Human Rights and National Security Post 9/11

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Abstract

This article seeks to examine the relationship between human rights and national security within the context of counter-terrorism legislation in the United States following 11 September 2001. Working from a constructivist point of view and using discourse analysis and public-opinion data, I aim to determine whether changes havebeen made to the right to privacy and the anti-torture norm under the administrations of presidents George W. Bush and Barack Obama.

Historically, the United States has held itself to be a beacon of liberty andfreedom in the world and has accordingly promoted respect for human rights internationally. However, in the fourteen years since the 11 September 2001 attacks on the World Trade Center, counterterrorism legislation has put pressureon fundamental rights in the United States. Accusations have been made and in some cases confirmed concerning mass surveillance, arbitrary detainment and torture in the years since 9/11. The administrations of presidents George W. Bush and Barack Obama have adopted a wide range of polices that areaimed to protect citizens but that have also curtailed civil liberties and political freedoms. The question is, how far are the American people willing to let this go? Has the United States given up some of its ideals in its effort to fight terrorism? Though it promotes human rights internationally, it seems that the United States has become more concerned with the security of the state than with the individual rights of its citizens.

This article examines the relationship between human rights and national security to determine whether a normative change in the conception of human rights has arisen in the United States in the decade since 11 September2001. Working from a constructivist point of view that sets out a normativeframework for the respect of and adherence to human rights, I use framing,discourse analysis and public-opinion data to examine human rights post 9/11.Using two case studies—torture at Guantanamo Bay and surveillance by the National Security Agency—I examine how political elites justify rights violations in an effort to garner support for policies. I then examine whether thepublic has accepted these justifications by analyzing public-opinion data.

This article works from the hypothesis that 11 September 2001 provided a "world-time context"[1] through which the U.S. government shifted norms within the United States to create a more favorable environment for counterterrorism measures by framing human rights and national security in conflict with one another. This shift was then used to bolster support for counter-terrorism tactics and legislation that was previously in conflict with normative conceptions of human rights. My theory builds upon the idea of what Finnemore andSikkink call a "world-time context"[2] and what Emanuel Alder calls a "cognitive punch",[3] according to which historical events such as wars or depressions create opportunities for new norms to arise by rendering current institutions orpolitical actions obsolete and by exposing their inability to deal with the situation at hand.

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1   Finnemore, Martha and Kathryn Sikkink, "International Norm Dynamics and PoliticalChange", in International Organization, Issue 52, Vol. 4, 1998, pp. 887–917.

2   Finnemore and Sikkink, "International Norm Dynamics and Political Change" 909.

3   Alder, Emanuel, Communitarian International Relations: The Epistemic Foundations ofInternational Relations. Routledge, Milton Park, Oxon, 2005. p. 75.

This article is divided into four sections. The first briefly outlines the theoretical basis of my argument. The second and third consist of my two casestudies. The final section presents findings and conclusions. For the sake of brevity, a literature review has been excluded from this work; however, thispaper builds upon a wide variety of sources, a complete list of which can befound in the bibliography.

Theoretical Background

The Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948 has served as the impetus for the institutionalization of rights and their inclusion in legally binding documents.[4]Human rights and the respect for human rights can be explained by the acceptance of the concept of human dignity. By upholding and respecting anindividual's dignity we ultimately ensure his or her rights. This concept is enshrined in the preamble of the UDHR: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".[5]

Constructivist theory is centered on the study of how ideas, norms, andidentities influence the behavior of international actors. It follows the assumption that international politics is a socially constructed domain through which actors' identities and interests influence politics. Within this field of theory, norms play an especially important role. A *norm* is, "a standard of appropriate behavior for actors with a given identity".[6] Norms not only restrict behavior, dictating what one should not do (e.g., one should not torture); they also constitute behavior by emphasizing a positive relationship and dictating what one should do (e.g., one should also protect citizens from being tortured).[7] If we interpret norms to be shared understandings that dictate and restrict ourbehavior, we see how influential they are in international politics.

The second major element of my theoretical framework is framing, which isa concept that is commonly used in communications literature. Robert Entmandefines *framing* as, "selecting and highlighting some facets of events or issues,and making connections among them so as to promote a particular interpretation, evaluation and/or solution".[8] This definition highlights the importanceof selection and omission in creating a frame so as to, "define problems, diagnose causes, make moral judgments and suggest remedies".[9] Frames are madeup both of words and images that are aimed to stimulate support or opposition. Often this is done through the repetition of, "key words, stock phrases, stereotyped images…that provide thematically reinforcing judgments".[10] Entman argues that, since the public is not generally well informed on currentevents, they are highly susceptible to the use of framing by political elites.Frames are thus extremely important tools of political power that exert great influence on public opinion.[11]

4   Risse, Thomas and Kathyrn Sikkink, The Power of Human Rights: International Norms andSocial Change, The Socialization of International Human Rights Norms into Domestic Practices: Introduction, Cambridge University Press, 1999.

5   UN General Assembly, Universal Declaration of Human Rights, 10 December 1948.

6   Finnemore, Martha and Kathryn Sikkink, "International Norm Dynamics and PoliticalChange", in International Organization. Issue 52, Vol. 4, Autumn 1998, p. 890.

7   Checkal, Jefferey, "International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide", in European Journal of International Relations, Vol. 3, Issue 4, 1997.

8   Entman, Robert, Projections of Power; Framing News, Public Opinion and US Foreign Policy,University of Chicago Press, Chicago, 2004, p. 5.

9   Entman, Robert, "Framing: Towards Clarification of a Fractured Paradigm", in Journal ofCommunications, Issue 43, Vol. 4, 1993, p. 52.

10   Entman, Robert, "Framing: Towards Clarification of a Fractured Paradigm", pp. 52–53.

11   Entman, Robert, "Framing: Towards Clarification of a Fractured Paradigm", pp. 55–56.

My two case studies build on this theoretical framework and are analyzed using critical-discourse analysis to uncover the repetition of frames and themes used by presidents Bush and Obama to validate counter-terrorism policies. They are then examined in relation to public-opinion data to determine whether the public has accepted such frames.

Torture and Indefinite Detainment

As confirmed in the U.S. Senate Report on the CIA Detention Interrogation Program, President George W. Bush, after 11 September 2001, authorized useof "enhanced interrogation techniques" including water boarding and sleepdeprivation.[12] These techniques were used on approximately 119 detainees ofsecret detention sites (such as Guantanamo Bay) from 2002 to 2008.[13] However, it was not until September 2006 that President Bush publicly acknowledged the existence of such practices, claiming that intelligence gained from "an alternative set of procedures" prevented attacks on American soil and the apprehension of a number of high-ranking Al Qaeda terrorists.[14]

In the course of my analysis, I examined three speeches delivered by President Bush relating to the Guantanamo Bay detention site.[15] In constructinghis argument, a number of themes repeatedly resurface; 9/11 as a world-time context, the war on terror as an ideological war between good and evil, and thenecessity of torture as a legitimate counter-terrorism tactic.

In his speeches, President Bush draws often upon the imagery of 11 September 2001 to construct a logical argument for the government policies that followed it. In this way, 9/11 serves as a starting point for his narrative on thewar on terror. As van Courtland Moon notes, this narrative constitutes an attempt to create a collective memory. Thus, Bush put forth a chronicle of eventsin a highly selective manner to justify political aims:[16]

> On the morning of September the 11th, 2001 our nation awoke to a nightmare attack. Nineteen men armed with box cutters took control of airplanes and turned them into missiles. They used them to kill nearly 3,000 innocent people. We watched the twin towers collapse before our eyes and it became instantly clear that we'd entered a new world and a dangerous new war.[17]

In this quote, Bush alludes to a world-time context, portraying 9/11 as a point intime after which everything changed. Elsewhere in his speeches, he repeatedlycalls the post-9/11 situation a, "new world and a dangerous new war"[18] with a"new kind of terrorism".[19] He calls the war on terror, "an unprecedented waragainst an enemy unlike any we had

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12   Andrews, Wilson and Alicia Parlapiano, A History of the cia's Secret Detention Program,9 December 2014, The New York Times.

13   Andrews, A History of the cia's Secret Detention Program. and Alicia Parlapiano, "A Historyof the cia's Secret Detention Program", in The New York Times, 9 December 2014.

14   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

15   Speeches delivered on 6 September 2006, 7 September 2006, and 18 June 2008 provide abasis for my analysis.

16   van Courtland Moon, John Ellis, "The Death of Distinctions: From 9/11 to Abu Ghraib", in
Politics and the Life Sciences, Vol. 23. No. 2, September 2004.

17   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

18   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

19   President Bush Discusses Progress in the Global War on Terror, 7 September 2006.

fought before",[20] and he speaks of the need to, "update our laws to meet the threats of this new era".[21] By continually referring to the "new" nature of things, he attempts to signal the necessity for change.

Just as Bush uses the events of 9/11 to create a justifiable narrative for a new legal regime, he uses the war on terror as the basis for an ideological conflict between the forces of good and evil. Bush suggests that the war is not just about retaliation for an attack but is part of a wider cause that is intended to bring peace to the world and defeat the dark ideologies of terror. In the conclusion of his speech on 6 September 2006, he states that,

> …today's war is, above all, a struggle for freedom and liberty…. We're fighting for our way of life and our ability to live in freedom. We're fighting for the cause of humanity against those who seek to impose the darkness of tyranny and terror upon the entire world.[22]

He elsewhere calls the war on terror an "ideological struggle" that will decide the future of democracy. President Bush also continuously characterizes terrorists as the "other" in his speeches, thereby dehumanizing them and turning them into sources of information to be used and abused. Authors in the field of psychology have established connections between dehumanization and an increased proclivity to torture. They reason that dehumanization may override a soldier's moral code by facilitating a psychological shift away from thinking of a prisoner as a human to thinking of that prisoner as an enemy, thereby allowing the soldier to overcome the internalized norm against torture.

Finally, President Bush overwhelmingly defends enhanced interrogation on the basis of necessity, rationalizing such methods as the sole way to stop future terrorist attacks. In the speeches analyzed, Bush repeatedly speaks of the importance of intelligence gained by enhanced interrogation techniques, thereby creating a close link between the two concepts. In Bush's 6 September 2006 speech, he states that, "the most important source of information on where the terrorists are hiding and what they are planning is the terrorists themselves….[T]his is intelligence that cannot be found any other place…. [O]ur security depends on getting this".[23] Bush also continuously refers to this program as, "vital to the security of the United States",[24] using the word *vital* six times in a span of four pages.

The overall message of Bush's argument is that torture is necessary in this new war. If we want to protect national security, we must torture detainees to gain intelligence that could be used to prevent an attack. By framing national security in conflict with the prohibition against torture, Bush justifies violations of basic rights in exchange for national security.

In contrast, President Obama attempted to reframe the issue by stressing the coherence between a return to the anti-torture norm and national security. After taking office in 2009, President Obama signed Executive Order 13492, *Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities*. He also signed two other orders prohibiting torture and ordered a review of all pending cases. In the two

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20   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

21   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

22   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

23   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times

24   Transcript, President Bush's Speech on Terrorism, 6 September 2006, The New York Times.

texts analyzed, dated 21 May 2009 and 23 May 2013, a number of themes are repeated: American identity and values, respect for the rule of law and a break with the past. He advocates the closure of Guantanamo Bay as a means to repair the global image of the U.S. and return to its foundational values. He also puts forth rationalizations based on respect for the rule of law and plays upon the identity of the United States as a moral and righteous nation.

In accord with the reframing of security and rights, Obama advocates for the closing of Guantanamo Bay as a return to the rule of law. The phrase "rule of law" is repeated eight times in his 21 May 2009 speech and four times in his 23 May 2013 speech. Obama speaks of the fact that, "GTMO has become a symbol around the world for an America that flouts the rule of law"[25] because the U.S. has, "detain[ed] individuals in a way that ran counter to the rule of law".[26] He stresses that enhanced interrogation has, "undermined the rule of law".[27] Thus, America needs to, "bring our commissions in line with the rule of law",[28] and must "work to align our policies with the rule of law".[29] Obama thus stresses realignment by the U.S. government with the norm that prohibits torture.

Likewise, Obama promotes the idea of shutting down Guantanamo as a return to American values: "That's why we must leave these [enhanced interrogation] methods where they belong—in the past. They are not who we are, and they are not America".[30] Obama constructs an argument that plays on America's identity as a democratic, law-abiding state with a duty to protect freedom and liberty in the world. He tries to strengthen this identity and draws a contrast between the image of the U.S. while Guantanamo is open, under Bush, and the values bestowed upon us by the founding fathers:

> The documents that we hold in this very hall—the Declaration of In dependence, the Constitution, the Bill of Rights—these are not simply words written into aging parchment. They are the foundation of liberty and justice in the country and a light that shines for all who seek freedom, fairness, equality and dignity around the world.[31]

He concludes his May 2009 speech by returning to this notion: "[I]f we cannot stand for our core values, then we are not keeping faith with the documents that are enshrined in this hall".[32] Playing on American identity, Obama speaks of American values as a means to strengthen rather than undermine security: "I believe with every fiber of my being that in the long run we also cannot keep this country safe unless we enlist the power of our most fundamental values".[33]

He continues, saying that, "we have a responsibility to enlist our values in the effort to secure our people".[34]

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25   Remarks of President Barack Obama, 23 May 2013.

26   Remarks of President Barack Obama, 23 May 2013.

27   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

28   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

29   Remarks of President Barack Obama, 23 May 2013.

30   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

31   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

32   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

33   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

34   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

Finally, Obama attempts to contrast the past with the future as a way to signal the start of a new approach to counter-terrorism. Referencing the past, Obama notes that, "the decisions that were made over the past eight years established an *ad hoc* legal approach for fighting terrorism that was neither effective or sustainable".[35] He criticizes advocates of former policies, stating that they were, "on the wrong side of the debate and the wrong side of history. That's why we must leave these methods where they belong—in the past".[36] Looking toward the future, Obama questions the consequences of the government's actions: "[H]istory will cast a hard judgment on this aspect of our fight against terrorism and those who fail to end it…. Is that who we are? Is that something that our Founders foresaw? Is that the America we want to leave to our children?"[37]

Overall, Obama's framing of the issue runs counter to that of the Bush administration by emphasizing a harmonious rather than a conflicting relationship between the anti-torture norm and national security. But which president was able to successfully frame the issue? Did the American public internalize such frames?

According to data obtained by the Pew Research Center from 2004 to 2008, the majority of Americans believed that torture should rarely or never be used on terrorist suspects.[38] Likewise in the three public-opinion polls analyzed, the American public largely rejected the idea of torture as a justified means of the government's counter-terrorism policy even though most believed it was happening. Throughout this period, the public expressed continual disapproval of the use of torture by the federal government.

However, beginning in 2008, polls began to shift, and an increased acceptance of the use of torture can be seen. According to data, the number of Americans who condoned torture (answering *often/sometimes* to the question of whether torture can be justified to gain important information), increased after February 2008 and remained at this level until August 2011.[39] Likewise following the release of the Senate Intelligence Committee's report on CIA Interrogation Practices, 59% of those polled stated that the CIA's treatment of suspected terrorists was justified, while only 31% believed that it was not. Finally, 53% of respondents believed that such interrogations produced important intelligence information that would not otherwise have been obtained.[40]

Mass Surveillance

On 16 December 2005, the *New York Times* published an article entitled, "Bush Lets U.S. Spy on Callers without Courts". The article outlined a program of warrantless wiretapping it called the "terrorist surveillance program", whereby the NSA monitors, "telephone calls and international e-mail messages of hundreds, perhaps thousands, of people inside the United States without warrants".[41]

In response to these claims, President Bush delivered a number of addresses and public statements beginning on 17 December 2005. In these statements, Bush repeatedly frames security and rights as being in conflict with one another by referring to the following themes: the necessity of the program, its lawfulness, and respect for civil

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35   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

36   Remarks by the President on National Security, President Barack Obama, 21 May 2009.

37   Remarks of President Barack Obama, 23 May 2013.

38   Ten Years After 9/11: United in Remembrance, Divided over Politics. The Pew Research Center for People and the Press. 1 September 2011.

39   Ten Years After 9/11; United in Remembrance, Divided over Politics. The Pew Research Center for People and the Press. 1 September 2011.

40   "Majority Says CIA Harsh Interrogations Justified", ABC/Washington Post, 4 January 2014, available at http://www.washingtonpost.com/page/2010-2019/WashingtonPost/ 2014/12/16/National-Politics/Polling/release_376.xml.

41   Risen, James, Bush Let's U.S. Spy on Callers Without Courts.

liberties. I conducted my analysis by using the texts of five speeches delivered by President George W. Bush together with the responses given to press during the question-and-answer session after the speeches.

President Bush repeatedly emphasizes the necessity of the NSA program in each of his public statements, stressing its ability to protect American lives and prevent attacks. In his 17 December 2005 speech, Bush calls the NSA program a, "vital tool in our war against terrorists" that is "critical to saving American lives".[42] He explains that, "this is a highly classified program that is crucial to our national security. Its purpose is to detect and prevent terrorist attacks".[43] In the Year End Press Conference on 19 December 2005 he again defends the program: "to save American lives, we must be able to act fast and to detect these conversations so we can prevent new attacks", calling the program a "key tool to prevent attacks".[44] He again underscores the need for the program to save lives, stating plainly in 2006 that, "the terrorist surveillance program is necessary to protect America from attack".[45] The repetitive connection between surveillance and protection is aimed to make the public believe that the NSA program is both necessary and vital to American safety while also playing upon the public's fear of future attacks. These arguments are also framed in a way that ties surveillance to the core of national security, thereby suggesting that another attack could occur without surveillance.

The second major theme stressed by the Bush administration is the legality of the NSA program. Bush not only defends the program as necessary; he underscores it as lawful. The use of phrases such as, "we will do everything within the law" and "I swore to uphold the laws" are used to show that all measures taken by the President to prevent terrorism are legal. Bush not only invokes the Constitution itself; he invokes his own Constitutional right as Commander-in-Chief to justify the program: "I have the Constitutional responsibility and the Constitutional authority to protect our country".[46] The program is, "fully consistent with my Constitutional responsibilities and authorities".[47] He invokes his own honor, duty and responsibility numerous times in relation to the program's legality: "our most important job is to protect the American people from another attack and we will do so within the laws of our country";[48] and, "so as I stand here now I can tell the American people, the program is legal".[49]

Finally, President Bush stresses review and oversight to quell fears of infringements on civil liberties. Not only does Bush aim to silence critics by promoting the internal-review processes, he also cites briefings to Congress and court oversight to challenge those who claim violations. In both his 17 and 19 December speeches, Bush notes that the program is, "reviewed every 45 days to ensure it is being used properly".[50] He elaborates by saying that, "[w]e are constantly reviewing the program", and "we're guarding civil liberties by monitoring the program on a regular basis, by having folks at the NSA, the legal team, as well as the inspector general monitor the program, and we're briefing Congress".[51] In his 26 January 2006 speech, he again defends the program:

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42   Transcript of President Bush's Weekly Radio Address, 17 December 2005.

43   Transcript of President Bush's Weekly Radio Address, 17 December 2005.

44   The Year End Press Conference, George W. Bush, Washington D.C., 19 December 2005.

45   Presidential Press Conference: The Mideast and Wiretaps, George W. Bush, Washington D.C., 26 January 2006.

46   The Year End Press Conference, George W. Bush, Washington D.C., 19 December 2005.

47   Transcript of President Bush's Weekly Radio Address, 17 December 2005.

48   Transcript of President Bush's Weekly Radio Address, 17 December 2005.

49   Presidential Press Conference, George W. Bush, Washington D.C., 26 January 2006.

50   Transcript of President Bush's Weekly Radio Address, 17 December 2005; The Year End Press Conference, George W. Bush, Washington D.C., 19 December 2005.

51   The Year End Press Conference, George W. Bush, Washington D.C., 19 December 2005.

"[T]here's no doubt in my mind there are safeguards in place to make sure theprogram focuses on calls from outside the United States…not domestic calls".[52]Although President Obama's policies and framing are in sharp contrast tothose of President Bush in our first case study, similarities can be seen in theframing of surveillance by the two administrations. Both Presidents frame security and privacy in conflict with one another and seek to provide justifications for the use of surveillance despite the risks it poses to civil liberties. WhileObama may present a more pragmatic approach, he shows no real break from President Bush's counter-terrorism policies in this regard.

President Obama delivered three major speeches on the topic of surveillance by the National Security Agency. The first followed the publication of articles in the *Guardian* and the outing of Edward Snowden on 7 June 2013; the second came in August 2013; and the last in January 2014.

President Bush stressed the importance of the NSA's surveillance program to protect national security and prevent future attacks, and President Obama continues to justify the program on these same grounds. Reminiscent of Bush,Obama repeatedly uses the phrase, "protect the American people", thus tying the concept of surveillance to protection: "[O]ur intelligence is focused, aboveall, on finding the information that's necessary to protect our people";[53] "theseefforts have prevented multiple terrorist attacks and saved innocent lives";[54] and, "we are expected to protect American lives and that requires us to havecapabilities in this field".[55] Obama seeks to relate to the common citizen and portrays himself as a reformed skeptic who now understands the necessity of these programs: "I came in with a healthy skepticism about these programs.My team evaluated them. We scrubbed them thoroughly…. [M]y assessment and my team's assessment was that they help us prevent terrorist attacks".

Additionally, although President Obama attempts to present a "balanced" approach to the framing of the issue by maintaining the need for surveillance while stressing the need to uphold civil liberties, he ultimately frames the concepts in conflict with one another. In a June 2013 press conference, Obamanotes that, "we're going to have to discuss…how we're striking the balance between the need to keep the American people safe and our concerns about privacy, because there are some tradeoffs involved".[56] Stressing the importanceof security over privacy, he states, "the modest encroachments on privacy thatare involved in getting phone numbers or duration without a name attachedand not looking at content—that on, you know, net, it was worth us doing".He goes on to state, "I think it's important to recognize that you can't have one hundred percent security and also have a hundred percent privacy and zero inconvenience…. We're going to have to make some choices as a society". In these statements, Obama frames the concepts of security and privacy as in conflict with one another, ultimately stating that the American people must give upprivacy if they want security. This is restated in his August 2013 press conference: "As I said…in meeting those threats we're going to have to strike the rightbalance between protecting our security and preserving our freedoms"; and"a variety of factors have continued to complicate America's efforts to bothdefend our nation and uphold our civil liberties".[57] By positioning liberty andsecurity as in conflict with one another, Obama is ultimately stating that thetwo are incompatible, thereby justifying violations of privacy in the name of security.

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52   Presidential Press Conference: The Mideast and Wiretaps, George W. Bush, WashingtonD.C., 26 January 2006.

53   Remarks by the President in a Press Conference, 9 August 2013.

54   Transcript: Obama's Speech on NSA Phone Surveillance, 17 January 2014.

55   Transcript: Obama's Speech on NSA Phone Surveillance, 17 January 2014.

56   Transcript: Obama's Remarks on NSA Controversy, The Wall Street Journal, 7 June 2013.available at http://blogs.wsj.com/washwire/2013/06/07/transcript-what-obama-said-on-nsa-controversy/.

57   Transcript: Obama's Speech on NSA Phone Surveillance, 17 January 2014.

Like Bush, Obama attempts to restore public trust in surveillance programsthrough the implementation of reforms. In the first part of the text analyzed, Obama states that oversight is in place and that programs are continuously being monitored: "Congress is briefed on surveillance measures, the FISA Court ismonitoring cases and new committees are being put in place". The word *oversight* is used seven times in the course of the two-page statement. On 9 August2013, as a way to restore public confidence, Obama shifts from stating thatoversight measures are sufficient to discussing new measures and additional oversight. The word *confidence* is used eight times in the course of the speech.This theme is reiterated in the final text from January 2014, in which Obama continually refers to restoring or rebuilding the trust of the American people to move forward.

A number of opinion polls were conducted on the American public's response to revelations concerning the scope and nature of the National Security Agency's surveillance programs. According to results, public opinion from 2001 to mid-to-late 2013 remained relatively constant, demonstrating higher concern for security over invasions to privacy. In 2006, a survey conducted byABC News/Washington Post showed overwhelming support for wiretapping programs authorized by President Bush. When asked if programs that began in 2001 that increased the government's authority over surveillance measures should continue, an overwhelming majority of respondents, 62%, answered"yes"; only 32% replied "no". Similarly, 54% of those polled found Bush's warrantless wiretapping and surveillance of calls and emails an acceptable wayto investigate terrorism, while only 46% found such practices unacceptable.Finally, according to a survey by the Pew Research Center, 55% of the publicbelieved anti-terror policies had not gone far enough in protecting the U.S.,while only 26% believed that they had gone too far in restricting civil liberties.[58] Overall, it seems that, from 2001 to 2013, a slight majority of the American public accepted surveillance as a legitimate counter-terrorism tactic whilemaintaining concerns for civil liberties. However, in mid-to-late 2013, this trendbegan to shift, and by January of 2014, 53% of those polled disapproved of theNSA surveillance program while only 40% approved of it.[59]

Conclusion

Our two case studies show varying results on the state of human-rights normspost 9/11. Although President George W. Bush attempted to bolster public support for the use of enhanced interrogation techniques on terrorist suspects, he seemed to be unable to change the norm prohibiting torture during his termin office by framing human rights and national security in conflict with oneanother. In contrast, President Barack Obama, who advocated for an end toenhanced interrogation programs and the closure of the Guantanamo Bay seemed unable to shift public opinion back to the anti-torture norm. One explanation for these results might be the relative strength of the anti-torturenorm. Under the Bush administration, the norm prohibiting torture remained intact despite constant attacks from the administration; however, it was notuntil after the change in administrations that public opinion began to reflectincreasing support for the use of torture. I believe trend this shows the successful framing of the Bush administration and a shift away from the torture norm.By the time President Obama entered office, the American public had alreadyinternalized the frame put forth by Bush such that Obama's attempt to restorethe norm was rendered unsuccessful.

The results of our second case study concerning mass surveillance shows amuch quicker shift away from the privacy norm. Bush and Obama's framing ofthe need to forego privacy in the name of national security was accepted and internalized. This trend remained largely constant until President Obama'ssecond term when public opinion seemed to become more concerned withinfringements on the right to privacy. Interestingly, this shift coincides

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58   "Reviewing the Bush Years and the Public's Final Verdict; Bush and Public Opinion", PewResearch Center, 18 December 2008.

59   "Obama's Speech has Little Effect on Skeptical Public", Pew Research Center, 20 January2014.

withthe emergence of another actor who sought to reframe the surveillance issue: Edward Snowden. His reframing portrayed surveillance as a danger rather thanas a security precaution, thereby convincing the public that privacy concerns should be taken seriously.

The results of the two case studies may be explained by the relative strengthsand weakness of the two human-rights norms considered. Torture, a stronger and much more deeply internalized norm, only began to shift after years ofpressure and attack. Privacy, on the other hand, a weaker norm, was quick to crumble under pressure until an alternative frame was presented in 2013.

It may therefore be concluded that political elites are powerful actors with the ability to frame issues in a strategic manner, sometimes causing norm change. This power of discourse paired with the relative strength or weaknessof the norm may help to explain the changing nature of conceptions of humanrights in the United States post 9/11.

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Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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