



FORUM: RIGHTS

U.S. Imperialism and Rights

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The United States is an imperial nation. From its origins as a settler colony to its status today as a dominant economic and political power armed with the largest military force on earth, it has established and extended its power over others—taking land, extracting resources, exploiting labor, and ensuring unequal relationships that benefit its interests. Despite its founding declaration, the U.S. has never recognized the self-evident equality of all men, and its conceptions of rights have never been universal or inalienable. As its history shows, the United States has continually created categories of nonhuman and not-quite-human subjects disqualified from the inalienable rights that could shield them from its exercises of imperial power. Put differently, the extension of U.S. imperial power has required denying rights to those swept under its influence and control. The United States is at once a self-pronounced paragon of rights, among other liberal democratic values, and a violator of rights, especially for those who most need to draw on its protections. This paradox is fundamental to the United States, regardless of its proclamations to be a defender of rights at home and across the world.

From the beginning, the United States recognized the individual rights and liberties of the select few, demarcated by race, gender, and, crucially, property ownership. Indeed, “the rights of persons, and the rights of property,” James Madison asserted, “could not well be separated.”¹ What did this inseparability mean to those who recognized communal relations rather than private property and to those who were violently shorn of their personhood to be made into property? As Roxanne Dunbar-Ortiz and many Indigenous studies scholars argue, the United States, as a settler colonial nation, is built on the dispossession and genocide of Indigenous peoples, whom the U.S. state and settlers sought to “destroy to replace” with their new and permanent society.² It built this new society with the exploited labor of enslaved Black people, whose relegation to the status of property guaranteed their absolute subjugation. It has denied rights to a range of others by “deporting, hiding, or criminalizing them or otherwise revoking the right of the racialized outsiders to be within the invaded territory.”³ As Kelly Lytle Hernandez emphasizes, racism is central to the U.S. settler colonial project that seeks to exclude and remove anyone who does not fit the ideal settler community—one based not only in a white racial identity, but

¹James Madison, “Speech in Virginia Convention, 2 Dec. 1829,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/99-02-02-1924>.

²Patrick Wolff, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (Dec. 2006): 388; Roxanne Dunbar-Ortiz, *Not a Nation of Immigrants: Settler Colonialism, White Supremacy, and a History of Erasure and Exclusion* (New York, 2021); Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (New York, 2015). See also Nick Estes, *Our History Is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (New York, 2019).

³Kelly Lytle Hernandez, *City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771–1965* (Chapel Hill, NC, 2017), 8.

also property ownership, patriarchal gender norms, and health and ability, among multiple factors. Unfit for citizenship, such others cannot access the rights consecrated by the United States. Instead, citizenship is defined against them, its contours sharpened with every exclusion.⁴

Who are these people who are subjected to, but not subjects of, U.S. state power? What statuses have they had, and what rights accompany those statuses? The United States has created categories of subjects to secure their unequal standing and abrogated rights. Indigenous nations were neither states of the nation nor independent sovereigns, but rather “domestic dependent nations,” governed by a paternalistic relationship to the United States as “a ward to guardian.”⁵ As the United States continued to expand its territorial reach, it drove the frontier further West, trammled over Native peoples in the way, and seized 500,000 square miles of Mexican territory through imperial warfare. But overtaking the lands between the Atlantic and Pacific coasts could not satisfy U.S. ambitions.

Its war with the Spanish empire ultimately delivered Puerto Rico, Guam, and the Philippines to U.S. dominion, as well as the temporary occupation of Cuba and an effectively permanent foothold latched onto Guantánamo. Like those “domestic dependent nations,” these newly seized lands were destined neither for statehood nor full incorporation into the United States. The darker, “alien races” that populated these lands had not achieved the requisite levels of civilization or whiteness to be granted such a distinction. Instead, these foreign territories would be ruled by the United States as “unincorporated territories” where the Constitution does not fully apply. As is well known, Puerto Ricans have formal U.S. citizenship but no right to vote for the U.S. president from home and no congressional members to represent the island’s interests.⁶ The same Supreme Court that ruled over the so-called Insular Cases (1901–1922), establishing these new categories of status and truncated rights, also constitutionally affirmed the “equal but separate” and abrogated citizenship for Black people surviving Jim Crow in a series of rulings that culminated in *Plessy v. Ferguson* (1896).⁷ While the Reconstruction Amendments formally abolished slavery; granted citizenship, due process, and equal protection before the law; and affirmed the right to vote, they did not secure rights and citizenship for Black people. The preservation of slavery as punishment, white nationalist terrorism, state laws obstructing the franchise, and the segregation ratified by *Plessy* all worked to relegate Black people to second-class citizenship and slashed rights.

The post–World War II rise of rights institutions and discourses domestically and internationally, as seen in civil rights movements as well as in the formation of the United Nations and its Universal Declaration of Human Rights, have at once affirmed the need to recognize the basic conditions to secure human dignity and deepened the core contradictions of U.S. rights. The United States climbed to become a global superpower and self-purported global defender of rights, though not for all people. Legacies of racism and imperialism continue to limit who counts as the proper subject of rights. The United States has, however, wielded rights as a foreign policy tool extending its imperial reach. Indeed, human rights offered a liberal alternative to more radical utopian visions rooted in liberation struggles, like those emerging from anticolonial Third World movements. But, following Vijay Prashad, such movements were

⁴See migration studies scholarship like Erika Lee, *America for Americans: A History of Xenophobia in the United States* (New York, 2019); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ, 2014); Adam Goodman, *The Deportation Machine: America’s Long History of Expelling Immigrants* (Princeton, NJ, 2020); and Lisa Lowe, *Immigrant Acts: On Asian American Cultural Politics* (Durham, NC, 1996).

⁵*Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).

⁶See, for example, César J. Ayala and Rafael Bernabe, *Puerto Rico in the American Century* (Chapel Hill, NC, 2007); Paul Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill, NC, 2006); and Louis A. Pérez, Jr., *On Becoming Cuban: Identity, Nationality, and Culture* (Chapel Hill, NC, 2008).

⁷*Plessy v. Ferguson*, 163 U.S. 537 (1896).

assassinated by imperial powers.⁸ As a “consolation prize” for “subjects of empire,” human rights helped tame demands to address the root causes of global inequalities and oppressive systems but have instead worked to entrench them.⁹ “The postwar re-formation of international institutions did not constitute a break with the historical structures of colonial violence,” Randall Williams argues, “but instead was part and parcel of an imperialist-directed reorganization of relations within and between contemporary state and social formations.”¹⁰

At home, the ratification of civil rights resulted not solely from the dogged, relentless organizing by social justice movements. These activists’ achievements also marked an example of what critical race theorist Derrick Bell identified as “interest convergence” that served the interests of the state, not only of those oppressed by the state.¹¹ Following Mary Dudziak, the United States wielded civil rights as an instrument of soft power advancing its foreign policy goals in Cold War struggles for global dominance. Openly racist segregation and immigration laws tarnished the United States’ international image during the age of three worlds. Civil rights reforms and the granting of legal, but not material, equality helped burnish its façade as a primary defender of rights. Key legislation, such as the Voting Rights Act (1965) and Supreme Court cases like *Brown v. Board of Education* (1954), expanded the franchise for millions of Black people and enabled generations of Black students to obtain quality education previously denied to them. However, revanchist reversals of this modest, yet crucial, progress mobilized by state and nonstate actors from Ronald Reagan to parents unwilling to send their children to integrated schools have proven incapable of securing equal rights, as seen in the expansion of voter suppression and in education systems that are more segregated today than they were in 1954. Simultaneous with this seeming elevation of civil rights, the U.S. state deployed its Counterinsurgency Intelligence Program (COINTELPRO) to assassinate a broad range of leaders and movements unwilling to settle for surface-level reforms and making radical demands for substantive, even revolutionary, change. As George Lipsitz argues so powerfully, this racial order, the continued racist oppression wrapped in the language of rights and equality, “requires us to live with evil and then to lie about it, to deny even the existence of systemic and structural injustice, to identify with the oppressors and to blame the oppressed.”¹²

And yet, those formal reforms enabled the United States to weaponize rights discourses against its primary challenger: the Soviet Union and its allies violated the fundamental rights of their subjects; the United States stood strong as a beacon of freedom and rights against such tyranny. The United States waged war in the name of such democratic values. Its direct and indirect military engagements from Korea to Vietnam to Afghanistan to the Central American Dirty Wars and beyond wreaked massive destruction and death and forced migrants on the move for their very survival. These wars shattered the lives of millions, who seemed to have no inviolable rights, in the service of the greater good. The violations of their rights—to life itself—were necessary to defeat the enemy of democracy and deliver the “gift of freedom” to “benighted others.” As Mimi Thi Nguyen argues, this gift of freedom is the “core proposition” of liberal war that “demands occupations and dislocations of racial, colonial others in the name of the human.”¹³

These liberal wars delivering rights and freedom have continued beyond the Cold War’s end. Though the Soviet Union collapsed, new enemies of U.S. values have emerged. As Ruth Wilson Gilmore argues, the U.S. state needs a “perpetual enemy who must always be fought but can

⁸Vijay Prashad, *The Darker Nations: A People’s History of the Third World* (New York, 2007).

⁹Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA, 2012), 45.

¹⁰Randall Williams, *The Divided World: Human Rights and Its Violence* (Minneapolis, 2010), xxix.

¹¹Derrick A. Bell, Jr., “*Brown v. Board of Education* and the Interest-Convergence Dilemma,” *Harvard Law Review* 93, no. 3 (Jan. 1980): 518–33.

¹²George Lipsitz, “From Plessy to Ferguson,” *Cultural Critique* 90 (Spring 2015): 120.

¹³Mimi Thi Nguyen, *The Gift of Freedom: War, Debt, and Other Refugee Passages* (Durham, NC, 2012), 11.

never be vanquished.”¹⁴ The embodiment and location of that enemy changes, but the fact that an enemy will be conjured is certain. The everlasting War on Terror has no boundaries in time or space and has ensnared millions as potential new enemies to vanquish. In pursuing vengeance for the devastating terrorist attacks of September 11, 2001, the United States subjected ordinary Afghans who had nothing to do with 9/11 to bombings, detention, and torture—all in the name of liberating them from Taliban rule. As first lady Laura Bush told us, we “civilized people” united in “our common humanity” had a special responsibility to deliver freedom and rights to Afghan women by waging war, leaving two million widows.¹⁵ After two decades of imperial occupation, the United States abandoned Afghanistan, negotiating its return to the very same enemy it had invaded to destroy. The U.S. invasion and occupation of Iraq, as well as the torture regime spreading from Guantánamo to black sites, demonstrated that neither global opposition nor international legal regimes could restrain U.S. imperial power.

While it has formally withdrawn from Iraq and Afghanistan, the United States continues to spread tentacles of the War on Terror to more than eighty-five countries.¹⁶ This endless war has produced at least 37 million migrants, an astonishing number that does not fully account for all the people forced on the move by U.S. imperialism. Its longstanding engagements in the Caribbean and Central America—including involvement in Dirty Wars and support of repressive regimes facilitating U.S. capitalist interests—have compelled multiple generations of people to leave home in search of refuge from violence and for the resources to obtain a livable life. Its refusal to recognize the dignity of millions of migrants—whether cast out by the War on Terror or other vectors of its economic and military violence—has led to a proliferation of detention camps.¹⁷

With few exceptions, the response of wealthy, democratic nations like the United States, Australia, and those of the European Union to this explosive growth of migrants centers on building more camps, walls, surveillance infrastructures, and other technologies of border regimes and social control. All these tactics are designed to deter and expel migrants, whom states regard as people out of place and, thus, as sources of social disorder who must be excluded, detained, and expunged to preserve the integrity of the democratic spaces they seek to enter. This predicament speaks to the persistent, inescapable problem built into liberal rights. Even as the sphere of rights can and has expanded, at least formally, to include the formerly cast out—the enslaved, colonized, incarcerated, exploited—it always assumes an outside of those who are unfit. Our rights must be protected from them.

The United States has extended its imperial power over others by negating the rights that might restrain its reach. Its empire for liberty has required denying humanity—and the rights that ostensibly adhere to the human—to millions of people who have stood in the way of its expansion. And yet, while rights both fail to ensure the dignity of the people who most need them and, in fact, expose those people to violence and premature death (which is, following Gilmore, the very definition of racism), those people still draw on the language of rights to make claims for the resources and protections they need to survive.¹⁸ They deploy the language of rights to insist that they will live. Rights discourses provide a legible language, one approved and promoted by

¹⁴Ruth Wilson Gilmore, *Abolition Geography: Essays Towards Liberation* (New York, 2022), 176.

¹⁵Laura Bush, “Radio Address by Mrs. Bush to the Nation,” US Department of State Archive, Nov. 17, 2001, <https://2001-2009.state.gov/g/wi/7192.htm>.

¹⁶Stephanie Savell, Rachel McMahon, Emily Rockwell, and Yueshan Li, “United States Counterterrorism Operations, 2018–2020,” *Costs of War*, <https://watson.brown.edu/costsofwar/files/cow/imce/papers/2021/US%20Counterterrorism%20Operations%202018-2020%2C%20Costs%20of%20War.pdf>.

¹⁷David Vine et al., “Creating Refugees: Displacement Caused by the United States’ Post-9/11 Wars,” Sept. 21, 2020, *Costs of War*, https://watson.brown.edu/costsofwar/files/cow/imce/papers/2020/Displacement_Vine%20et%20al_Costs%20of%20War%202020%2009%2008.pdf.

¹⁸Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, CA, 2007), 28.

liberal democratic imperialist powers like the United States, to make themselves heard. Following Gayatri Spivak, rights are what those subjected to rightlessness “cannot not want.”¹⁹

Rather than engaging in the impossible task of determining who gets to be the proper, fitting subject of rights, which always leads to contradictions of limited universality and alienable inalienability, is it possible to reframe rights around the question of what should be guaranteed for life to thrive? As Gilmore argues, “If abolitionists are, first and foremost, committed to the possibility of full and rich lives for everybody, then that would mean that all kinds of distinctions and categorizations that divide us—innocent/guilty; documented/not; Black, white, Brown; citizen/not-citizen—would have to yield in favor of other things, like the right to water, the right to air, the right to the countryside, the right to the city, whatever these rights are.”²⁰ Such a reframing has the potential to shift the discourse from finding the proper subject of rights—man, citizen, human—to the practices that would ensure rights to the essential relationships and resources needed to live. Seemingly small actions, like sharing food, childcare, and other resources, and larger endeavors, like organizing against toxic polluters endangering the air, land, and water life depends on, such as campaigns against the Keystone and Dakota Access Pipelines, offer concrete examples of a different approach to rights rooted in an implicit veneration for life. The story of rights may appear dismal when examining institutions of the U.S. state and international rights regimes. Shifting focus to the ways that ordinary people have long mobilized to secure conditions for life to thrive might open a more hopeful perspective—one not rooted in obtaining recognition from institutions never meant for them.

¹⁹Gayatri Spivak, *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* (Cambridge, MA, 1999), 110.

²⁰Gilmore, *Abolition Geography*, 468.