary international law (CIL) is generally defined as the “general and consistent practice of states followed by them from a sense of legal obligation”.<sup>74</sup> It is not codified in the same way as treaty law, but is law derived from the behavior patterns of states that is a result of their perceived obligation. This obligation is imposed by legal norms, as one of the functions of these norms in international law is to create behavior expectations and obligations for states.<sup>75</sup> Thus, customary international law is the manifestation of norms into law. Formed through state behavior, which is largely indicative of what states find acceptable, or norms, CIL turns normative obligations into legal ones. CIL is only one source of international law, and it is often supported and codified through treaty law. Although legal norms exist in international law beyond CIL, and the legal norms that the US attempted to change are related to treaty law, the existence of CIL demonstrates the way that norms can manifest into law. If a state

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<sup>73</sup> Goldsmith, Jack L and Eric A. Posner, "A Theory of Customary International Law," *University of Chicago Law Review* 66, no. 4 (Fall 1999): 1113-1178.

<sup>74</sup> RESTATEMENT, THIRD, FOREIGN RELATIONS LAW OF THE UNITED STATES (REVISED), Section 102(2).

<sup>75</sup> Pauwelyn, Joost. *Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law*. Cambridge: Cambridge University Press, 2008.

succeeds in changing an international norm, it has, by extension, created an opportunity to change international law.

This connection is retained in the realm of international human rights norms. This chapter begins with a discussion of the international human rights regime, which encompasses international human rights law itself as well as the institutions that make and enforce the law. An understanding of this regime and existing law is necessary in order to analyze the United States attempt at changing legal norms within this system. After establishing the mechanisms at work and bounds of the system, I discuss the United States' attempt at utilizing the system to change legal norms of physical integrity. Then, I provide the argument that the attempt was unsuccessful in changing these legal norms. Although the US played a large role in the creation of the human rights regime and the expectation that hegemony retain their influence into the normative realm, as discussed in Chapter 3.3, the US' attempt at norm revisionism during the War on Terror failed.

#### **4.1 What is the International Human Rights Regime?**

As described by former U.S. Secretary of Policy Planning Stephen D. Krasner in his work on regimes as intervening variables, an international regime is a set of “principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area”.<sup>76</sup> This definition has been largely accepted by scholars and is cemented through frequent usage. International regime theory can be complex and there are different approaches to regimes,

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<sup>76</sup> Krasner, Steven D. "Structural Causes and Regime Consequences: Regimes as Intervening Variables," *International Organization* 36 (Spring 1982), p. 185

as outlined by Ali Pourghassab Amiri in his paper on the development of the international human rights regime.<sup>77</sup> Additionally, Jack Donnelly provides a succinct analysis on types of international regimes, international decision-making activities, and regime decision-making procedures in his paper “International Human Rights: A Regime Analysis”.<sup>78</sup> While analysis of international regimes is important, this paper will not contribute to developing these ideas on a broader level.

I define the international human rights regime as the structure of international institutions, norms, and law that defines, enforces, and directs international human rights content and conduct. It is categorized by Jack Donnelly as a “relatively strong promotional regime, composed of widely accepted substantive norms, largely internationalized standard-setting procedures, some general promotional activity, but very limited international implementation”.<sup>79</sup> This indicates that the regime is limited in enforcement mechanisms but has widespread acceptance of its norms and relies largely on monitoring and general promotional tasks to maintain the regime. The most fundamental document of the international human rights regime<sup>80</sup> is the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on the 10<sup>th</sup> of

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<sup>77</sup> Amiri, Ali. “Development of International Human Rights Regime: An Overview.” *AALCO Journal of International Law* 2, no. 1 (June 1, 2013). [https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2385447](https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2385447).

<sup>78</sup> Donnelly, Jack. “International Human Rights: A Regime Analysis.” *International Organization* 40, no. 3 (1986): 599–642. <http://www.jstor.org/stable/2706821>.

<sup>79</sup> Ibid 614-15.

<sup>80</sup> Amiri, Ali. “Development of International Human Rights Regime: An Overview.” *AALCO Journal of International Law* 2, no. 1 (June 1, 2013). [https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2385447](https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2385447).

December, 1948.<sup>81</sup> It is described as “a milestone document in the history of human rights” that was drafted by representatives from all over the world with a variety of legal and cultural backgrounds that “set out, for the first time, [for] fundamental human rights to be universally protected”.<sup>82</sup> Although not binding, this document indicates that there is a shared global goal to respect and protect human rights. From this goal, the international human rights regime begins to develop.

Harold Hongju Koh, Dean of Yale Law School, separates the development of modern international human rights law into four phases, the first being the universalization of human rights norms in the years directly following World War II. The second phase involves the institutionalization of human rights, where institutions, both governmental and nongovernmental, were created to engage and interact with these norms. The third phase refers to the operationalization of human rights compliance, where norms and institutions began to work together to create results. He notes that this phase began with the Helsinki Accords of 1976. The fourth, and arguably current, phase is one of globalization. It was originally a phase of optimism, where global processes became a tool for the transformation of the international landscape. However, after 9/11, Koh states that we have entered a phase of global pessimism.<sup>83</sup> Although not critiquing the validity of this framework, some scholars notes that Koh omits the crucial discussion of domestication, which depicts the depths of states’ human rights convictions through their level

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<sup>81</sup> “Universal Declaration of Human Rights.” OHCHR. Accessed February 12, 2023. <https://www.ohchr.org/en/universal-declaration-of-human-rights>.

<sup>82</sup> Ibid.

<sup>83</sup> Koh, Harold Hongju (2007) "Restoring America’s Human Rights Reputation," *Cornell International Law Journal*: Vol. 40: Iss. 3, Article 2. Available at: <http://scholarship.law.cornell.edu/cilj/vol40/iss3/2>

of internalization of these norms.<sup>84</sup> This domestic internalization, as discussed previously, is a stage of the norm life cycle and indicates that said norms have completely been accepted into society. In this context, adding this reference of a domestication stage would indicate that the human rights regime has been solidified. From the development of the regime as a whole, we now turn to the evolution of sources of norms and law in the regime.

Currently, there are a number of sources of international human rights law including treaties, judicial decisions, and customary international law. Shortly after the UDHR was written, the Genocide Convention was signed as a response to the horrors of The Holocaust, and it defines and criminalizes the act of genocide. Beyond that, there are a number of treaties that have been signed since the UDHR was written that provide reinforce existing law and provide additional protections in terms of human rights. Some of the major ones include: the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), the 1989 Convention on the Rights of the Child (UNCRC), the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), and the 2006 International Convention on the Rights of Persons with Disabilities (CRPD). Along with their optional protocols, each of these UN treaties have treaty committee bodies associated with them. These treaty bodies are made up of

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<sup>84</sup> Winston, Morton. "Why Human Rights Will Prevail in the War on Terror." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

independent experts who monitor the implementation of the treaty.<sup>85</sup> There are also a number of other treaties included in international human rights law that do not have treaty bodies associated with them, although I will not list them all here.

Customary international law also forms a part of the international human rights regime. Typically, customary international law is composed of two parts: state practice and *opinio juris*.<sup>86</sup> It generally comes from a consistent, uniform, and settled practice, which eventually evolves to include a sense of legal obligation to follow said practice, or *opinio juris*.<sup>87</sup> International human rights law relies heavily on the concept of *jus cogens*, or preemptory norms of general international law, from which states can claim no exceptions.<sup>88</sup> As defined in the UN draft conclusion concerning *jus cogens*, a preemptory norm can be defined as, “a norm from which no derogation is permitted, and which can be modified only by a norm of general international law having the same character”.<sup>89</sup> The non-exhaustive list provided by the UN draft conclusion is: “the prohibition of aggression, the prohibition of genocide, the prohibition of crimes against humanity, the basic rules of international humanitarian law, the prohibition of

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<sup>85</sup> Publication. *The United Nations Human Rights Treaty System*. OHCHR, 2012. <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet30Rev1.pdf>.

<sup>86</sup> Simma, Bruno, and Philip Alston. “The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles.” *The Australian Year Book of International Law Online* 12, no. 1 (1992): 82–108. <https://doi.org/10.1163/26660229-012-01-900000007>.

<sup>87</sup> Ibid.

<sup>88</sup> Schabas, William A. *The Customary International Law of Human Rights*. United Kingdom: Oxford University Press, 2021.

<sup>89</sup> United Nations International Law Commission. *Report on the Work of the Seventy-First Session*. A/74/10, 2019.

racial discrimination and apartheid, the prohibition of slavery, the prohibition of torture, and the right of self-determination”.<sup>90</sup> This class of norms are viewed to be more protected and can never be suspended, even in times of war. It was established through a pattern of state practice and behavior and through that, became customary international law. Customary international law is certainly still limited in its scope, but plays an important role in international human rights law, and international law more generally.

Beyond the content of the international human rights regime, which is international human rights law, it is also composed of a number of institutions, which all fall under the United Nations’ Office of the High Commissioner of Human Rights (OHCHR). I have already discussed the treaty-based institutions. There are also charter-based institutions, which include the Human Rights Council, Special Procedures, Universal Periodic Review, and Independent Investigations.<sup>91</sup> The Human Rights Council is an intergovernmental body made up of 47 states and is the highest level of these mechanisms. It is responsible “responsible for the promotion and protection of all human rights around the globe”<sup>92</sup> and discusses human rights situations throughout the year. The Universal Periodic Review is a process that examines the human rights records of all UN member states. Lastly, Special Procedures is a group of independent experts that report and advise on country situations specifically. The UN also conducts investigations into alleged violations and also relies on National Human Rights Institutions (NHRIs) to assist in monitoring the implementation of human rights mechanisms. Figure 2 provides a diagram of the

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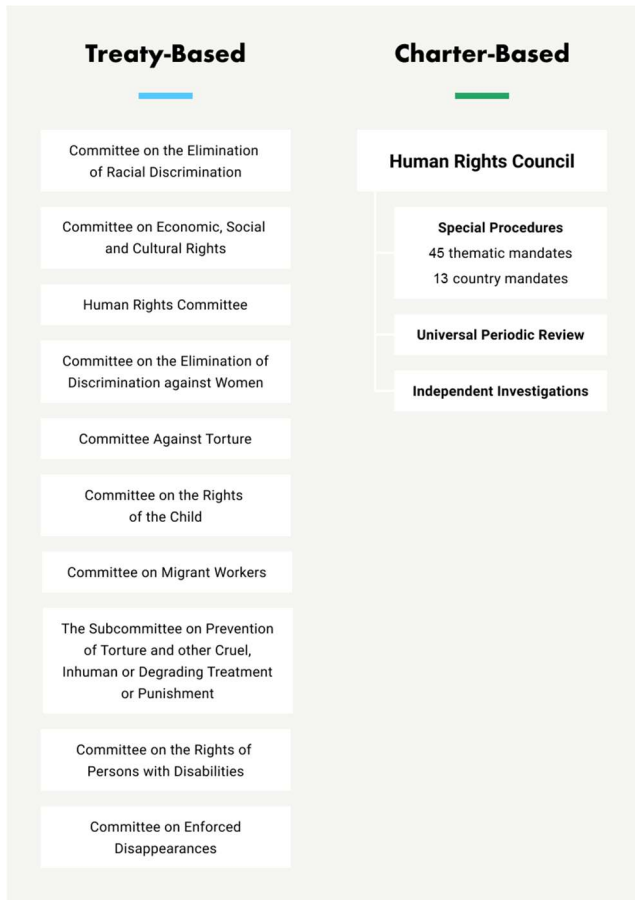
<sup>90</sup> Ibid.

<sup>91</sup> “Instruments & Mechanisms.” OHCHR. Accessed February 12, 2023. <https://www.ohchr.org/en/instruments-and-mechanisms>.

<sup>92</sup> “HRC Home.” OHCHR, February 13, 2023. <https://www.ohchr.org/en/hrbodies/hrc/home>.



UN’s human rights institutions, which each play a role in norm creation, promotion, and enforcement within the regime. These institutions, as well as the body of international human rights law discussed above, form the international human rights regime.



**Figure 2: Diagram of UN Human Rights Bodies**

As an added note, the United States played a significant role in the creation of the United Nations, which houses many of the mechanisms and institutions that form the human rights regime. The United States’ historic promotion of human rights, especially after World War II, has allowed it to retain a strong influence in the content of human rights law as well. In reference to this, Karl Meyer goes as far as to say that the “American role is critical. No forward movement is possible

without Washington's support and leadership".<sup>93</sup> Other scholars agree that the US has long been at the forefront of the development and enforcement of international human rights law.<sup>94</sup> This role in the formation of the regime, in addition to the factors mentioned in Chapter 3.3, help to create the expectation that hegemons, such as the United States, should be able to change international legal norms in regard to human rights. The following section details American human rights violations and describe an attempt by the US to change legal norms of physical integrity, a subsection of human rights norms, during the War on Terror.

#### **4.2 The United States' Attempt to Change Legal Physical Integrity Norms**

There is an abundance of evidence that the United States violated human rights law during the War on Terror. After describing US conduct, I argue that through this violation, as well as the rhetoric of the Bush Administration and the perceptions of the international community, the US took this violation one step further by also attempting to change specific international human rights legal norms. Violation of the existing norm is a necessary but not sufficient condition for an attempt at norm revisionism. That is to say that when a state wishes to change a norm, they are likely going to violate the existing norm. However, a violation alone does not constitute an attempt at norm revisionism unless it is accompanied by an attempt to garner support and solidify the norm

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<sup>93</sup> Meyer, Karl E. "Enforcing Human Rights." *World Policy Journal* 16, no. 3 (1999): 45. <http://www.jstor.org/stable/40209644>.

<sup>94</sup> Goldsmith, Jack L. "International Human Rights Law and the United States Double Standard," 1 *Green Bag* 365 (1998).

change. Chapter 3 provides a definition of norm change that takes into account actions, rhetoric, and perceptions of others as to what acceptable. Additionally, it discusses Ryder McKeown's work on norm revisionism, which notes that states must attempt to justify their actions and garner support in order to trigger said norm change.<sup>95</sup> In the case of the United States, it proposed 2 main changes to international legal norms regarding physical integrity rights: the terrorist exception and the redefinition of torture. It then attempted to export these ideas to other states through justification rhetoric. This section begins with a discussion of relevant law and the US violation of legal physical integrity norms and then discusses the details of the US attempt at legal norm change.

International law and pre-War on Terror international human rights norms are very clear on the gravity of the maintenance of human rights while combatting terrorism. The most relevant document regarding human rights is the Universal Declaration of Human Rights (UDHR) which went into effect in 1948 and provides a range of protections. While all its articles guarantee different rights to individuals, there are a few that are very relevant to the discussion of the treatment of terrorists and terrorist suspects. Article 5 prohibits the use of torture, article 9 states that no one should be subject to "arbitrary arrest".<sup>96</sup> The rights given in this section of the UDHR are not automatically binding to states, but are supported by other binding resolutions and conventions, such as the Convention Against Torture (CAT), and when considering counterterrorism to be a war or armed conflict, the Geneva Convention. It is also important to note

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<sup>95</sup> McKeown, Ryder. "Norm Regress: US Revisionism and the Slow Death of the Torture Norm." *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.

<sup>96</sup> The United Nations, "Universal Declaration of Human Rights". (1948).

that the US has ratified the Geneva Conventions, the Slavery Convention, the Genocide Convention,<sup>97</sup> the Convention Against Torture, the Convention on the Elimination of Racial Discrimination (CERD), and the International Convention on Civil and Political Rights (ICCPR). Thus, during the War on Terror, the US was bound by the legal norms and law related to these conventions and treaties. CAT defines torture as, “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession”<sup>98</sup> and states that it is prohibited. The protections that are solidified through the Torture Convention are binding. The ICCPR also provides binding protections against torture and arbitrary detention. Ultimately, international law clearly states that torture and arbitrary detention are prohibited under all circumstances, as they fall under the *jus cogens* category described in Chapter 4.1.

A unique facet of the War on Terror was that the United States declared their goal of eradicating terrorism to be an actual war, and therefore should be expected to comply with the law that governs war and armed conflict, International Humanitarian Law, or IHL. The most well-known sources of IHL are the Geneva Conventions. The conventions provide human rights protections in times of war, specifically in the treatment of prisoners of war. By providing standards for the treatment of prisoners of war, it also prohibits torture. Therefore, no matter

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<sup>97</sup> Goodhart, Michael. “Reverting to Form: American Exceptionalism and International Human Rights.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 65–85. New York, NY: Palgrave Macmillan, 2014.

<sup>98</sup> UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p 85.

whether the US declared the War on Terror to be an actual war or not, or US actions are governed by human rights law or IHL, torture is prohibited.

It has become evident to the international community that throughout the War on Terror, the US has failed to respect and uphold these laws and norms. While violations have certainly occurred in CIA black sites and US counterterrorism operations globally, the most glaringly obvious example of these violations is the detention center in Guantanamo Bay.

Guantanamo Bay was opened in 2002, following the terrorist attacks on September 11<sup>th</sup>, 2001, and has had 779 detainees.<sup>99</sup> Today, there are 31 detainees left at Guantanamo and all of them have been held for over 12 years, but only 11 have been charged with any crime or given a trial.<sup>100</sup> Three of the prisoners have been declared “forever prisoners” and will not be afforded a trial nor recommended for release. The director of the Criminal Investigative Task Force, Mark Fallon, and his team of experts conducted an independent investigation into detention at Guantanamo Bay, and released his book, *Unjustifiable Means*, detailing the illegal practices and tortuous activities.<sup>101</sup> Additionally, in her book *Plausible Legality*, Rebecca Sanders describes the experiences of detainees in both CIA black sites and Guantanamo.<sup>102</sup> Approved torture methods included “(1) the attention grasp, (2) walling, (3) facial hold, (4) facial slap, (5) cramped

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<sup>99</sup> Amnesty International, “USA: Right the Wrong: Decision Time on Guantanamo”. (2021). pp. 5

<https://www.amnesty.org/download/Documents/AMR5134742021ENGLISH.PDF>

<sup>100</sup> Ibid.

<sup>101</sup> Remnick, D. (Host), “Living in the Shadow of Guantanamo” [Audio podcast episode], The New Yorker Radio Hour, WNYC Studio and The New Yorker. (5 March 2021).

<sup>102</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

confinement, (6) wall standing, (7) stress positions, (8) sleep deprivation, (9) waterboard, (10) use of diapers, [and] (11) use of insects”.<sup>103</sup> Detainees also reported severe verbal, emotional, and medical abuse as well as forced nudity, religious and sexual humiliation, exposure to noise, and extreme temperatures.<sup>104</sup> The UN, the American Civil Liberties Union (ACLU), Human Rights Watch, Amnesty International, and other human rights organizations have called for the closure of Guantanamo Bay because its illegal practices are well-known internationally. The Bush Administration and the United States government systematically tortured terrorist suspects from 2002-2006 both in CIA black sites and at Guantanamo Bay. The US Senate Intelligence Committee published a report detailing this conduct after a thorough investigation.<sup>105</sup>

In addition to torture and “enhanced interrogation techniques”, there have been numerous cases of arbitrary or administrative detention at Guantanamo Bay. Arbitrary detention can be defined as arrest without substantial evidence or due process. In terms of counterterrorism in the US, it often occurs through the racial profiling of Arabs and excessive arrests due to deep rooted fear. Of the 780 Guantanamo detainees, 731 were released without charges, though many were held for years without being charged. The US made a large number of arrests but only had

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<sup>103</sup> U.S. Congress. Senate. Senate Select Committee on Intelligence. *Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program*. 113th Cong., 2d sess., 2014. S. Rep. 113– 288. <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>

<sup>104</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

<sup>105</sup> U.S. Congress. Senate. Senate Select Committee on Intelligence. *Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program*. 113th Cong., 2d sess., 2014. S. Rep. 113– 288. <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>

sufficient evidence to charge or convict a small percentage of the detainees. It is clear through the description of the techniques used by the US, that detainees suffered both mental and physical severe pain and suffering, which meets the Torture Convention's conditions for torture. Additionally, the US has arbitrarily detained and continues to detain terrorist suspects without giving them a fair trial, a violation of the ICCPR. Thus, it is clear that the United States has violated the existing international human rights legal norms and laws, specifically regarding the physical integrity rights of torture and administrative detention, in its counterterrorism strategy.

Scholars such as Ben Saul and Sarah Joseph have examined the way in which human rights should be afforded to suspected and convicted terrorists in a post-9/11 world through the lens of international terrorism law and the Convention Against Torture (CAT) respectively. Both concluded that CAT,<sup>106</sup> as well as international humanitarian law, remains absolute during counterterrorism operations.<sup>107</sup> Additionally, international law scholar Joan Fitzpatrick, and more recently, barrister and law professor Brice Dickson have examined the obligations of states to uphold human rights. They discuss extra-territorial obligations for states<sup>108</sup> as well as the role and

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<sup>106</sup> Joseph, S. 2005. "Rendering Terrorists and the Convention against Torture." *Human Rights Law Review* 5 (2): 339–46. <https://doi.org/10.1093/hrlr/ngi018>.

<sup>107</sup> Saul, Ben, *The Emerging International Law of Terrorism* (October 29, 2010). *Indian Yearbook of International Law and Policy*, pp. 163-192, 2009, Sydney Law School Research Paper No. 10/108, Available at SSRN: <https://ssrn.com/abstract=1699568>.

<sup>108</sup> Dickson, B. (2016). *The Extra-territorial Obligations of European States regarding Human Rights in the Context of Terrorism*. In F. Fabbrini, & V. Jackson (Eds.), *Constitutionalism Across Borders in the Struggle Against Terrorism* (pp. 213-232). Edward Elgar Publishing.

obligations of European<sup>109</sup> and global institutions such as the European Union (EU) and United Nations (UN) in preserving international human rights law. The aforementioned research confirms that international human rights law still stands and that states have an obligation to uphold it. The US failed to afford terrorist suspects these essential rights on many occasions.

Primarily, the actions of the United States during the War on Terror, indicate a violation and disrespect of physical integrity rights. The rhetoric of the Bush Administration tells a similar story. The administration tried to rationalize their actions by bending the rules of international law in order to accommodate their violations.<sup>110</sup> I argue that through their attempt to create this “plausible legality,”<sup>111</sup> the US played the role of norm revisionist and pursued a change in legal norms that would advance their agenda.

In her book, *Plausible Legality*, Rebecca Sanders details the way in which the Bush Administration was able to rationalize their violations both domestically and internationally, noting that the concept of exception was primarily used.<sup>112</sup> An example of this is evident in the law that the US applied to the conflict. The US was trying to declare the War on Terror as an actual war, and although describing acts of terrorism and counterterrorism as wars was new rhetoric in

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<sup>109</sup> Joan Fitzpatrick, Speaking Law to Power: The War Against Terrorism and Human Rights, *European Journal of International Law*, Volume 14, Issue 2, April 2003, Pages 241–264,

<sup>110</sup> Foley, Frank. “The (De)Legitimation of Torture: Rhetoric, Shaming and Narrative Contestation in Two British Cases.” *European Journal of International Relations* 27, no. 1 (2020): 102–26. <https://doi.org/10.1177/1354066120950011>.

<sup>111</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

<sup>112</sup> *Ibid.*



the international system,<sup>113</sup> it would indicate that international humanitarian law (IHL) would govern the conflict. However, the Bush Administration argued that the Geneva Conventions, which are part of the body of IHL law and protect prisoners of war as well as prohibit torture, did not apply to detainees.<sup>114</sup> The argument made by the Bush Administration was for a new class of prisoners, terrorist suspects, who do not need to be afforded the same rights as other prisoners of war. This is what I deem the “terrorist exception” and would allow the government to refrain from affording terrorists or suspected terrorists specific human rights. Part of the way that the Bush Administration framed the necessity of this exception is through the ticking time bomb scenario, which asks a person if they would torture an individual if it would result in learning information about a relevant terrorist attack, thereby saving thousands of people. The US government was essentially asking the international community to “juxtapose the picture of the collapse of the World Trade Center to that of the use of torture against a captured terrorist”.<sup>115</sup> The argument was that in terrorist interrogations, time is often of the essence, and interrogators are faced with this ticking bomb scenario. Therefore, the terrorist exception should exist and certain techniques, which qualify as torture, should be allowed in this case. In indicating that exceptions should be

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<sup>113</sup> Baxi, Upendra. "The War on Terror and the War of Terror: Nomadic Multitudes, Aggressive Incumbents, and the New International Law - Prefactory Remarks on Two Wars." *Osgoode Hall Law Journal* 43.1/2 (2005) : 7-43. <http://digitalcommons.osgoode.yorku.ca/ohlj/vol43/iss1/2>

<sup>114</sup> Keating, Vincent Charles. “Contesting the International Illegitimacy of Torture: The Bush Administration's Failure to Legitimate Its Preferences within International Society.” *The British Journal of Politics and International Relations* 16, no. 1 (2013): 1–27. <https://doi.org/10.1111/1467-856x.12024>.

<sup>115</sup> Kahn, Paul W.. *Sacred Violence : Torture, Terror, and Sovereignty*. Ann Arbor: University of Michigan Press, 2008. Accessed April 9, 2023. ProQuest Ebook Central. (74)

allowed, the Bush Administration is directly contradicting the *jus cogens* status that these rights hold. Demoting physical integrity rights from *jus cogens* would constitute a legal norm change given that, unlike law, legal norms do not become invalid when an exception is created. Thus, the US would actually have to change the legal norm in order to install this exception. The argument for the concept of exception in this case is the work of a norm revisionist because the US is attempting to justify their actions and convince other states of their validity.

Additionally, the United States government attempted to redefine torture. The CIA approved a list of “enhanced interrogation techniques” and argued that those techniques would not cause severe pain or suffering.<sup>116</sup> They then argued that US agents did not have the “specific intent” of causing severe pain or suffering and thus, were not committing acts of torture.<sup>117</sup> The Bush Administration’s definition of torture required a certain threshold of severe pain not previously required by the torture norm. The legal framework for this justification is laid out at length in Memo Regarding the Torture and Military Interrogation of Alien Unlawful Combatants Held Outside the United States authored by John Yoo in 2003.<sup>118</sup> A redefinition of what constitutes torture is a change of the torture norm, as it requires a shift in international perceptions of what is considered humane. Additionally, the Bush Administration pushed this definition internationally through the CIA’s Rendition, Detention and Interrogation program which allowed other states to

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<sup>116</sup> Mayerfield, Jamie. *Promise of Human Rights: Constitutional Government, Democratic Legitimacy, and International Law*. University of Pennsylvania Press, 2019.

<sup>117</sup> Ibid.

<sup>118</sup> U.S Department of Justice, MEMO REGARDING THE TORTURE AND MILITARY INTERROGATION OF ALIEN UNLAWFUL COMBATANTS HELD OUTSIDE THE UNITED STATES, John Yoo. Washington, DC, 2003.

partner with the US and aid the torture program that was systematically taking place with terrorist suspects.<sup>119</sup> The exportation of this new definition is the work of a norm revisionist.

It is also important to note that, as I discuss in Chapter 4.3, the US was quite successful in changing physical integrity norms domestically. The strategies that the US used to justify and rationalize their actions applied to both the domestic and international spheres. Scholars such as Rebecca Sanders,<sup>120</sup> Vincent Charles Keating,<sup>121</sup> and Frank Foley<sup>122</sup> discuss more at length the legal rationalization of US human rights violation by the Bush Administration. However, for the purpose of this paper, the actions and rhetoric of the administration provide clear evidence that the US was attempting to change international and domestic opinion, and therefore, playing the role of norm revisionist at this time. This attempt at justification on an international level indicates that the US was hoping to make change in the international human rights regime and needed support from other states. Chapter 4.3 demonstrates that the US was unsuccessful, and Chapter 5 provides some possible explanations as to why a hegemon as powerful as the United States was unable to change the international law in this way.

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<sup>119</sup> “Globalizing Torture: Cia Secret Detention and Extraordinary Rendition.” Open Society Justice Initiative, 2013. <https://www.justiceinitiative.org/publications/globalizing-torture-cia-secret-detention-and-extraordinary-rendition>.

<sup>120</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

<sup>121</sup> Keating, Vincent Charles. “Contesting the International Illegitimacy of Torture: The Bush Administration's Failure to Legitimize Its Preferences within International Society.” *The British Journal of Politics and International Relations* 16, no. 1 (2013): 1–27. <https://doi.org/10.1111/1467-856x.12024>.

<sup>122</sup> Foley, Frank. “The (De)Legitimation of Torture: Rhetoric, Shaming and Narrative Contestation in Two British Cases.” *European Journal of International Relations* 27, no. 1 (2020): 102–26. <https://doi.org/10.1177/1354066120950011>.

### **4.3 The United States' Failure to Change International Legal Norms Concerning Physical Integrity Rights**

There is certainly a strong argument to be made that the War on Terror ultimately has had a negative impact on human rights in the United States and around the world. Although the US systematically committed human rights violations for a number of years, I argue that the US ultimately fell short of changing a number of international legal norms in regard to human rights. The US government was able to successfully change domestic opinion and norms regarding human rights such as torture and administrative detention, but the data has demonstrated that, in the long run, their global counterparts have proved resistant to change. This is not to argue that there were absolutely no repercussions or change in normative practices, as that is clearly not the case, but to argue that the evidence provided through state behavior, rhetoric and perceptions does not indicate a change in legal norms. I start this section with an overview of relevant data sets, define physical integrity norms, and then discuss US domestic norm change. As discussed in Chapter 3.2, norm change is determined based on the following factors: state rhetoric, state action, perceived rewards and consequences, and the longevity of the change. Empirical and rhetorical evidence is provided that international legal norms have not changed based on this definition. Finally, I address counterarguments to this assessment and changes in certain normative practices.

This paper refers to two main sources of empirical data in order to examine international and domestic legal norm change: the Political Terror Scale and the CIRI Human Rights Index. It is important to note that it is impossible for researchers to be aware of every case of human rights violation within a given country. For this reason, the data provided in these sets may not be entirely accurate or exactly reflective of state behavior. Nonetheless, this data, which was collected to the best of the researchers' ability, still provides us with insight into larger trends in state behavior.

Additionally, I mentioned in Chapter 3.2 that state behavior differs greatly from the content of the legal norm regarding the prohibition of torture. State behavior is still a relevant factor of this argument given that if an exception to the norm was fully legalized, or the norm changed, we would still likely see an uptick in state violations. Therefore, although recognizing their limits, these datasets are still useful to explore. The Political Terror Scale was started in the early 1980s by Michael Stohl and other researchers at Purdue University. Since it was developed before terrorism took on its more modern meaning, the terror measured by the PTS “refers to state-sanctioned killings, torture, disappearances and political imprisonment”.<sup>123</sup> Using reports produced by Amnesty International, Human Rights Watch and the US State Department, each state receives a numerical score for the level of political terror experienced in said state (from 1-5) according to each organization’s report. Human Rights Watch has less available data, so the data based on their reports is only available from 2013 to present. The data from the US State Department and Amnesty International is available from 1976 to present. Originally the project only included 59 states but expanded to 180 in 1984.<sup>124</sup> The scale is denoted as follows:<sup>125</sup>

Level 1: Countries under a secure rule of law, people are not imprisoned for their views, and torture is rare or exceptional. Political murders are extremely rare.

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<sup>123</sup> “Frequently Asked Questions.” The Political Terror Scale. Accessed February 12, 2023. <https://www.politicalterror scale.org/About/FAQ/>.

<sup>124</sup> “History.” The Political Terror Scale. Accessed February 12, 2023. <https://www.politicalterror scale.org/About/History/>.

<sup>125</sup> “Documentation: Coding Rules.” The Political Terror Scale. Accessed February 12, 2023. <https://www.politicalterror scale.org/Data/Documentation.html#PTS-Levels>.

Level 2: There is a limited amount of imprisonment for nonviolent political activity. However, few persons are affected, torture and beatings are exceptional. Political murder is rare.

Level 3: There is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without a trial, for political views is accepted.

Level 4: Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances, and torture are a common part of life. In spite of its generality, on this level terror affects those who interest themselves in politics or ideas.

Level 5: Terror has expanded to the whole population. The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals.

The CIRI Human Rights Data set is another empirical dataset that is used to measure the respect for human rights worldwide. It divides human rights into two main categories: empowerment rights and physical integrity rights. There are a few other variables in the dataset outside of these two categories, though they will not be discussed in this paper. Empowerment rights include 7 main items: freedom of speech, freedom of religion, foreign movement, domestic movement, freedom of assembly, workers' rights, and electoral self-determination. Although empowerment rights provide an important perspective into states' respect for human rights, they are not the category that is focused upon in this paper. Physical integrity rights include 4 main items: torture, political imprisonment, disappearance, and extrajudicial killing. This is the category of rights that the US attempted to change during the War on Terror, and therefore is the focus of this paper. For each category within the CIRI Human Rights Dataset there is a combined score as

well as a score for each individual right listed within the category. Similar to the Political Terror Scale, these scores are based off of an analysis of the US State Department's annual reports, as well as those of Amnesty International. In the category of physical integrity rights, for each specific human right the state gets a score of 0 (no respect), 1 (some respect) or 2 (most respect). The overall physical integrity rights score adds up all of these scores, creating a scale of 0 (no respect for physical integrity rights) to 8 (full respect for physical integrity rights). The data is provided from 1981 to 2011, when the project stopped, and includes 202 countries.

On the empirical front, and as the standard of norm change applies to this case, a lasting and significant decrease in global CIRI physical integrity scores would indicate a norm change. Although, as I noted previously, state behavior is not necessarily consistent with the torture norm, if the US was successful in legalizing an exception or redefining torture, we would still see an increase in torture given that states would no longer have to hide this practice. In terms of the PTS, we would expect to see a significant and consistent increase in scores. It is difficult to provide an exact number of what qualifies as "significant". However, looking at this data in the context of state rhetoric helps us to get a full picture of perceptions regarding the norm, and puts the data in perspective.

It is also important to acknowledge that there is a growing body of literature that supports the idea that the US successfully changed the legal torture norm and even other legal physical integrity norms domestically. Empirically, this is evident through studies done by Pew Research

Center periodically after 9/11. As seen in figure 3,<sup>126</sup> 64% of those surveyed said that they felt that torture of terrorist suspects was justified in some capacity. Between July 2004 and August of

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**Few Continue to Rule Out Torture of Suspected Terrorists**

<i>Torture to gain important information from suspected terrorists can be justified ...</i>	<b>July 2004</b>	<b>Oct 2006</b>	<b>Jan 2007</b>	<b>Feb 2008</b>	<b>Nov 2009</b>	<b>Aug 2011</b>
	%	%	%	%	%	%
Often	15	18	12	17	19	19
Sometimes	28	28	31	31	35	34
Rarely	21	19	25	20	16	18
Never	32	32	29	30	25	24
Don't know	<u>4</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>5</u>	<u>4</u>
	100	100	100	100	100	100

PEW RESEARCH CENTER Aug. 17-21, 2011. Q81. Figures may not add to 100% because of rounding.

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**Figure 3: Torture Approval Rating in the US, 2004-2011**

2011, the percentage of people that approved of torture often remains constant, and even increased slightly. The longevity of this approval, even after the release of The Torture Memos and details of the atrocities committed by the US military, indicates a bigger shift in US thinking. Figure 4<sup>127</sup> shows a breakdown of torture approval through a number of demographic factors. This survey was done in 2016. 48% percent of those surveyed still thought torture can be justified, 15 years after 9/11. Although a slight decrease from 2011, it still demonstrates that the US government was able to sell torture to its citizens and that the change in public opinion was a lasting one. The

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<sup>126</sup> “United in Remembrance, Divided over Policies.” Pew Research Center - U.S. Politics & Policy. Pew Research Center, September 1, 2011. <https://www.pewresearch.org/politics/2011/09/01/united-in-remembrance-divided-over-policies/>.

<sup>127</sup> Tyson, Alec. “Americans Divided in Views of Use of Torture in U.S. Anti-Terror Efforts.” Pew Research Center. Pew Research Center, January 26, 2017. <https://www.pewresearch.org/fact-tank/2017/01/26/americans-divided-in-views-of-use-of-torture-in-u-s-anti-terror-efforts/>.



government was also able to legalize torture through administration lawyers and legal loopholes,<sup>128</sup> as discussed previously. The shift in the domestic perception of torture is discussed at length by not only Jamie Mayfield,<sup>129</sup> but also Jack Donnelly,<sup>130</sup> Ryder McKeown,<sup>131</sup> and Rebecca Sanders.<sup>132</sup> Beyond this brief empirical review, I will not further argue this point, given that it is not the focus of this work. It is important to this paper in the sense that this domestic shift also

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<sup>128</sup> Mayerfield, Jamie. *Promise of Human Rights: Constitutional Government, Democratic Legitimacy, and International Law*. University of Pennsylvania Press, 2019.

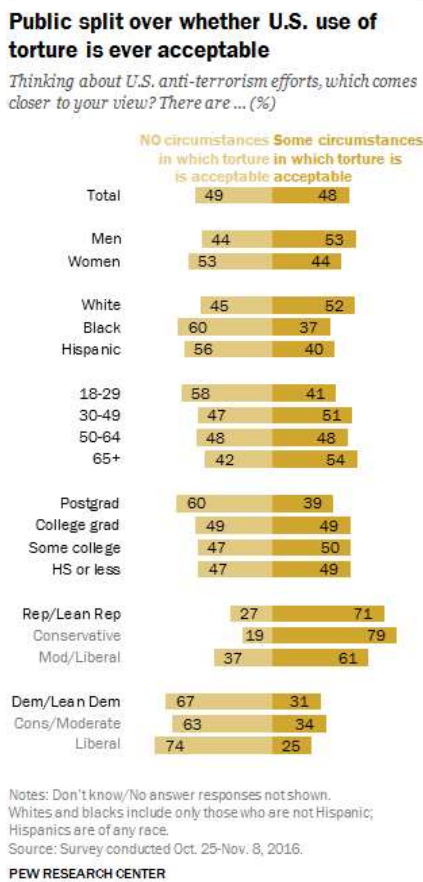
<sup>129</sup> Ibid.

<sup>130</sup> Donnelly, Jack. “International Human Rights Since 9/11: More Continuity Than Change.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 13–29. New York, NY: Palgrave Macmillan, 2014.

<sup>131</sup> McKeown, Ryder. “Norm Regress: US Revisionism and the Slow Death of the Torture Norm.” *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.

<sup>132</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

helps to imply that the US was indeed attempting to change these norms more broadly, as the legal justifications remained consistent in the domestic and international contexts.



**Figure 4: Torture Approval in the United States by Demographic**

Although the US may have triggered a reverse cascade domestically, it ultimately failed to change international legal norms concerning physical integrity rights.<sup>133</sup> This question was a subject of great interest to scholars after the supposed end of the US Enhanced Interrogation Program in 2008, so there have been a number of publications examining empirical support for international norm resistance. I turn first to the comprehensive empirical review done by Jack

<sup>133</sup> McKeown, Ryder. "Norm Regress: US Revisionism and the Slow Death of the Torture Norm." *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.

Donnelly as a part of the book *Human Rights in the 21<sup>st</sup> Century: Continuity and Change Since 9/11*,<sup>134</sup> which features a collection of journal articles relevant to this argument. In his analysis, he largely draws on the CIRI Human Rights data set in order to demonstrate global continuity in terms of human rights after 9/11. He argues that based on the data provided by CIRI there is not a big proportional change in global respect for human rights. He provides a comprehensive overview of this data in Figure 5. In the last column, he provides a proportion that represents the average score from 2002-2007 and 1999-2001. The average physical integrity rights score from 2002-2007 increases by 1% from the average score of 1999-2001. Within individual rights in that category, both political imprisonment and disappearances scores increase slightly, indicating that the respect for those rights worldwide increases slightly as well. Torture and arbitrary execution decrease, but only by 4% and 1% respectively, which is far too small to indicate a large shift or change in legal norms. The torture average is still 96% of what it was from 1999-2001 and arbitrary detention remains 99% of the previous average. This does not qualify as a significant and consistent decline. If a reverse cascade were occurring, or states were beginning to internalize the new definition of torture, a much sharper decline would be evident. Again, this is not to argue that the War on Terror had absolutely no impact on state behavior, but that impact is not large enough to constitute legal norm change. Donnelly then looks at regional trends. Using his regional categories, countries in

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<sup>134</sup> Donnelly, Jack. "International Human Rights Since 9/11: More Continuity Than Change." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 13–29. New York, NY: Palgrave Macmillan, 2014.

Table 1.2 Global performance, 1989–2007

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2002–07	02–07/ 99–01
Physical integrity rights index (8 max.)	4.68	4.37	4.64	4.88	4.79	4.87	4.81	4.85	4.81	4.80	4.75	4.53	4.85	5.06	4.72	4.79	4.75	4.66	4.66	4.77	1.01
Torture (2 max.)	0.77	0.71	0.81	0.86	0.77	0.72	0.70	0.79	0.71	0.72	0.66	0.62	0.62	0.66	0.54	0.62	0.61	0.61	0.59	0.61	0.96
Political imprisonment (2 max.)	0.93	0.89	0.99	1.09	1.17	1.10	1.07	1.20	1.14	1.11	1.18	1.14	1.23	1.30	1.28	1.22	1.16	1.12	1.12	1.20	1.01
Disappearances (2 max.)	1.60	1.55	1.57	1.66	1.62	1.70	1.67	1.61	1.62	1.67	1.63	1.62	1.68	1.73	1.69	1.72	1.75	1.71	1.75	1.73	1.05
Arbitrary execution (2 max.)	1.38	1.21	1.27	1.26	1.22	1.32	1.37	1.25	1.34	1.31	1.29	1.16	1.31	1.37	1.21	1.21	1.22	1.20	1.20	1.24	0.99

Figure 5: CIRI Human Rights Dataset, Physical Integrity Rights Global Averages 1989-2007

and Southern Europe all experience a slight increase in their average physical integrity rights score from 1991-2001 to 2002-2007. Northern and Western Europe as well as Latin America and the Caribbean have the same average score. East and Southeast Asia, as well as Canada, Australia and New Zealand experience a slight decline, but once again only by 3% and 8% respectively. The United States experiences the most obvious decline in respect for physical integrity rights, with a decline in their average score of 24%. We also might have expected to see a decline in parts of Europe given that many nations there are close allies of the United States. However, the fact that Europe on average maintains, if not increases, its physical integrity scores, is some evidence that US norm revisionism is not successful, even with allied states. Given that the US experienced a reverse cascade and its score decreased by 24%, we would expect to see a decrease in scores more of this scale if other states were experiencing a reverse cascade. However, the US experiences, by far, the largest decline. This demonstrates that global trends reflect regional trends quite well, and provides evidence that there is little to no change in global respect for physical integrity rights in the years following 9/11, with the exception of a strong decline in the

United States. This dataset refers to state behavior, and therefore, is the evidence that we see little to no change in state behavior in regard to legal physical integrity norms.

In terms of quantitative analysis, scholars such as Ben Saul, Sarah Joseph, and Brice Dickson tend to agree that the rules of international humanitarian law and international human rights law remain intact, even after pressure from the United States during the War on Terror. In her paper, “Rendering Terrorists and the Convention Against Torture”, Sarah Joseph discusses an incident that occurred in Sweden after 9/11 involving a breach of CAT protocol.<sup>135</sup> She argues that terrorists retain the same rights under international law. Ben Saul expands on this idea in his paper “The Emerging International Law of Terrorism”. He notes that although the US tried to push for a separate designation of ‘terrorist’ where they could withhold certain protections, it was unsuccessful.<sup>136</sup> States did not buy into this idea, and there remains no special legal category for ‘terrorists’ in armed conflict and must be afforded all the same protections that other prisoners and citizens receive. He argues that states in the international system still hold that “terrorists remain well ‘within’ rather than ‘outside’ the law”.<sup>137</sup> Brice Dickson once again reinforces these ideas, where he argues that suspected terrorist detainees must be afforded all the protections offered to

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<sup>135</sup> Joseph, S. “Rendering Terrorists and the Convention Against Torture.” *Human Rights Law Review* 5, no. 2 (2005): 339–46. <https://doi.org/10.1093/hrlr/ngi018>.

<sup>136</sup> Saul, Ben. “The Emerging International Law of Terrorism.” *Indian Yearbook of International Law and Policy*, 2009, 163–92.

<sup>137</sup> Ibid.

them by international law.<sup>138</sup> Although this literature does not address the idea of norm change directly, it provides support for the continuity of state perceptions regarding the validity of existing legal human rights norms, specifically in terms of torture and detention rights. This reference to law provides reference to the perceived rewards and consequences of granting the terrorist exception. Scholars are noting that these actions remain illegal and thus, consequences may be imposed for breaking the law. States continue to abide by these laws and therefore are reinforcing the system of rewards and consequences. This indicates that the legal norms remain intact.

Andrea Birdsall also provides a very comprehensive argument against the successful change of the legal torture norm during the War on Terror in her paper, “But We Don't Call it 'Torture'! Norm Contestation During the US 'War on Terror'”.<sup>139</sup> She describes the ways in which the US attempted to redefine torture and sell this idea both domestically and to the international community. When the Torture Memos were released and the US violations were detailed, this redefinition received major pushback from international human rights organizations, as well as the UN and other states themselves. She goes on to argue that this pushback actually strengthens the international norm against torture. Wayne Sandholtz also agrees that the norm was strengthened in his exploration of norm robustness and through a case study of the War on Terror argues that the norm remained robust, or valid globally, although it may have been weakened in some

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<sup>138</sup> Dickson, Brice. “The Extra-Territorial Obligations of European States Regarding Human Rights in the Context of Terrorism.” *Constitutionalism Across Borders in the Struggle Against Terrorism*, 2016, 213–32. <https://doi.org/10.4337/9781784715397.00018>.

<sup>139</sup> Birdsall, Andrea. “But We Don't Call It ‘Torture’! Norm Contestation during the US ‘War on Terror.’” *International Politics* 53, no. 2 (2016): 176–97. <https://doi.org/10.1057/ip.2015.42>.

countries.<sup>140</sup> This robustness is directly linked to norm change as Sandholtz notes that “the forces that bring about norm change can also produce shifts in norm robustness.”<sup>141</sup> Given that there was little change in the antitorture norm’s robustness globally, there is little change in the legal norm itself.

State rhetoric is also an important part of determining if a norm has changed. Vincent Charles Keating did a comprehensive study in 2013 of state rhetoric surrounding US violation. Although he notes that states, particularly European ones, did not push back immediately on US activity, the pushback increased as the years continued and was quite strong by 2006.<sup>142</sup> In his empirical work, he shows that supportive reactions to Bush Administration conduct from the international community decreased from around 23% in 2001-2003 to around 6% in 2006-2008. He concludes that there is ultimately no evidence of reverse norm cascade. The change in this level of approval demonstrates a lack of longevity in these changes and therefore rejects a possible legal norm change. Although most states were unsupportive of US conduct throughout the War on Terror, even those that initially supported it largely changed their minds. Thus, state rhetoric demonstrates a negative reaction to the attempt and norm revision by the United States.

Much of the previous discussion has been focused on the antitorture norm. To connect this argument back to the other physical integrity rights, Morton Winston provides a review of Bush

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<sup>140</sup> Sandholtz, Wayne. “Norm Contestation, Robustness, and Replacement.” *Journal of Global Security Studies* 4, no. 1 (2019): 139–46. <https://doi.org/10.1093/jogss/ogy042>.

<sup>141</sup> Ibid 139.

<sup>142</sup> Keating, Vincent Charles. “Contesting the International Illegitimacy of Torture: The Bush Administration's Failure to Legitimate Its Preferences within International Society.” *The British Journal of Politics and International Relations* 16, no. 1 (2013): 1–27. <https://doi.org/10.1111/1467-856x.12024>.

Administration policies at large, and addresses all physical integrity rights. He refers to global public opinion polls to argue that the world has rejected the policies of the Bush Administration.<sup>143</sup> He also refers to the study done on the 60<sup>th</sup> anniversary of the UDHR, which demonstrates a global respect for these rights. Finally, he reaffirms the robustness of these norms internationally throughout the War on Terror. Anja Mihr provides a comprehensive review of the European reaction to US violation and rhetoric.<sup>144</sup> Through an analysis of European policies before and after 9/11, she concludes that Europe did not experience a change in the content or structure of their human rights regime. Thus, the legal norms remain intact. A variety of evidence, as well as the breadth of literature available on this important question, leads us to conclude that the United States did not change legal physical integrity norms during the War on Terror. Each of the factors that demonstrate and constitute norm change have been considered and provide very compelling argument that the US failed to change these legal norms.

A counterargument to the US' failure is presented in a study done by Benedikt Goderis and Mila Versteeg and described in their paper, "Human Rights Violations after 9/11 and the Role of Constitutional Constraints."<sup>145</sup> Although the paper is interested in the effects of independent judicial review on a state's ability to commit human rights violations, they first look to prove that there was an increase in human rights violations worldwide as a result of US conduct during the

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<sup>143</sup> Winston, Morton. "Why Human Rights Will Prevail in the War on Terror." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

<sup>144</sup> Mihr, Anja. "Europe's Human Rights Regime after 9/11: Human Rights versus Terrorism." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 131–149. New York, NY: Palgrave Macmillan, 2014.

<sup>145</sup> Goderis, Benedikt, and Mila Versteeg. "Human Rights Violations after 9/11 and the Role of Constitutional Constraints." *The Journal of Legal Studies* 41, no. 1 (2012): 131–64. <https://doi.org/10.1086/663766>.

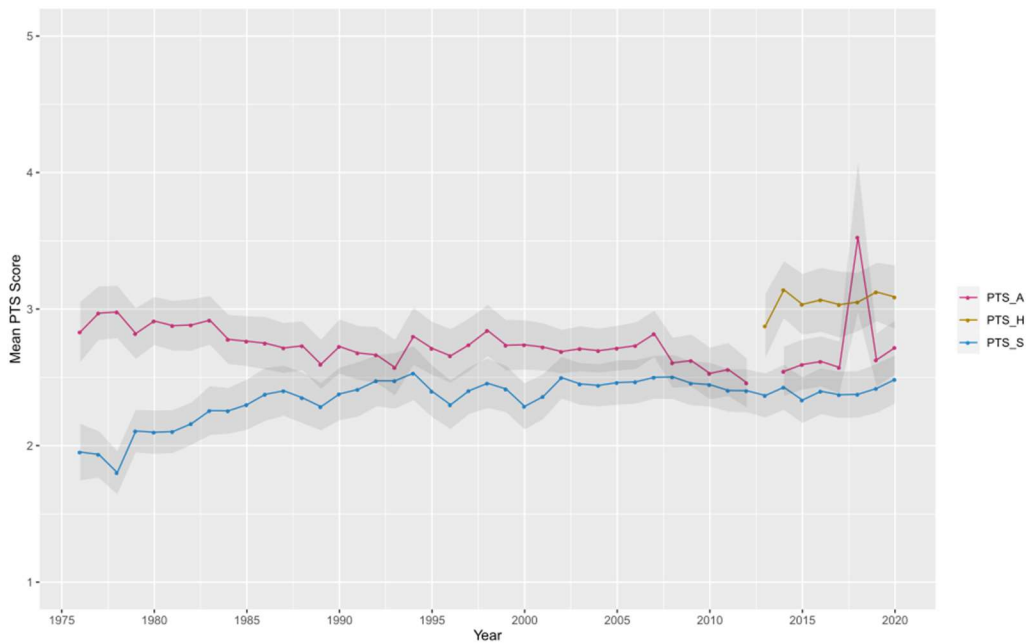


War on Terror. This paper is not the only one to provide such a counterargument, but I feel they argue it most comprehensively. While I recognize that Goderis and Versteeg are not arguing that there has been a change in norms specifically, they are arguing that there has been a significant increase in the average PTS score as a result of the War on Terror, this is an important argument to address given the level that state behavior indicates norm perceptions.

Goderis and Versteeg use the Political Terror Scale and the CIRI Human Rights Data set to argue that international physical integrity norms changed as a result of the War on Terror. They do an in-depth statistical analysis of this data in order to conclude that overall violations increased, although in countries with independent judicial review courts were able to prevent these violations. Through this statistical analysis, they find that the increase in violations is statistically significant.

To this, I primarily argue that although they may have found evidence of a slight increase in violations in the PTS dataset, this is only indicative of slight changes in state practice, and it is ultimately not indicative of legal norm change. Statistical significance only notes that this change, whether small or large, is unlikely to have occurred by chance. Thus, it provides no indication as to the scale or size of the change. Additionally, they note that a high percentage of countries have experienced a change in their PTS and physical integrity scores after 9/11. However, this score change can be either positive or negative, and therefore is not at all indicative of the number of states that experienced a deterioration in human rights. To show this deterioration, a graph is provided that shows the pters score, a part of the PTS score that indicates the level of human rights violations committed, for US allies and non-allies from 1981-2006. However, this graph can be misleading. It is zoomed in more closely on the scores and the whole y axis of the graph only encompasses PTS scores 1-3. As a result, the fluctuations in the average score of US allies appear to be more severe, when in reality the biggest fluctuation is by around .3 points. I am not attempting

to deny that there is an increase in the average PTS score of US allies, albeit a small one, between 2000 and 2002. Nonetheless, this small change does not demonstrate the longevity necessary to denote a change in legal norms. Additionally, looking at this increase in context provides a better understanding of the true situation. Figure 6 shows the average global PTS score, according to each of the 3 data sources, from 1976-2021. Although there are fluctuations from year to year, the overall global trend from 2000 to 2010 remains relatively even across the data sources. By examining the average global PTS score in a broader context and comparing it with the CIRI data reviewed above, there is simply not a large nor consistent enough change in overall state behavior and respect for human rights to indicate that the US was successful in changing legal physical integrity norms during the War on Terror.



**Figure 6: Political Terror Scale Global Average, 1975-2020**

Additionally, it is also relevant to discuss the study done in 2018 by Averell Schmidt and Kathryn Sikkink on the effects of the CIA’s Rendition, Detention, and Interrogation Program

(RDI) on respect for physical integrity rights as shown in the CIRI dataset.<sup>146</sup> There were about 40 states that were active participants in the program and colluded with the CIA. Schmidt and Sikkink isolated those states and observed human rights trends within that group. Ultimately, they found that more democratic states in that group maintained consistent respect for human rights, while less democratic states experienced a decline in respect for those rights.<sup>147</sup> Although this certainly demonstrates that the United States RDI program had an impact on practices in less democratic countries, it is not enough to constitute a legal norm change as defined in this context. The group of nations that both participated in RDI and were considered a non-democracy by the study consists of only 28 nations. This small group may have experienced a level of change, but it is not widespread enough to constitute a legal norm change. Even the study concludes that there is no evident global change in respect for physical integrity rights.<sup>148</sup> Thus, given that state action is only one of the indicators of norm change and that this group is only a small portion of all of the states involved in the international human rights regime, this is not convincing evidence that a legal norm change occurred.

Clearly the War on Terror has had significant normative repercussions. An example of this is the passage of the Overseas Operation Bill by the UK Parliament in 2021. The bill essentially establishes a presumption against the prosecution of members of the armed forces for certain

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<sup>146</sup> Schmidt, Averell, and Kathryn Sikkink. “Partners in Crime: An Empirical Evaluation of the CIA Rendition, Detention, and Interrogation Program.” *Perspectives on Politics* 16, no. 4 (2018): 1014–33. <https://doi.org/10.1017/s1537592717004224>.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

offenses, torture included.<sup>149</sup> This reduces accountability for those that committed acts of torture in certain circumstances, and although it doesn't legalize it by any means, it decriminalizes these actions for specific people. The Israeli Supreme Court made a similar decision in 2018 in regard to a supposed terrorist who suffered "pressure techniques" in custody. The court excused those involved from a criminal investigation, once again reducing accountability.<sup>150</sup> In the case of torture committed in the name of counterterrorism, not many perpetrators are prosecuted or held accountable,<sup>151</sup> though this is not to say it has been legalized. When knowledge of a state's violation of the norm is made public, it is condemned.<sup>152</sup> Michelle Farrell goes into detail of violations that occurred as a result of the War on Terror in her book, *The Prohibition of Torture in Exceptional Circumstances*, but she ultimately concludes that none of these practices have "altered the legal landscape of the norm."<sup>153</sup> States, although practicing torture like they always have, are still engaging with the performative practice and rhetoric in regard to preserving the prohibition of torture by condemning it publicly. This is indicative that the legal norm has not changed. Given

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<sup>149</sup> Farrell, Michelle. "Legalising Torture." Tribune, February 8, 2021. <https://tribunemag.co.uk/2021/02/legalising-torture>.

<sup>150</sup> "UN Expert Alarmed at Israeli Supreme Court's 'License to Torture' Ruling." OHCHR, February 20, 2018. <https://www.ohchr.org/en/press-releases/2018/02/un-expert-alarmed-israeli-supreme-courts-license-torture-ruling>.

<sup>151</sup> Kahn, Paul W.. *Sacred Violence : Torture, Terror, and Sovereignty*. Ann Arbor: University of Michigan Press, 2008. Accessed April 9, 2023. ProQuest Ebook Central.

<sup>152</sup> Kahn, Paul W.. *Sacred Violence : Torture, Terror, and Sovereignty*. Ann Arbor: University of Michigan Press, 2008. Accessed April 9, 2023. ProQuest Ebook Central.

<sup>153</sup> Farrell, Michelle. *The Prohibition of Torture in Exceptional Circumstances*. New York: Cambridge University Press, 2013. Accessed April 9, 2023. ProQuest Ebook Central. (11)

all of these examples and subtle shifts, the legal norm regarding the prohibition of torture remains intact as the international community has not legalized any exceptions.

Through a review of state behavior, rhetoric and perception regarding international legal norms concerning physical integrity rights, it is evident that the legal norms were not changed and remain intact. Both the quantitative and qualitative evidence support this. Possible explanations as to why the US, with hegemonic power, struggled to revise the legal norms in this context are provided in Chapter 5.

#### **4.4 Conclusion**

The international human rights regime has developed into a system with a variety of institutions and sources of law, partially aided by the role the United States played in its formation. As a result of this role and its status as a hegemon, one might expect that the US would retain a higher level of influence and be able to change norms within the regime. The US attempted to exercise this power as a norm revisionist during the War on Terror, specifically regarding legal physical integrity norms. After an analysis of the attempt itself and the reaction of the international community to this attempt, we find that the US was unable to change legal physical integrity norms to support its counterterrorism policy during the War on Terror. The possible reasons for this failure are discussed in the following chapter and implications for this failure on hegemonic power, the stability of the human rights regime, and the status of the US as a hegemon are discussed in Chapter 6.

## **5.0 Possible Explanations for US Failure**

It has now been established that the US was unable to change legal physical integrity norms during the War on Terror. What is the reason for this failure? As with most foreign policy situations, there is no one reason for this phenomenon and I argue that it is a result of a combination of multiple factors. These factors include the privatization of human rights oversight mechanisms, limited US participation in the international human rights regime, the double standards of US domestic and international conduct, US belief in the sufficiency of domestic rights protections, and regional human rights regimes. It is likely that each of these elements impacted the United States' ability to affect legal physical integrity norms. At the end of this chapter, I propose the counterargument of US methodological failure in attempted norm revisionism.

### **5.1 Privatization of Oversight Mechanisms**

Human rights NGOs, such as Amnesty International and Human Rights Watch, provide another accountability mechanism to the international human rights regime. As the international human rights regime has evolved, these organizations have developed different types of mechanisms, such as yearly reports, to pursue their missions of human rights advocacy and action. Through the publication of research about violations and providing information about the current state of human rights, these organizations can take on a whistleblower or watchdog role for human rights. These third-party watchdog organizations make the human rights regime more resistant to change, and therefore are a factor in US failure to change legal physical integrity norms.

It is important to note that, as discussed previously, the United Nations has mechanisms that it uses to enforce and monitor human rights law, including the Human Rights Council, treaty bodies, and the OHCHR. However, the OHCHR and the HRC were not formed until 1993 and 2006, respectively, meaning that these mechanisms are even newer than the NGOs themselves. Although these are enforcement and oversight mechanisms, the OHCHR and HRC are part of the UN itself. The treaty bodies are made up of independent experts but receive support from Human Rights Treaties Division of OHCHR in Geneva.<sup>154</sup> Given the scale of US power and influence within the UN discussed in Chapter 2, it would be expected that the US might be able to avoid oversight mechanisms within the UN structure more effectively and commit violations more quietly. However, independent and private oversight and enforcement mechanisms provide a different level of accountability, like those found in NGOs such as Human Rights Watch and Amnesty International and make it more difficult for states to control the narrative of their violations. This presents a challenge to a norm revisionist state as it attempts to convince others of its proposed change, even for states that possess hegemonic power.

Amnesty International was founded in 1961, but has evolved over the years of its existence, as has the human rights regime itself. It did, however, gain popularity quite quickly. It started with Peter Benenson gathering a smaller group of intellectuals and lawyers that were interested in protecting prisoners' rights. In 1961, they put out a public call for support and received a lot of interest from a variety of people and groups both in Britain and abroad. By 1962, they had already held two international conferences and adopted the name "Amnesty International". As Tom

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<sup>154</sup> Publication. *The United Nations Human Rights Treaty System*. OHCHR, 2012. <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet30Rev1.pdf>.

Buchanan writes in his paper on the making of Amnesty International, “Thus, within barely two years, one of the largest and most successful voluntary campaigning organizations of the postwar era had been conceived, born and had grown to a degree of institutional maturity.”<sup>155</sup> The influence of Amnesty International quickly became known, given its role in combatting torture in Northern Ireland during the Troubles of the 1970s. In her paper, “Between the National and the Global: Amnesty International’s Fight Against Torture in Northern Ireland, 1971-1975”, Maren Rogstad gives a comprehensive overview of Amnesty’s involvement and essential role. At first, there was some internal conflict over whether to become involved in Northern Ireland. This was largely due to the idea that Amnesty International was able to establish authority was also largely based on the idea of it being impartial and apolitical.<sup>156</sup> However, in November 1971, Amnesty began to investigate the conduct of the British government, specifically under “Operation Demetrius”. As a result of this investigation, they published the “Report of an enquiry into allegations of ill-treatment in Northern Ireland” in 1972. Amnesty also utilized the European Human Rights system to fight against tactics being used by British soldiers and published another report in response to that of the Parker Committee.<sup>157</sup>

Beyond Northern Ireland, Amnesty International has become an integral part of the structure of international human rights. Their yearly reports on global human rights violations are used in both the Political Terror Scale and the CIRI Human Rights data set. They have also been

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<sup>155</sup> Buchanan, Tom. “‘The Truth Will Set You Free’: The Making of Amnesty International.” *Journal of Contemporary History* 37, no. 4 (2002): 576. <http://www.jstor.org/stable/3180761>.

<sup>156</sup> Rogstad, Maren. “Between The National and the Global: Amnesty International's Fight Against Torture in Northern Ireland, 1971-1975,” 2021.

<sup>157</sup> Ibid.



actively campaigning against torture since 1972 and began to publish yearly reports on torture around the same year.<sup>158</sup> In her paper on emancipation, Ruth Blakely reviews US violations during the War on Terror as well as the international response to said violations. She notes that international human rights organizations “made a substantial contribution to these changes in US foreign policy in the latter year of the Bush administration, culminating in Obama’s reforms on entering office”.<sup>159</sup> This is supported by a study done by Ramesh Thakur in the *Journal of Peace Research*, where he analyzes the effectiveness of the UN and Amnesty International on norm generation, monitoring and conflict. He concludes that because “the relationship between governments and human rights organizations is necessarily adversarial,”<sup>160</sup> NGOs, such as Amnesty International, are better suited to monitor human rights abuses and state compliance with international law. This demonstrates the power of private oversight mechanisms. By conducting third-party investigations into human rights violations and publishing public yearly reports, it is much harder for states, and even hegemons, to spin their violation into a norm revision that other states will support.

As another example, the Human Rights Watch (HRW) was founded in 1978. It was originally known as the Helsinki Watch, as its primary purpose was to investigate state compliance with the Helsinki Accords.<sup>161</sup> Throughout the 1980s, its ‘watches’ expanded to other continents

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<sup>158</sup> Ibid.

<sup>159</sup> Blakely, Ruth. “Human Rights, State Wrongs, and Social Change: The Theory and Practice of Emancipation.” *Review of International Studies* 39, no. 3 (2013): 615. <http://www.jstor.org/stable/24564326>.

<sup>160</sup> Thakur, Ramesh. “Human Rights: Amnesty International and the United Nations.” *Journal of Peace Research* 31, no. 2 (1994): 157. <https://doi.org/10.1177/0022343394031002003>.

<sup>161</sup> “About Us.” Human Rights Watch, February 7, 2023. <https://www.hrw.org/about/about-us>.

and in 1988, they all combined under one name, ‘Human Rights Watch’. Since then, they have played a similar role to Amnesty International. HRW also systematically investigates human rights violations and state conduct as well as publishing annual reports on state compliance. These reports have been added as data to the PTS and CIRI Human Rights data set.

As mentioned previously, the work done by human rights NGOs, such as Amnesty International and Human Rights Watch helps to make the human rights regime more resistant to state power and by extension, hegemons. The effect of this resistance manifests itself in the rhetorical measure of norm change. When the details of US violations were published, many states stopped supporting the Bush Administration and their counterterrorism policies.<sup>162</sup> Thus, media publication can lead directly to international disapproval, which allows the international human rights regime to be more resistant to change and even hegemonic power. Private oversight mechanisms, such as Amnesty International and Human Rights Watch, are the vessels for this information and publication. The privatization of human rights monitoring, where NGOs document and publicize state violations, has strengthened the human rights regime overall, and likely played a role in preventing the United States from changing legal physical integrity norms during the War on Terror.<sup>163</sup>

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<sup>162</sup> Keating, Vincent Charles. “Contesting the International Illegitimacy of Torture: The Bush Administration's Failure to Legitimize Its Preferences within International Society.” *The British Journal of Politics and International Relations* 16, no. 1 (2013): 1–27. <https://doi.org/10.1111/1467-856x.12024>.

<sup>163</sup> Winston, Morton. “Why Human Rights Will Prevail in the War on Terror.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

## 5.2 Limited Participation in the International Human Rights Regime

Although the United States has been vocal about its support for human rights and expectations for the compliance of the international community, the US is still quite limited in its participation in the international human rights regime, specifically in terms of treaty ratification and the International Criminal Court (ICC). The reason for this limited participation, as hypothesized by some scholars, is that the US believes its own constitutional human rights protections to be sufficient and therefore does not need international law to enforce human rights domestically.<sup>164</sup> I discuss this idea further as a separate factor to US failure in Chapter 5.4. Nevertheless, limited participation in the human rights regime made the US a less effective norm revisionist and ultimately unsuccessful. By separating and isolating itself from specific institutions, the US created a gap in influence that even hegemonic power could not bridge or mend.

Prior to 1989, the US had ratified very few human rights treaties, only including the Geneva Conventions, the Slavery Convention, and the Genocide Convention.<sup>165</sup> In the 1990s, the US ratified three more major treaties, including the Convention Against Torture, the Convention on the Elimination of Racial Discrimination (CERD), and the ICCPR. The US has signed a few other

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<sup>164</sup> Mayerfield, Jamie. “The High Price of American Exceptionalism: Comparing Torture by the United States and Europe After 9/11.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 107–130. New York, NY: Palgrave Macmillan, 2014.

<sup>165</sup> Goodhart, Michael. “Reverting to Form: American Exceptionalism and International Human Rights.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 65–85. New York, NY: Palgrave Macmillan, 2014.

treaties, including CRC, CPRD, CESC, and CEDAW, but has not yet ratified them.<sup>166</sup> This is an important distinction, as ratification indicates consent to be bound by the treaty and implement its terms, while signing indicates a much vaguer commitment and does not require implementation. In many cases, the US is one of very few states that has not ratified a particular treaty. For example, the United States and Somalia are the only two states that have not ratified the Convention on the Rights of the Child (CRC), the most widely and rapidly ratified human rights treaty in history.<sup>167</sup> Human Rights Watch also notes that many of the conventions and treaties that remain unratified by the US protect some of the most vulnerable populations and involve values clearly consistent with US practice.<sup>168</sup> The unwillingness of the US to ratify some of the most popular and important treaties in the international human rights regime demonstrates its limited participation in the regime.

Even when the United States does ratify a human rights treaty, it often does so with a large number of reservations. Thus, the impact and standards of treaty implementation are not the same for the US as they are for other states that have ratified the treaty or convention. Treaty reservations are certainly not uncommon, and the US is not the only state that utilizes them in the human rights

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<sup>166</sup> “Where the United States Stands on 10 International Human Rights Treaties.” The Leadership Conference Education Fund, January 30, 2019. <https://civilrights.org/edfund/resource/where-the-united-states-stands-on-10-international-human-rights-treaties/>.

<sup>167</sup> “United States Ratification of International Human Rights Treaties.” Human Rights Watch, October 28, 2020. <https://www.hrw.org/news/2009/07/24/united-states-ratification-international-human-rights-treaties>.

<sup>168</sup> Ibid.

regime.<sup>169</sup> However, the US has used treaty reservations so consistently and to such a large extent<sup>170</sup> that there is now discourse that the US has simply negated the effects of the treaty by attaching so many reservations. For example, when ratifying the ICCPR, a convention with nearly unanimous support globally,<sup>171</sup> the US still attached 5 reservations, including one to article 7, which prohibits torture. As one specific example of a larger pattern, this clearly demonstrates the lack of the commitment from the United States of being involved in the international human rights regime (which I argue in Chapter 5.4 is due to a belief in the sufficiency in their own constitutional protections, rather than a lack of commitment to human rights). The US remains an outlier amongst other states with the number of treaty reservations it imposes.<sup>172</sup>

Additionally, the US is not party to the Rome Statute, which forms the International Criminal Court. Although the ICC does not strictly deal with human rights law, its decisions contribute to international law at large. Its decisions, and lack of US support for the court, are relevant to US participation in the international human rights regime because the ICC prosecutes war crimes among other human rights violations. The court's power is based on state cooperation,

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<sup>169</sup> Hill, Daniel W. "Avoiding Obligation: Reservations to Human Rights Treaties." *The Journal of Conflict Resolution* 60, no. 6 (2016): 1129–58. <http://www.jstor.org/stable/24755941>.

<sup>170</sup> "Treaty Ratification." American Civil Liberties Union, February 15, 2022. <https://www.aclu.org/issues/human-rights/treaty-ratification>.

<sup>171</sup> Ash, Kristina. "U.S. Reservations to the International Covenant on Civil and Political Rights: Credibility Maximization and Global Influence." *Northwestern Journal of International Human Rights* 3, no. 1 (2005).

<sup>172</sup> Redgwell, Catherine. "US Reservations to Human Rights Treaties: All for One and None for All?" *United States Hegemony and the Foundations of International Law*, 2003, 392–415. <https://doi.org/10.1017/cbo9780511494154.016>.

as the court does not have its own police force. Since the US is not party to the statute, it sends a clear message that it will not cooperate with the court, nor assist in bringing its citizens to trial there. The Bush Administration led a particularly strong campaign against the ICC directly after its creation in 1998. It cited its reasoning as a fear of politically motivated attacks against US citizens and military personnel, although there are safeguards to prevent against this written into the statute.<sup>173</sup> The Bush Administration also tried to push many states into signing bilateral agreements where states agreed not to surrender US citizens to the ICC.<sup>174</sup> Although some states may have had reservations about this treaty, the US was one of only seven states to vote against the Rome Statute, along with Qatar, Yemen, Iraq, Israel, Libya, and China.<sup>175</sup> There are 123 states party to the statute currently and that comply with the ICC, including many US allies.<sup>176</sup> Ultimately, US pushback against the ICC and refusal to cooperate demonstrates a limited participation in a regime that it pushes other states to comply with and respect.

In terms of norm revisionism, states often need to lead by example and have some influence over institutions or other states. In terms of the human rights regime, other states may be unwilling to listen to a state that is not an active participant in many human rights institutions, on an issue that concerns human rights. After all, why should states support a proposed norm revision from a state that appears to be only partially committed to and involved in the international system in

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<sup>173</sup> “HRW World Report 2003: International Justice - Human Rights Watch.” Human Rights Watch, 2003. <https://www.hrw.org/legacy/wr2k3/pdf/justice.pdf>.

<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

<sup>176</sup> “The States Parties to the Rome Statute.” International Criminal Court. Accessed February 13, 2023. <https://asp.icc-cpi.int/states-parties>.

which it proposes said change? The lack of ratification or a signature also excludes the US from discussions related to the convention or treaty by states who are party to it. Additional and/or optional protocols, as well as revision of certain provisions are obviously most frequently discussed by states who implement the treaty, or those who have ratified it. Thus, although the US may not be altogether excluded from these discussions, it certainly has less influence within them and the norms that result. I will note here that this lack of influence also comes from the double standard that the US created as a promoter of human rights abroad but a violator of human rights at home,<sup>177</sup> though I discuss this more in the following section.

Nonetheless, although the US maintains a large amount of influence over the international system at large, as a part of its role as hegemon, it has lost influence and credibility in the international human rights regime by failing to be adequately involved. Influence and power, as I discussed in Chapter 2.3, is largely proven and maintained by involvement of the institutions in which a state looks to maintain dominance, especially in the international system. There is still a large body of human rights law that exists and is respected, even without US involvement or ratification and this body of law continues to grow as states continue to develop new protocols, conventions, and treaties. For example, although the US has not ratified the additional protocols of the Geneva Conventions, they have been recognized as customary international law since 1986.<sup>178</sup> Thus, the regime is capable of functioning without heavy US participation and does not need to look to the US to approve or support its policies. Ultimately, when the US tried to promote

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<sup>177</sup> Winston, Morton. "Why Human Rights Will Prevail in the War on Terror." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

<sup>178</sup> Mayerfield, Jamie. *Promise of Human Rights: Constitutional Government, Democratic Legitimacy, and International Law*. University of Pennsylvania Press, 2019.

its redefinition of torture and its exception for terrorist suspects, it failed to garner support from other states because it had not been consistently involved and in compliance with the international human rights regime. The effects of this lack of credibility on the US revisionist attempt are evident through state behavior, as states are less likely to side with a norm revisionist that lacks credibility, and also state rhetoric, as states have criticized the US for its lack of involvement and leadership in the human rights regime.

### **5.3 Double Standards of Domestic and International Conduct**

The United States has been seen as a large part of the development and enforcement of human rights law, although it often fails to apply those same laws to itself.<sup>179</sup> This double standard existed before the War on Terror, although that is certainly a prominent example of this phenomenon. The duality of being a self-proclaimed human rights protector and promoter along with turning a blind eye to the violation of allies has long characterized US foreign policy. However, the double standard promoted by the United States has caused the US to lose credibility within the international human rights regime. This loss of credibility helped to make its attempt at norm revisionism during the War on Terror unsuccessful.

As noted above, the double standard is a pattern in US politics and policy, even before the War on Terror. As one example, the US has provided large amounts of support for Israel and

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<sup>179</sup> Goldsmith, Jack L. "International Human Rights Law and the United States Double Standard," 1 *Green Bag* 365 (1998).



Turkey even though they have a long record of human rights violations,<sup>180</sup> whilst it consistently “urges the nations of the world to embrace international human rights standards” and will use military or economic leverage to force compliance.<sup>181</sup> Specifically, the US ratification of the ICCPR with a large number of reservations has caused critics to accuse the US of insulating its domestic legal order from outside influence and of having an isolationist superiority complex.<sup>182</sup> In May of 2000, the US was voted off of the UN Human Rights Commission as a result of international frustration with the US’ “obstructionist approach to international institutionalism.”<sup>183</sup> Furthermore, in May 2001, Amnesty International declared that the US was no longer the world’s human rights leader.<sup>184</sup> During the War on Terror specifically, the US claimed that its actions remained within the bounds of the human rights regime. However, it is evident that the US committed human rights violations (as argued previously) and attempted to justify them through plausible legality.<sup>185</sup> Thus, the double standard remained. The US often uses human rights and

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<sup>180</sup> Turner, Scott. “The Dilemma of Double Standards in U.S. Human Rights Policy.” *Peace & Change: A Journal of Peace Research* 28, no. 4 (2003): 524–54. <https://doi.org/10.1111/1468-0130.00274>.

<sup>181</sup> Goldsmith, Jack L. “International Human Rights Law and the United States Double Standard,” 1 *Green Bag* 365 (1998) 366.

<sup>182</sup> Redgwell, Catherine. “US Reservations to Human Rights Treaties: All for One and None for All?” *United States Hegemony and the Foundations of International Law*, 2003, 392–415. <https://doi.org/10.1017/cbo9780511494154.016>.

<sup>183</sup> Turner, Scott. “The Dilemma of Double Standards in U.S. Human Rights Policy.” *Peace & Change: A Journal of Peace Research* 28, no. 4 (2003): 524. <https://doi.org/10.1111/1468-0130.00274>.

<sup>184</sup> Ibid.

<sup>185</sup> Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.

democracy as a justification for its foreign policy actions, which is often a cover for another motive or a secondary objective.<sup>186</sup> This has caused many other states to lose faith in the US as a promoter of human rights and to stop believing that the US holds human rights as a policy goal.<sup>187</sup>

This lack of trust and credibility that resulted from the double standard ultimately caused the US to lose influence within the human rights sphere.<sup>188</sup> As argued in the previous section, the international human rights regime functions without US involvement, even though the US was a large part of its formation.<sup>189</sup> Although this loss of credibility is not without a possibility for reversal, as many scholars have proposed solutions for this phenomenon, the loss is still evident and impactful. One way that this manifested itself was through the US failure at legal norm revision during the War on Terror, and as mentioned previously, the effects of the credibility issue are evident through an evaluation of state behavior and rhetoric. The US was no longer credible or trusted as a leader in human rights and so states were not eager to side with them on their proposed changes to legal norms. Although the US maintained hegemonic power, it is clear that this power, and the tools that come along with it, were not enough to bridge the gap in credibility and trust. The double standard promoted and utilized by the United States for many years is a large reason for this result.

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<sup>186</sup> Winston, Morton. "Why Human Rights Will Prevail in the War on Terror." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Meyer, Karl E. "Enforcing Human Rights." *World Policy Journal* 16, no. 3 (1999): 45–50. <http://www.jstor.org/stable/40209644>.

## 5.4 Sufficiency of US Domestic Protections

The United States strongly believes that its own domestic laws and provisions, largely located within the Constitution, are completely sufficient in protecting human rights norms. Thus, in this view, international law is not needed in order to encourage and maintain human rights in the US. This attitude, which is part of the cause of the United States' limited participation in the human rights regime as mentioned in Chapter 5.2, has weakened US influence in the regime and is a factor in US failure to change legal physical integrity norms.

This attitude of sufficiency, the limited participation mentioned in Chapter 5.2, and the double standards discussed in Chapter 5.3 are all closely related factors. They all result in the loss of credibility and influence in the international human rights regime, which I argue is a piece of the cause of US norm change failure. I maintain the separation between these factors because, while they are all closely related and entangled, they are separate entities. Although belief in domestic protections likely is a cause of limited participation in the regime by the US, it is certainly not the only factor. Furthermore, I argue that all three of these factors result in a form loss of legitimacy and credibility in the human rights regime, which is the reason for US failure. Some might consider this to be one factor. However, I think it valuable to separate them, because these are three separate behaviors that contributed to US failure. Thus, it is important to discuss these ideas and explore their arguments separately even though there may be similar thread between the arguments.

That said, Jamie Mayerfield makes a strong case for this phenomenon, noting that the United States' belief in the sufficiency of its own protections is evident through the reservations

that the US attaches to any human rights treaty that it signs.<sup>190</sup> He argues that these reservations, which I also discuss in Chapter 5.2, reflect this belief in the sense that the US “has no need of international human rights law because its own rights protections are sufficient”.<sup>191</sup> This belief, among Americans, is largely unquestioned and is reflected in American culture and political rhetoric as well as in scholarly and legal analyses of the US and human rights.<sup>192</sup> As stated by legal scholar John Rogers, “The protective power of US human rights law is enormous. It is perhaps what we treasure most about our nation”.<sup>193</sup> These sorts of protections are found within the Constitution, general law, and judicial decisions. For example, the Eighth Amendment of the Constitution protects Americans from cruel and unusual punishment. Arguably, torture and other forms of punishment prohibited by the human rights regime fall under the category of “cruel and unusual punishment”. Thus, the US already has protection in place for these rights and does not need to ratify a human rights treaty in order to ensure this protection.

In the case of the ICCPR, the US ratified with reservations, but still maintains that its constitutional protections are sufficient. First, the US ratified the treaty with the understanding “that the Constitution and laws of the United States guarantee all persons equal protection of the

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<sup>190</sup> Mayerfield, Jamie. “The High Price of American Exceptionalism: Comparing Torture by the United States and Europe After 9/11.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 107–130. New York, NY: Palgrave Macmillan, 2014.

<sup>191</sup> Ibid 110.

<sup>192</sup> Ibid.

<sup>193</sup> Rogers, John M. *International Law and United States Law*. Aldershot, Hants, England: Ashgate/Dartmouth, 1999. 208.

law and provide extensive protections against discrimination”.<sup>194</sup> The wording of this understanding demonstrates that the US is ratifying the ICCPR even though the Constitution of the United States already guarantees this equal protection. Additionally, the US makes a reservation on the treaty that refers to the idea of “cruel and unusual punishment” discussed above. The reservation reads “That the United States considers itself bound by article 7 to the extent that ‘cruel, inhuman or degrading treatment or punishment’ means the cruel and unusual treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.”<sup>195</sup> Within some of the other reservations, the US is also sure to mention that the treaty will be applicable so long as it does not interfere with “constitutional constraints”. Through the ICCPR alone, it is evident that the US holds the Constitution as supreme law and sufficient human rights protection.

Jack Goldsmith goes so far as to argue that the core protections of international human rights law resemble the American Constitution.<sup>196</sup> He notes that this is a result of heavy US involvement in the creation of the regime. Whatever the cause, this resemblance is another factor that could lead to the US opinion that they do not need international law to ensure the protection of human rights domestically. However, the US is involved, to an extent, in international human rights law and uses it to their advantage. Jamie Mayerfield argues that the purpose of US ratification of human rights treaties is not to hold themselves accountable, but simply to encourage

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<sup>194</sup> United Nations (General Assembly). 1966. “International Covenant on Civil and Political Rights.” *Treaty Series* 999 (December): 171.

<sup>195</sup> Ibid.

<sup>196</sup> Goldsmith, Jack L. "International Human Rights Law and the United States Double Standard," 1 *Green Bag* 365 (1998).

other states to ratify these treaties.<sup>197</sup> Thus, the US can still be seemingly promoting human rights and participating in the regime, while not actually restricting themselves beyond their domestic law.

This is certainly not to argue that the US sees no purpose in the international human rights regime. As I have previously established, the US attempted to change legal physical integrity norms and saw a benefit in doing so. It does use and participate in the human rights regime, although in a limited capacity. The US acknowledges the regime's purpose in ensuring human rights protections globally, however, the US believes it is not the target audience of the regime because it has already established sufficient protections in its own laws and constitution. This attitude has led to limited participation in the regime, which has in turn led to the lack of credibility discussed in the previous section. Why should states side with a nation and change norms when said nation does not appear to apply these norms to themselves? Thus, these factors ultimately led to the US losing effectiveness as a norm revisionist and failing to change legal physical integrity norms.

### **5.5 Regional Human Rights Regimes Encourage Resistance**

Regional human rights regimes are reinforcing the international human rights regime in their own parts of the world. They have similar functions and types of institutions as the

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<sup>197</sup> Mayerfield, Jamie. "The High Price of American Exceptionalism: Comparing Torture by the United States and Europe After 9/11." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 107–130. New York, NY: Palgrave Macmillan, 2014.

international human rights regime but work within specific regions of the world. By promoting human rights among a stronger group of states and creating mechanisms that implement human rights protections, regional regimes are another way of ensuring states follow norms. Since regions are reinforcing human rights amongst themselves and holding themselves accountable, this may make the international human rights regime more resistant to change.

There are three main regional human rights regimes: the Inter-American system, the European system, and the African system. The International Justice Resource Center notes that these regional regimes engage in a number of human rights monitoring and promotion activities and that a key feature of each system is their complaints mechanism where individuals can seek justice for human rights abuses committed by state parties.<sup>198</sup> Additionally, most of the institutions in these regional regimes only hold states accountable and do not prosecute individuals. Although these regimes are not identical, they function similarly.

As an example, the European human rights regime has demonstrated, according to many scholars, that it was able to successfully reinforce human rights norms during the War on Terror. The European human rights regime boasts a number of institutions and treaties that are binding on 47 countries. This bond and mutual reinforcement of human rights has created a culture in Europe that respects human rights and aims to protect them through promotion and adherence to norms.<sup>199</sup> This is not to say that Europe has eliminated human rights violations altogether or did not assist the US in any way during the War on Terror. However, the regime ultimately proved resistant to

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<sup>198</sup> “Regional Systems.” International Justice Resource Center, November 19, 2021. <https://ijrcenter.org/regional/>.

<sup>199</sup> Mayerfield, Jamie. “The High Price of American Exceptionalism: Comparing Torture by the United States and Europe After 9/11.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 107–130. New York, NY: Palgrave Macmillan, 2014.

US efforts to change legal norms and has stricter expectations of adherence to international and regional norms than the US. Furthermore, when violations are committed within the European regime, European courts are much quicker to give redress to victims that is adequate and meaningful.<sup>200</sup> The European courts have also established that International Humanitarian Law (IHL) and international standards regarding human rights must be respected in state's response to terrorism.<sup>201</sup> They also add that "the need to eliminate the danger arising from international terror cannot alter the pre-established framework [of human rights]".<sup>202</sup> These ideas are supported by Anja Mihr in her analysis of the European human rights regime before and after 9/11. She argues that 9/11 triggered a review process among European states that ultimately strengthened the regime and did not alter its structure and function.<sup>203</sup> Although Europe has experienced terrorist attacks of its own, it continues to utilize its human rights regime to create guidelines and protections for human rights through the counterterrorism fight.<sup>204</sup>

By reinforcing and strengthening human rights norms regionally, states are less likely to side with a norm revisionist like the US looking to change them. States are demonstrating their

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<sup>200</sup> Cooper, Matthew, and David Aronfsky. "The War on Terror and International Human Rights: Does Europe Get It Right." *Denver Journal of International Law and Policy* 37, no. 4 (2008): 567–613.

<sup>201</sup> Warbrick, C. "The European Response to Terrorism in an Age of Human Rights." *European Journal of International Law* 15, no. 5 (2004): 989–1018. <https://doi.org/10.1093/ejil/15.5.989>.

<sup>202</sup> Smith, Richard. "The Margin of Appreciation and Human Rights Protection in the 'War on Terror': Have the Rules Changed before the European Court of Human Rights?," n.d., 153.

<sup>203</sup> Mihr, Anja. "Europe's Human Rights Regime after 9/11: Human Rights versus Terrorism." Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 131–149. New York, NY: Palgrave Macmillan, 2014.

<sup>204</sup> Ibid.



commitment on two different levels, both regionally and internationally, and are being held accountable on both as well. The effects of this dual accountability also manifest as a stronger system of rewards and consequences, which are an important factor in effecting norm change. Thus, it is more difficult for the US to isolate states and convince them to campaign for norm revision. Once again, this factor is likely not strong enough to be the only reason the US failed at norm revision. It is certainly evident that states are able to challenge norms in the regional sphere. Nonetheless, in the case of the War on Terror and legal physical integrity norms, the accountability inspired by these regional regimes proved a crucial factor in making the international human rights regime resistant to norm change.

## **5.6 Effectiveness of US Revisionism Tools**

It is a possibility that the US failed at changing legal norms simply because the methods of revisionism that it chose to use were ineffective. As I argue in Chapter 4, the US primarily used legal justification or plausible legality in order to justify its violation of legal physical integrity norms and to reconceptualize the application of human rights norms to suspected terrorists. It encouraged other states to collude with them and allow US troops to operate under this definition within the territories of other states. To a certain extent, some European states condoned American torture and treatment of suspects. Specific examples of this include the cases of Shaker Aamer and Ahmed Agiza where European states willingly handed them over to the US, knowing that they would likely be tortured. Additionally, American troops were able to commit these violations in CIA black sites within the borders of many different nations without major pushback. However,

the US failed to garner support for this redefinition of torture and the status of terrorist suspects as exempt from the protections offered by physical integrity rights.

The US attempt at norm change was largely based on legal justification and rhetoric. The US consistently justified their actions and was able to convince states to at least assist them in the detention of suspects. These are certainly not the only tools available to hegemony to effect international change, as noted in Chapter 2, although perhaps the US thought them the best course of action for physical integrity norms. It is worth noting that the nature of legal norms concerning physical integrity rights, specifically that most of them are *jus cogens*, may play a role in the type of tools a norm revisionist might use to change them. Too abrupt or direct of a challenge might turn states off of change, given that these norms are about respecting human dignity and preventing inhumane treatment. Simon Pratt discusses norm change of this variety in his work on the targeted killing norm in the US, given that it is closely related to the international norm in regard to assassination. He cites three major norm transformation processes: convention reorientation, which refers to the redefinition of assassination, technology revision, and network synthesis, which refers to the relationships between people in power.<sup>205</sup> Thus, there is some similarity in methods between this case and the War on Terror case. The US redefined the torture norm, developed counterterrorist technology, and there were new relationships between the Bush Administration and others in power. However, the targeted killing case was a domestic norm change and it is possible these methods do not translate well into the international norm change arena.

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<sup>205</sup> Pratt, Simon Frankel. "Norm Transformation and the Institutionalization of Targeted Killing in the US." *European Journal of International Relations* 25, no. 3 (2018): 723–47. <https://doi.org/10.1177/1354066118812178>.

Elvira Rosert argues that norm change success might also be an issue of salience, which she defines to be the amount of attention an issue is granted.<sup>206</sup> In her comparison and analysis of the emergence of the anti-napalm norm and the non-emergence of the anti-cluster munitions norm, she finds that salience matters in the outcome of norm emergence.<sup>207</sup> However, given the gravity of 9/11 and the prominence of the US in the international system, the War on Terror was certainly not low salience. On US activity itself, the Senate Intelligence Committee performed an investigation of War on Terror activities and released the CIA torture report, which detailed the methods of the CIA. This was a high-profile case that received attention from the United Nations, and individual leaders of many states, including Afghanistan, Poland, Germany, Pakistan, France, Iran, and the UK, made statements on the report. Thus, low salience was not an issue in this case.

Although I will not do a full evaluation of other possible methods here, it is possible that the redefinition approach is the issue and that it would be more effective for the US to simply attempt to change the entire legal norm or set of legal norms. This could extend to possibly the idea of *jus cogens* itself. The US also might have had more success if it had attempted to make a new treaty or international law of some form redefining torture or including the terrorist suspect exception. This might have been more effective at cementing the change and might have given the US a platform off which to bargain for support and use the tools mentioned earlier. Nonetheless, more research could be done in regard to what methods are most effective for norm revisionists at enacting norm change.

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<sup>206</sup> Rosert, Elvira. "Salience and the Emergence of International Norms: Napalm and Cluster Munitions in the Inhumane Weapons Convention." *Review of International Studies* 45, no. 1 (2018): 77–99. <https://doi.org/10.1017/s0260210518000232>.

<sup>207</sup> Ibid.

## 5.7 Conclusion

It is important to note that given that there has been only one case of hegemony in the modern era of international institution, it is difficult to compare cases of violation and norm change in order to narrow down these factors. In the fields of international relations, foreign policy, and international conduct, outcomes like these are rarely the result of one isolated factor. Additionally, it would require further research in order to determine which mechanisms mattered most and which played a larger role in the failure. Thus, I offer a combination of these five factors as an explanation for US failure to change legal physical integrity norms during the War on Terror and advise methodological considerations to be noted. The implications of this failure are discussed in the concluding chapter.

## 6.0 Conclusions and Implications

The United States' failure to change legal physical integrity norms during the War on Terror was likely a result of a combination of five factors: the privatization of human rights oversight mechanisms, limited US participation in the international human rights regime, the double standards of US domestic and international conduct, US belief in the sufficiency of domestic rights protections, and the rise of regional human rights regimes. Additionally, it is possible that the US also experienced some sort of methodological failure and that its norm revision methods were simply ineffective. As mentioned previously, it is unlikely that there is one singular cause. As for the weight of each factor, it is hard to determine which factors may have had more impact on US failure without more cases to review and compare. The US has been the only hegemon in the modern international system and there is not a large time frame or a number of potential norm change cases to review. Thus, it is difficult to generalize the conclusions of this work. However, I present some possible implications of this work and areas to further develop this research.

US failure to change legal physical integrity norms indicates that there are limits to hegemonic power. It is evident, in other areas of the international system, that the US has the power to affect state behavior and different types of international norms. This is part of the requisites for structural power and hegemony in general. The nature of hegemonic power is inherently overwhelming and disproportionate, and thus, there is an expectation that hegemons can simply

impose their will on the world, or at least do so with relative ease.<sup>208</sup> However, in this example, that is not the case. Although we might expect the US to be able to change these legal norms due to their status as a hegemon, they are ultimately unsuccessful. Although the US may have been able to achieve legal norm change if it had used more effective tools and was more involved in the international human rights regime, it is also possible that hegemonic power simply would not have been enough to effect norm change in this arena.

Thus, it is established that US failure to change legal physical integrity norms during the War on Terror indicates a limit of hegemonic power. This then leads to the question: why does this limit exist? I have argued that limited US participation in the international human rights regime is one of the explanations that led to failure to change legal physical integrity norms. However, in other international regimes, US involvement does not seem to strongly affect its ability to manipulate norms. As an example, the US has limited involvement in the international environmental protection regime. For instance, it failed to ratify the Kyoto Protocol<sup>209</sup> and is one of the biggest polluters globally. However, it still maintains a large level of influence and a leadership position within the regime. In his study on the US and international environmental policy, Glen Sussman discovers that “when the USA provides leadership, it bolsters multilateral efforts to address global environmental problems. When it fails to offer leadership, it weakens that

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<sup>208</sup> Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press, 1984.

<sup>209</sup> “Marking the Kyoto Protocol's 25th Anniversary.” United Nations. United Nations. Accessed March 3, 2023. <https://www.un.org/en/climatechange/marking-kyoto-protocol%E2%80%99s-25th-anniversary>.

effort”.<sup>210</sup> Furthermore, even after limited commitment to the Kyoto Protocol and climate change prevention more generally, the US still maintained authority over the Paris Climate Accords. Its domestic politics created significant constraints within the agreement<sup>211</sup> and played a large role in dictating the content. Thus, in this regime, the US is able to maintain hegemonic influence without a high level of involvement. Since this is possible, why did the US fail in the case of the War on Terror?

The reason for a limit on hegemonic power in this case could be distinctly related to the nature of the legal norms of which the US tried to change. It is possible that this limit on hegemonic power is created by an international human rights regime that functions as an exception in the international system. The human rights regime is based on the inalienability of human rights<sup>212</sup> which creates a unique status for its norms and implies that they should be more difficult to change. Although international law is shaped by state behavior and it is expected that hegemons are able to influence state behavior, in this case it seems that states were resistant to this influence and maintained respect for human rights. Thus, US failure to change legal physical integrity norms may indicate a strong international human rights regime, at least in areas of law considered to be *jus cogens*, or that the regime holds an exceptional quality in the international arena. This possible exceptional quality makes it resistant to hegemonic power and imposes a limit on hegemons. The

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<sup>210</sup> Sussman, Glen. “The USA and Global Environmental Policy: Domestic Constraints on Effective Leadership.” *International Political Science Review / Revue Internationale de Science Politique* 25, no. 4 (2004): 349. <http://www.jstor.org/stable/1601604>.

<sup>211</sup> Milkoreit, Manjana. “The Paris Agreement on Climate Change—Made in USA?” *Perspectives on Politics* 17, no. 4 (2019), 1019–37. doi:10.1017/S1537592719000951.

<sup>212</sup> United Nations. 1948. *Universal Declaration of Human Rights*.

idea of an exceptional quality to the international human rights regime is a possibility that, through my research, I have found to be quite convincing and should certainly be explored further in future research.

As other cases develop, it is certainly beneficial to study this phenomenon more thoroughly. Through understanding the failure of the US attempt at legal norm change in the realm of international human rights, and possible future norm change cases with hegemons, we can better understand global respect for human rights, the strength and conditions of the international human rights regime, and the limits of hegemonic power in the modern international system.



## Bibliography

- “About Us.” Human Rights Watch, February 7, 2023. <https://www.hrw.org/about/about-us>.
- Amiri, Ali. “Development of International Human Rights Regime: An Overview.” *AALCO Journal of International Law* 2, no. 1 (June 1, 2013). [https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2385447](https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2385447).
- Ash, Kristina. “U.S. Reservations to the International Covenant on Civil and Political Rights: Credibility Maximization and Global Influence.” *Northwestern Journal of International Human Rights* 3, no. 1 (2005).
- Bankowski, Zenon. “Norms, Legal.” *Routledge Encyclopedia of Philosophy*, 1998. <https://doi.org/10.4324/9780415249126-t021-1>.
- Bates, Thomas R. “Gramsci and the Theory of Hegemony.” *Journal of the History of Ideas* 36, no. 2 (1975): 351–66. <https://doi.org/10.2307/2708933>.
- Baxi, Upendra. “The War on Terror and the War of Terror: Nomadic Multitudes, Aggressive Incumbents, and the New International Law - Prefatory Remarks on Two Wars.” *Osgoode Hall Law Journal* 43.1/2 (2005) : 7-43. <http://digitalcommons.osgoode.yorku.ca/ohlj/vol43/iss1/2>
- Birdsall, Andrea. “But We Don’t Call It ‘Torture’! Norm Contestation during the US ‘War on Terror.’” *International Politics* 53, no. 2 (2016): 176–97. <https://doi.org/10.1057/ip.2015.42>.
- Blakeley, Ruth. “Human Rights, State Wrongs, and Social Change: The Theory and Practice of Emancipation.” *Review of International Studies* 39, no. 3 (2013): 599–619. <http://www.jstor.org/stable/24564326>.
- Buchanan, Tom. “‘The Truth Will Set You Free’: The Making of Amnesty International.” *Journal of Contemporary History* 37, no. 4 (2002): 575–97. <http://www.jstor.org/stable/3180761>.
- Burke, Amy, and Abigail Okrent. “The State of US Science and Engineering 2022.” NSF. National Science Board, 2022. <https://nces.nsf.gov/pubs/nsb20221/u-s-and-global-research-and-development>.
- Cardenas, Sonia. “Norm Collision: Explaining the Effects of International Human Rights Pressure on State Behavior.” *International Studies Review* 6, no. 2 (2004): 213–31. <http://www.jstor.org/stable/3699591>.

- “Chapter 2. Attitudes toward American Culture and Ideas.” Pew Research Center's Global Attitudes Project. Pew Research Center, June 13, 2012. <https://www.pewresearch.org/global/2012/06/13/chapter-2-attitudes-toward-american-culture-and-ideas/>.
- Contreras, Isabel, and Andrea Murphy. “The Global 2000 2022.” *Forbes*. *Forbes Magazine*, 2022. <https://www.forbes.com/lists/global2000/?sh=56a824865ac0>.
- Cooper, Matthew, and David Aronfsky. “The War on Terror and International Human Rights: Does Europe Get It Right.” *Denver Journal of International Law and Policy* 37, no. 4 (2008): 567–613.
- Dickson, Brice. “The Extra-Territorial Obligations of European States Regarding Human Rights in the Context of Terrorism.” *Constitutionalism Across Borders in the Struggle Against Terrorism*, 2016, 213–32. <https://doi.org/10.4337/9781784715397.00018>.
- Diez, Thomas. “Normative Power as Hegemony.” *Cooperation and Conflict* 48, no. 2 (2013): 194–210. <http://www.jstor.org/stable/45084720>.
- “Documentation: Coding Rules.” *The Political Terror Scale*. Accessed February 12, 2023. <https://www.politicalterrorscale.org/Data/Documentation.html#PTS-Levels>.
- Donnelly, Jack. “International Human Rights: A Regime Analysis.” *International Organization* 40, no. 3 (1986): 599–642. <http://www.jstor.org/stable/2706821>.
- Donnelly, Jack. “International Human Rights Since 9/11: More Continuity Than Change.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 13–29. New York, NY: Palgrave Macmillan, 2014.
- Farrell, Michelle. “Legalising Torture.” *Tribune*, February 8, 2021. <https://tribunemag.co.uk/2021/02/legalising-torture>.
- Farrell, Michelle. *The Prohibition of Torture in Exceptional Circumstances*. New York: Cambridge University Press, 2013. Accessed April 9, 2023. ProQuest Ebook Central.
- Finnemore, Martha, and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52, no. 4 (1998): 887–917. <http://www.jstor.org/stable/2601361>.
- Foley, Frank. “The (De)Legitimation of Torture: Rhetoric, Shaming and Narrative Contestation in Two British Cases.” *European Journal of International Relations* 27, no. 1 (2020): 102–26. <https://doi.org/10.1177/1354066120950011>.
- Foot, Rosemary, and Andrew Walter. “Global Norms and Major State Behaviour: The Cases of China and the United States.” *European Journal of International Relations* 19, no. 2 (2012): 329–52. <https://doi.org/10.1177/1354066111425261>.

- “Frequently Asked Questions.” The Political Terror Scale. Accessed February 12, 2023. <https://www.politicalterrorsscale.org/About/FAQ/>.
- Gilpin, Robert. “The Theory of Hegemonic War.” *The Journal of Interdisciplinary History* 18, no. 4 (1988): 591–613. <https://doi.org/10.2307/204816>.
- Glennon, Michael. “How International Rules Die.” *Georgetown Law Journal* 93 (July 6, 2005).
- “Globalizing Torture: Cia Secret Detention and Extraordinary Rendition.” Open Society Justice Initiative, 2013. <https://www.justiceinitiative.org/publications/globalizing-torture-cia-secret-detention-and-extraordinary-rendition>.
- Goderis, Benedikt, and Mila Versteeg. “Human Rights Violations after 9/11 and the Role of Constitutional Constraints.” *The Journal of Legal Studies* 41, no. 1 (2012): 131–64. <https://doi.org/10.1086/663766>.
- Goldsmith, Jack L. “International Human Rights Law and the United States Double Standard,” 1 *Green Bag* 365 (1998).
- Goldsmith, Jack L and Eric A. Posner, “A Theory of Customary International Law,” *University of Chicago Law Review* 66, no. 4 (Fall 1999): 1113-1178.
- Goodhart, Michael. “Reverting to Form: American Exceptionalism and International Human Rights.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 65–85. New York, NY: Palgrave Macmillan, 2014.
- Hama, Hawre. “Is the United States Still a Global Hegemonic Power?” *International Journal of Social Sciences and Educational Studies* 3 (December 7, 2016).
- Hill, Daniel W. “Avoiding Obligation: Reservations to Human Rights Treaties.” *The Journal of Conflict Resolution* 60, no. 6 (2016): 1129–58. <http://www.jstor.org/stable/24755941>.
- “History.” The Political Terror Scale. Accessed February 12, 2023. <https://www.politicalterrorsscale.org/About/History/>.
- “HRC Home.” OHCHR, February 13, 2023. <https://www.ohchr.org/en/hrbodies/hrc/home>.
- “HRW World Report 2003: International Justice - Human Rights Watch.” Human Rights Watch, 2003. <https://www.hrw.org/legacy/wr2k3/pdf/justice.pdf>.
- “Human Rights Treaties.” Human Rights Commission Cayman Islands. Accessed February 12, 2023. <https://www.humanrightscmission.ky/human-rights-treaties>.
- Ikenberry, G. John, and Charles A. Kupchan. “Socialization and Hegemonic Power.” *International Organization* 44, no. 3 (1990): 283–315. <http://www.jstor.org/stable/2706778>.

- “Instruments & Mechanisms.” OHCHR. Accessed February 12, 2023.  
<https://www.ohchr.org/en/instruments-and-mechanisms>.
- Jackson, Patrick Thaddeus, and Daniel H. Nexon. “Relations Before States: Substance, Process and the Study of World Politics.” *European Journal of International Relations* 5, no. 3 (1999): 291–332. <https://doi.org/10.1177/1354066199005003002>.
- Joseph, S. “Rendering Terrorists and the Convention Against Torture.” *Human Rights Law Review* 5, no. 2 (2005): 339–46. <https://doi.org/10.1093/hrlr/ngi018>.
- Kahn, Paul W.. *Sacred Violence : Torture, Terror, and Sovereignty*. Ann Arbor: University of Michigan Press, 2008. Accessed April 9, 2023. ProQuest Ebook Central.
- Keating, Vincent Charles. “Contesting the International Illegitimacy of Torture: The Bush Administration's Failure to Legitimate Its Preferences within International Society.” *The British Journal of Politics and International Relations* 16, no. 1 (2013): 1–27.  
<https://doi.org/10.1111/1467-856x.12024>.
- Kelley, Judith. “Assessing the Complex Evolution of Norms: The Rise of International Election Monitoring.” *International Organization* 62, no. 2 (2008): 221–55.  
<http://www.jstor.org/stable/40071866>.
- Kelsen, Hans. “Legal Norms and Legal Principles: Esser's Transformation Theory.” Essay. In *General Theory of Norms*, 115–22. Clarendon Press, 1991.
- Keohane, Robert Owen. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J: Princeton University Press, 1984.
- Koh, Harold Hongju (2007) "Restoring America's Human Rights Reputation," *Cornell International Law Journal*: Vol. 40: Iss. 3, Article 2. Available at:  
<http://scholarship.law.cornell.edu/cilj/vol40/iss3/2>
- Koskeniemi, Martti. “International Law and Hegemony: A Reconfiguration.” *Cambridge Review of International Affairs* 17, no. 2 (2004): 197–218.  
<https://doi.org/10.1080/0955757042000245852>.
- Krasner, Steven D. "Structural Causes and Regime Consequences: Regimes as Intervening Variables," *International Organization* 36 (Spring 1982), p. 185
- Lake, David A. “British and American Hegemony Compared: Lessons for the Current Era of Decline.” Essay. In *International Political Economy: Perspective on Global Power and Wealth*, 4th ed., 127–39. Routledge, 1999.
- Layne, Christopher. “America as European Hegemon.” *The National Interest*, no. 72 (2003): 17–29. <http://www.jstor.org/stable/42897479>.

- “Marking the Kyoto Protocol's 25th Anniversary.” United Nations. United Nations. Accessed March 3, 2023. <https://www.un.org/en/climatechange/marking-kyoto-protocol%E2%80%99s-25th-anniversary>.
- Mayerfield, Jamie. “The High Price of American Exceptionalism: Comparing Torture by the United States and Europe After 9/11.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 107–130. New York, NY: Palgrave Macmillan, 2014.
- Mayerfield, Jamie. *Promise of Human Rights: Constitutional Government, Democratic Legitimacy, and International Law*. University of Pennsylvania Press, 2019.
- McKeown, Ryder. “Norm Regress: US Revisionism and the Slow Death of the Torture Norm.” *International Relations* 23, no. 1 (2009): 5–25. <https://doi.org/10.1177/0047117808100607>.
- “Measuring Changes in Social and Gender Norms.” Plan International, December 19, 2019. <https://plan-international.org/publications/measuring-changes-in-social-and-gender-norms/>.
- Meyer, Karl E. “Enforcing Human Rights.” *World Policy Journal* 16, no. 3 (1999): 45–50. <http://www.jstor.org/stable/40209644>.
- Mihr, Anja. “Europe’s Human Rights Regime after 9/11: Human Rights versus Terrorism.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 131–149. New York, NY: Palgrave Macmillan, 2014.
- Milkoreit, Manjana. “The Paris Agreement on Climate Change—Made in USA?” *Perspectives on Politics* 17, no 4 (2019), 1019–37. doi:10.1017/S1537592719000951.
- Nye, Joseph S. “Soft Power.” *Foreign Policy*, no. 80 (1990): 153. <https://doi.org/10.2307/1148580>.
- Pauwelyn, Joost. *Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law*. Cambridge: Cambridge University Press, 2008.
- Pratt, Simon Frankel. “Norm Transformation and the Institutionalization of Targeted Killing in the US.” *European Journal of International Relations* 25, no. 3 (2018): 723–47. <https://doi.org/10.1177/1354066118812178>.
- Pratt, Simon Frankel. “From Norms to Normative Configurations: A Pragmatist and Relational Approach to Theorizing Normativity in Ir.” *International Theory* 12, no. 1 (2019): 59–82. <https://doi.org/10.1017/s1752971919000095>.
- Publication. *The United Nations Human Rights Treaty System*. OHCHR, 2012. <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet30Rev1.pdf>.

- Redgwell, Catherine. "US Reservations to Human Rights Treaties: All for One and None for All?" *United States Hegemony and the Foundations of International Law*, 2003, 392–415. <https://doi.org/10.1017/cbo9780511494154.016>.
- "Regional Systems." International Justice Resource Center, November 19, 2021. <https://ijrcenter.org/regional/>.
- RESTATEMENT, THIRD, FOREIGN RELATIONS LAW OF THE UNITED STATES (REVISED), Section 102(2).
- Rogers, John M. *International Law and United States Law*. Aldershot, Hants, England: Ashgate/Dartmouth, 1999.
- Rogstad, Maren. "Between The National and the Global: Amnesty International's Fight Against Torture in Northern Ireland, 1971-1975," 2021.
- Rosert, Elvira. "Salience and the Emergence of International Norms: Napalm and Cluster Munitions in the Inhumane Weapons Convention." *Review of International Studies* 45, no. 1 (2018): 77–99. <https://doi.org/10.1017/s0260210518000232>.
- Salcedo, J. A. "Reflections on the Existence of a Hierarchy of Norms in International Law." *European Journal of International Law* 8, no. 4 (1997): 583–95. <https://doi.org/10.1093/oxfordjournals.ejil.a015608>.
- Sanders, Rebecca. *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror*. New York, NY: Oxford University Press, 2018.
- Sandholtz, Wayne. "Norm Contestation, Robustness, and Replacement." *Journal of Global Security Studies* 4, no. 1 (2019): 139–46. <https://doi.org/10.1093/jogss/ogy042>.
- Saul, Ben. "The Emerging International Law of Terrorism." *Indian Yearbook of International Law and Policy*, 2009, 163–92.
- Schabas, William A. *The Customary International Law of Human Rights*. United Kingdom: Oxford University Press, 2021.
- Schmidt, Averell, and Kathryn Sikkink. "Partners in Crime: An Empirical Evaluation of the CIA Rendition, Detention, and Interrogation Program." *Perspectives on Politics* 16, no. 4 (2018): 1014–33. <https://doi.org/10.1017/s1537592717004224>.
- Shin, Byungju, and Gon Namkung. "Films and Cultural Hegemony: American Hegemony 'Outside' and 'inside' the '007' Movie Series." *Asian Perspective* 32, no. 2 (2008): 115–43. <https://doi.org/10.1353/apr.2008.0025>.
- Simma, Bruno, and Philip Alston. "The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles." *The Australian Year Book of International Law Online* 12, no. 1 (1992): 82–108. <https://doi.org/10.1163/26660229-012-01-900000007>.

- Smith, Richard. “The Margin of Appreciation and Human Rights Protection in the ‘War on Terror’”: Have the Rules Changed before the European Court of Human Rights?,” n.d., 124–53.
- Snidal, Duncan. “The Limits of Hegemonic Stability Theory.” *International Organization* 39, no. 4 (1985): 579–614. <http://www.jstor.org/stable/2706716>.
- Sood, Suruchi, Sarah Stevens, Kelli Kostizak, and Maho Okumura. Rep. The ACT Framework Package: Measuring Social Norms Around Female Genital Mutilation. UNICEF, 2020. <https://www.unicef.org/media/100776/file/JP%202020%20ACT%20framework.pdf>.
- Strange, Susan. “The Persistent Myth of Lost Hegemony.” *International Organization* 41, no. 4 (1987): 551–74. <https://doi.org/10.1017/s0020818300027600>.
- Sussman, Glen. “The USA and Global Environmental Policy: Domestic Constraints on Effective Leadership.” *International Political Science Review / Revue Internationale de Science Politique* 25, no. 4 (2004): 349–69. <http://www.jstor.org/stable/1601604>.
- Thacker, Strom C. “The High Politics of IMF Lending.” *World Politics* 52, no. 1 (1999): 38–75. <http://www.jstor.org/stable/25054100>.
- Thakur, Ramesh. “Human Rights: Amnesty International and the United Nations.” *Journal of Peace Research* 31, no. 2 (1994): 143–60. <https://doi.org/10.1177/0022343394031002003>.
- “The States Parties to the Rome Statute.” International Criminal Court. Accessed February 13, 2023. <https://asp.icc-cpi.int/states-parties>.
- Thi Thuy, Hang Nguyen. “The United States: Still a Global Hegemonic Power?” *Journal of International Studies*, 2020. <https://doi.org/10.32890/jis.8.2012.7924>.
- “Treaty Ratification.” American Civil Liberties Union, February 15, 2022. <https://www.aclu.org/issues/human-rights/treaty-ratification>.
- Turner, Scott. “The Dilemma of Double Standards in U.S. Human Rights Policy.” *Peace & Change: A Journal of Peace Research* 28, no. 4 (2003): 524–54. <https://doi.org/10.1111/1468-0130.00274>.
- Tyson, Alec. “Americans Divided in Views of Use of Torture in U.S. Anti-Terror Efforts.” Pew Research Center. Pew Research Center, January 26, 2017. <https://www.pewresearch.org/fact-tank/2017/01/26/americans-divided-in-views-of-use-of-torture-in-u-s-anti-terror-efforts/>.
- “UN Expert Alarmed at Israeli Supreme Court's ‘License to Torture’ Ruling.” OHCHR, February 20, 2018. <https://www.ohchr.org/en/press-releases/2018/02/un-expert-alarmed-israeli-supreme-courts-license-torture-ruling>.

- UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, p 85.
- “United in Remembrance, Divided over Policies.” Pew Research Center - U.S. Politics & Policy. Pew Research Center, September 1, 2011. <https://www.pewresearch.org/politics/2011/09/01/united-in-remembrance-divided-over-policies/>.
- United Nations. 1948. Universal Declaration of Human Rights.
- United Nations (General Assembly). 1966. “International Covenant on Civil and Political Rights.” Treaty Series 999 (December): 171.
- United Nations International Law Commission. Report on the Work of the Seventy-First Session. A/74/10, 2019.
- “United States Ratification of International Human Rights Treaties.” Human Rights Watch, October 28, 2020. <https://www.hrw.org/news/2009/07/24/united-states-ratification-international-human-rights-treaties>.
- “Universal Declaration of Human Rights.” OHCHR. Accessed February 12, 2023. <https://www.ohchr.org/en/universal-declaration-of-human-rights>.
- U.S. Congress. Senate. Senate Select Committee on Intelligence. Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program. 113th Cong., 2d sess., 2014. S. Rep. 113– 288. <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>
- “U.S. Defense Spending Compared to Other Countries.” Peter G. Peterson Foundation, May 11, 2022. [https://www.pgpf.org/chart-archive/0053\\_defense-comparison](https://www.pgpf.org/chart-archive/0053_defense-comparison).
- U.S Department of Justice, MEMO REGARDING THE TORTURE AND MILITARY INTERROGATION OF ALIEN UNLAWFUL COMBATANTS HELD OUTSIDE THE UNITED STATES, John Yoo. Washington, DC, 2003.
- Wallerstein, Immanuel. “The Three Instances of Hegemony in the History of the Capitalist World-Economy.” *Comparative Sociology* 24, no. 1 (1983): 100–108. <https://doi.org/10.1163/156854283x00071>.
- Warbrick, C. “The European Response to Terrorism in an Age of Human Rights.” *European Journal of International Law* 15, no. 5 (2004): 989–1018. <https://doi.org/10.1093/ejil/15.5.989>.
- West, Darrell M., and Christian Lansang. “Global Manufacturing Scorecard: How the US Compares to 18 Other Nations.” Brookings. Brookings, March 9, 2022. <https://www.brookings.edu/research/global-manufacturing-scorecard-how-the-us-compares-to-18-other-nations/>.



“Where the United States Stands on 10 International Human Rights Treaties.” The Leadership Conference Education Fund, January 30, 2019.  
<https://civilrights.org/edfund/resource/where-the-united-states-stands-on-10-international-human-rights-treaties/>.

Winston, Morton. “Why Human Rights Will Prevail in the War on Terror.” Essay. In *Human Rights in the 21st Century: Continuity and Change since 9/11*, 30–48. New York, NY: Palgrave Macmillan, 2014.

Wohlforth, William C. “The Stability of a Unipolar World.” *International Security* 24, no. 1 (1999): 5–41. <http://www.jstor.org/stable/2539346>.

“World University Rankings 2021-22: Global 2000 List.” CWUR. Accessed February 12, 2023.  
<https://cwur.org/2021-22.php>.

Vine, David. “Where in the World Is the U.S. Military?” *POLITICO Magazine*, 2015.  
<https://www.politico.com/magazine/story/2015/06/us-military-bases-around-the-world-119321/>.