

INTEGRATING HUMAN RIGHTS IN US FOREIGN POLICY: THE HISTORY, THE CHALLENGES, AND THE CRITERIA FOR AN EFFECTIVE POLICY

Lecture by Roberta Cohen at the Foreign Service Institute, 2008

Essential to the careers of US Foreign Service officers, public affairs staff and officers of AID is an understanding of international human rights issues. Many if not all will be posted to countries with questionable human rights records. A Foreign Service officer for example could be assigned to Pakistan, a country with which the US is closely allied in its war against terror but where the Supreme Court justice was removed, martial law proclaimed, and thousands of government opponents, including leading lawyers arrested. Or s/he could be sent to Ethiopia, with which the US is collaborating in its invasion of Somalia but against which Congress is proposing to restrict military aid because of Ethiopia's violations of human rights. Or s/he could be posted next door to Sudan where according to the Bush Administration genocide has been committed, and while the CIA and Defense Department may cooperate with Sudan in the intelligence area, the Executive Branch has instituted financial sanctions against the government because of Sudan's continued atrocities in Darfur. Or s/he could be posted to Burma whose human rights abuses both the President and First Lady have loudly denounced. In fact, it is quite likely that at some point in their career most US diplomats will be sent to a country where human rights conditions will have impact on US government attitudes and policies. So the subject of integrating human rights concerns into United States foreign policy decision-making is not just an academic exercise but a real and serious business that will involve everyone posted abroad.

HISTORICAL BACKGROUND

Human rights have always played a role in foreign policy throughout American history because this country was founded on a constitution and bill of rights that proclaimed freedom and individual liberties. But it was not until the US became one of the world's superpowers after World War II, that our government was expected to define what it stood for on the international stage. FDR spoke of the four freedoms and John F Kennedy mentioned human rights in his inaugural address but it took until the late 1970s for human rights to be explicitly made a major part of US foreign policy formulation. Jimmy Carter declared human rights to be a "central concern" of foreign policy.

The idea for the human rights policy, however, did not originate with President Carter. It originated with Congress, prodded by the public – human rights groups, lawyers associations, church groups, labor unions, scientists, academics and others. In the 1970s, many Americans felt that the US had reached a moral nadir after the Vietnam War, the secret bombing of Cambodia, the killing of civilians at Mylai by American troops, the Watergate scandal, and disturbing revelations about US military and economic support for police states in the Americas, Asia and other parts of the world. Under the rubric of combating communism, it was felt that America was straying too far from its traditional values and interests and this was affecting America's position in the world. (A familiar ring?) The human rights policy of the 1970s was thus a reaction to a foreign policy largely devoid of ethical considerations. The policy of realpolitik, the hallmark of Henry Kissinger, did not include human rights calculations. Kissinger said when confirmed as

Secretary of State: “I believe it is dangerous for us to make the domestic policy of countries around the world a direct objective of US foreign policy.” Human rights considerations, he argued, would damage bilateral relations with US allies and friends. He publicly rebuked the US Ambassador to Chile for raising the arrest and torture of political opponents when privately discussing military ties to the Pinochet government. The Ambassador, David Popper, told me that Kissinger ordered him: “Cut out the political science lectures.” And in the interests of preserving détente with the Soviet Union, Kissinger advised President Ford not to meet with exiled Russian author Alexander Solzhenitzyn.

But Congress saw things differently. A subcommittee of the House Foreign Affairs Committee held hearings and issued a report in 1974, entitled “Human Rights in the World Community: A Call for US Leadership.” It recommended that the Department of State raise the priority of human rights in foreign policy, arguing that the prevailing attitude had led the US “into embracing governments which practice torture and unabashedly violate almost every human rights guarantee pronounced by the world community.” Basing its argument on moral, practical and legal considerations, it called for forceful private diplomacy, public statements, the active raising of human rights at the United Nations and other international fora, and the restriction of military and economic aid to governments that consistently violated human rights. Congress then enacted legislation that required human rights reports on every country receiving US aid, and prohibited military and economic assistance to governments consistently violating human rights unless national security or humanitarian aid considerations warranted the assistance. Congress also recommended the creation of an office on human rights in the State Department, and it announced reductions in military aid to Chile, Uruguay and South Korea on human rights grounds.

To describe the relationship between Congress and the Executive Branch at that time as adversarial would be an understatement. It was an out and out war. When State Department officials in the Nixon and Ford Administrations were called upon to testify before Congress on the human rights of governments receiving US military aid or sales, they largely defended the records of those governments. The term ‘clientism’ toward foreign governments came to describe this over-identification with foreign governments accused of human rights abuses. Kissinger in addition forbade the release of a 1975 State Department-prepared report to Congress on human rights conditions in aid recipient countries. “Neither the U.S. security interest nor the human rights cause would be served,” he said, by singling out individual states for “public obloquy.” Congress in response strengthened the language in the Foreign Assistance Act to compel the department to submit human rights reports, a law still in force today.

What distinguished Jimmy Carter from his predecessors was that he embraced the human rights policy proposed by Congress and went on to make the promotion of human rights a key aspect of US foreign policy. The reasons were the following:

- Advancing freedom internationally was in line with America’s values and would serve the national interest. Carter argued that US security would be enhanced by

the expansion of human rights and democracy around the world. President Carter also argued that a human rights policy would regain for America its lost moral stature, his Administration noting that the US risked paying a serious price when it became identified with repression.

- Another principal rationale for the policy was that under international law, the United States had a legal right and responsibility to promote human rights. In fact in addressing the UN General Assembly, Carter broke through the domestic jurisdiction argument with the statement that no member of the United Nations could claim that mistreatment of its own citizens was solely its own business.
- A third argument was that human rights goals could be effectively pursued along with other foreign policy objectives. Carter rejected the linkage argument put forward by Kissinger, which held that promoting human rights would necessarily jeopardize other foreign policy goals. The United States, he said, would press for human rights objectives together with political, economic and military goals in its bilateral relations.

THE TOOLS OF A HUMAN RIGHTS POLICY

To apply the human rights policy, the following tools were introduced.

- First, vigorous private diplomacy. US officials regularly began to raise serious human rights violations and high interest individual cases in their bilateral discussions with foreign governments. Hundreds upon hundreds of representations were made, with the Carter Administration focusing primarily on countries with which the US had military and economic ties, although the Helsinki process with the former Soviet Union resulted in many representations with the Soviet bloc as well. During the Reagan years, the focus shifted mainly to the Soviet bloc or other countries considered our adversaries although it later extended to countries with which the US had aid relationships as well. In the Clinton years, democracy and elections occupied a central place in diplomacy, and the name of the Bureau of Human Rights was changed to the Bureau of Democracy, Human Rights and Labor. The Bush 2 Administration has placed great emphasis on using private and public diplomacy to promote democracy and freedom in the Middle East.
- A second tool was public statements or using the “power of words,” as Carter put it. Public statements were intended to make US positions clear, act as notice to foreign governments or sometimes as a restraining influence and encourage and give hope to domestic human rights proponents in the country. In some instances, the countries were mentioned by name; in others the message was more general. Secretary of State Cyrus Vance, for example, in a statement before the Organization of American States addressed the subject of terrorism and human rights. His statement resonates today. He denounced abduction and torture as unacceptable responses to terrorism and warned Latin American governments that by entering this netherworld of terrorist behavior, they would lose their moral

authority. In 2007, President Bush took Russia to task publicly for the arrests of demonstrators prior to parliamentary elections. He said: "I am particularly troubled by the use of force...to stop these peaceful activities and to prevent some journalists and human rights activists from covering them," and he called on Russia to honor freedoms of expression, assembly and press as well as due process.

Public statements by the US on human rights issues also began to be loudly heard during the Carter Administration in the halls of regional and international fora, like the United Nations and the Helsinki Forum with the Soviet bloc. Another public diplomacy tool was the human rights reports, which since the 1970s have become more candid, credible, and comprehensive. When first introduced, there was fear that they would unduly complicate relations with foreign governments and the texts often sugarcoated the truth. I remember my encounter with the Department's East German desk officer who in deference to the East German government wanted to characterize the Berlin Wall as an economic development measure. In the case of El Salvador, the desk did not want the report to acknowledge the link between government security forces and the 'death squads' committing atrocities in the country. Today, controversy surrounds the report on North Korea. The East Asian bureau, reported the *Washington Post*, sought to water down the reference to rising public executions in the country, presumably for political gain.

Nonetheless, the human rights reports remain an important way of establishing an information base and signaling to foreign governments that their practices are under scrutiny and that the evaluation could cost them in political and economic terms. Although there was talk at the end of the Carter Administration of discontinuing the reports because of the complications they caused, members of Congress and also many Foreign Service officers rallied to their defense. The reports remain an integral part of American human rights policy.

- A third tool after private and public diplomacy was symbolic gestures. These could range from a reduction in military-to-military contacts in a country to a US presidential letter to a dissident, like President Carter's letter to Andrei Sakharov or an Ambassador's hosting dissidents and political opponents at the residence. President Bush's presentation of a Congressional Gold Medal to the Dalai Lama is a good example of a symbolic gesture targeting China.
- Positive measures were another tool. The US might channel economic aid, or sell technology or other products to governments working to improve their records. Or the President might visit a country in recognition of human rights improvements or on the understanding that there would be human rights reforms. President Bush's recent trip to Africa and the Millennium Challenge Account exemplify this approach. The US also began to provide grants to governments for projects in support of civil and political freedoms. During the Reagan era, the State Department and AID made a grant to Togo to help it establish a national human

rights commission. In fact, positive gestures were given greater attention by the Reagan and subsequent administrations, which wanted to move away from 'naming and shaming' to capacity building. The National Endowment for Democracy and the National Democratic and Republican Institutes were created to support democracy building, election monitoring and other institutional development in the human rights area. In 2006, the State Department spent \$23 million on projects to promote the rule of law and civil society in China.

- The Carter Administration also applied sanctions, in particular reductions in military aid or sales to disassociate the US from governmental practices or in some cases to gain influence with more progressive political and military forces in the country. Upon entering office, Secretary Vance announced reductions in security assistance to Ethiopia, Argentina and Uruguay although in many other cases, national security concerns were cited to prevent the undertaking of sanctions. Restrictions on the sale of police equipment were also introduced. For example, it was decided not to sell police equipment to China so as not to assist that government in exercising internal repression. In the economic arena, the US voted 'no' or abstained on multilateral development bank loans, although most loans went forward because other nations voted to support them. Nonetheless, the possibility of a negative vote did make governments pause, weigh their actions, and sometimes caused them to withdraw their loan requests. When it came to the Export-Import Bank, the human rights policy was applied sparingly during the Carter years and thereafter because the stakes were considered too high for US business.

THE CHALLENGES

In looking at the challenges of implementing the human rights policy, I would note that many of the issues the Carter Administration had to deal with confront policymakers today.

The first challenge is how to address human rights and democracy without unduly straining relations with governments and undermining overall US foreign policy objectives. The Carter Administration, for example, was criticized for undercutting its allies in the war against communism; in particular, the human rights policy was said to have contributed to the overthrow of the Shah of Iran and the installation of a regime hostile to the United States. Although the charge is highly debatable, a human rights policy can have impact on a precarious regime, held together by a secret police, and the outcome may not always be predictable. Initially the Reagan Administration supported the Pinochet regime in Chile and the Marcos regime in the Philippines on the grounds that they were allies against communism but it too came around to the view that it was *not* in US interests to be associated with these governments and to be standing against the popular will in these countries even if they were anti-communist. In the end the Reagan Administration helped escort both leaders from power and supported democratic transitions in these countries. Their governments have remained friends with the United States ever since. Today, the Bush Administration faces the same dilemma in Pakistan. In fact, in the debate over how strongly the US should back the Musharraf government,

these earlier cases are frequently cited. Will the overthrow of Musharraf produce an extremist Islamic government hostile to the US as in Iran? Or will it lead to a more democratic alternative, as in Chile, the Philippines and South Korea?

A second challenge to implementing a human rights policy is dealing with competing priorities, that is, the political, military and economic interests that conflict with action on human rights. Consider some examples. In the case of South Africa under the apartheid regime, economic and business interests often took precedence over combating the racial policies of white minority South Africa. In preparing Congressional testimony for my Assistant Secretary, I was not allowed to directly suggest economic sanctions. However I found sympathy in the department for saying that *others* were urging the US government to curtail private trade and investment with South Africa. In the Reagan Administration, strategic interests overshadowed human rights concerns with South Africa, and a policy of 'constructive engagement' was introduced to gain South Africa's cooperation in reducing Soviet and Cuban influence in southern Africa. Here it was Congress and the public that loudly objected to US detachment from human rights concerns, especially when violence erupted in South Africa in 1983. Congress in 1986 enacted the Comprehensive Anti-Apartheid Act, which introduced trade and financial sanctions against South Africa and lent support to the anti-apartheid opposition. Bringing in human rights concerns, it should be noted, did not jeopardize the achievement of strategic goals – Cuba withdrew its troops from Angola, and South Africa withdrew from Namibia. Moreover, the sanctions in time helped influence the South African government to end the apartheid system.

In the Clinton years, economic interests overrode the pursuit of human rights when it came to China. In fact, it was argued that the opening up of China economically would inevitably lead to greater democracy and human rights in the country. In other words, market reforms would produce political change and a more open society. Some still make this case, but eight years later we see an emerging world power where political reform is still heavily restricted. We also see that China's dealings with foreign governments are not influenced by how these governments treat their own populations. In fact, it has taken considerable international pressure, not to speak of the Olympics, to influence China to play a more constructive role with regard to Sudan's actions in Darfur.

When it comes to Darfur, where the Bush Administration has been quite forthright on human rights, competing political priorities have complicated the effort at different times. At a public meeting at Brookings last year former Deputy Secretary of State Robert Zoellick acknowledged this to be the case. He pointed out that the US was expected to put pressure on Sudan's government for criminal acts in Darfur but at the same time to *engage* with the government of Sudan in order to get Khartoum to sign the Comprehensive Peace Agreement with the south in 2005 and end the decades old civil war. This preoccupation with the North-South peace agreement, while essential, dampened Western initiatives with regard to Darfur. Intelligence interests have also interfered with strong action on Darfur. After 9/11, a cooperative relationship began to develop between the Sudanese and American intelligence communities. In 2005, the CIA hosted the director of Sudan's security and military intelligence at Langley, even though

the United Nations had identified him as having “command responsibility” for crimes against humanity in Darfur.

The intelligence community, it should be noted, often pursues policies at variance with a human rights policy. The secrecy surrounding intelligence work, however, makes it difficult to know. I remember reviewing the curriculum for the first human rights course at the School of the Americas where the US trained Latin American military and police. What I wasn't asked to review was another course also being given, albeit in secret, instructing students in how to subject insurgents or terrorists to torture like practices. If the Bush Administration continues to insist that the CIA be able to use torture on terrorist suspects, this will clearly undermine the human rights policy. In the case of Afghanistan, one can hardly speak of the problems in that country without reference to the fact that our intelligence agencies in the 1980s armed, supported and encouraged the creation of Islamic fundamentalist groups in order to rid the country of the Soviet occupation. That important strategic objective was pursued with little or no attention to the protection of human rights. When the Taliban regime came to power, it basically tried to return the country to the middle ages and it sheltered al Qaeda, which in turn led to our invasion of Afghanistan in 2002 and to the war we are fighting today.

This is not to suggest that human rights concerns must be front and center in every situation. There may be sound political and strategic reasons for placing human rights in a secondary position. In the case of China, for example, in 1979, normalizing relations with its government based on national security objectives like containing Soviet power and gaining influence in Asia understandably moved human rights concerns aside. Today, in the case of North Korea, reaching a nuclear agreement obviously has to take priority over introducing human rights concerns into the six-party talks. However, it is always important to distinguish between *genuine* strategic or political interests that may have to move human rights to the side, and shortsightedness, ignorance about the importance of including such concerns or simply not wanting to complicate cozy relationships with governments or warlords.

When no effort is made to reconcile human rights goals with other foreign policy priorities, there can be serious consequences. In the case of the genocide in Rwanda, the Clinton Administration took no steps to prevent it, failed to take action to protect Rwandans once the genocide began, and also stopped the United Nations from taking action. The reasons for this were: 1) the fear of becoming involved in another Somalia; 2) lack of confidence in UN peacekeeping operations; and 3) not seeing a need to act in the case of a country of no strategic importance to the United States. What were the consequences of inaction? 1) The human tragedy of 800,000 Tutsis and moderate Hutus being deliberately hacked to death by machetes in 100 days. 2) Ongoing unrest and civil war in the Democratic Republic of the Congo, one of Africa's largest and resource rich countries, leading to Africa's first world war. 3) A stained US record when it comes to preventing genocide and playing a leadership role in the world on the most serious human rights issue. President Clinton in fact has said that this failure is what he regrets most in his presidency and he and his senior aides regularly and publicly apologize, in part I

believe to regain credibility when urging strong actions in other human rights situations like Darfur.

Of course, the failure to act on human rights is hardly a monopoly of the Clinton Administration. Without any reference to human rights, the Reagan Administration showered both Liberia and Somalia with arms in the 1980s, shoring up the abusive regimes of Samuel Doe and Siad Barre. The aim was to keep Soviet influence at bay, which the US achieved, but the absence of attention to human rights and democracy also led to both becoming failed states. The arsenals amassed in both places provided much of the weaponry for the ethnic and clan warfare that broke out when US support waned at the end of the cold war. No attention was paid to building democratic institutions in these countries so that there could be successor governments. In Liberia, today, a democratic transition is finally taking place after years of devastating civil war which ignited the whole West African region. But in Somalia anarchy continues to reign and it is now feared that the country could become a hotbed of international terrorism.

CRITERIA FOR AN EFFECTIVE HUMAN RIGHTS POLICY

What is necessary for an effective human rights policy? Here are ten suggested criteria.

The first is credibility. A government cannot effectively promote human rights abroad if it is not observing them at home. If a government considers that habeas corpus and guarantees against torture are at variance with its national security, then it will not be able to urge other governments to respect these rights. Nor will a human rights policy be credible if it is used as a pretext for achieving other foreign policy goals, for example as a rationale for an invasion of another country, or for regime change, or to achieve domestic political purposes. Credibility also means a policy based on sound information that neither downplays nor exaggerates the situation for political reasons.

Second, the promotion of human rights must be defined as a national interest reflecting American values and bearing on national security. Rather than defining the policy in terms of morality or religion, it should be underscored that governments with open societies and that respect human rights are better allies and less likely to be threats to international peace and security and that our interests are not well served over the long term by allying ourselves with oppressive regimes. Moreover, respect for human rights should be presented as in the interest of foreign governments as well. I always liked the following quotation: "Never appeal to a man's better nature. He may not have one. Invoking his self interest gives you more leverage." Once the policy is defined as a national interest, there should be a willingness to pay something for it. If trade and exports or the war on terror always trump human rights considerations, the policy will not be effective.

Third, the entire government must be united behind the policy. It cannot be a policy of just one particular branch. The White House, the State Department, the Commerce Department, the Defense Department, the intelligence community, USAID all have to be on board, integrating the policy into their overall decision making. This also means putting leverage behind the policy, whether political, economic or military incentives or sanctions and identifying where strategic and human rights goals can best be brought

together -- for example, how all branches of government can work together to encourage China to evolve into a more open society, or how all branches can bring their talents to bear to prevent failed states, genocide or to reduce terrorism.

Fourth, the policy must be realistic. It cannot overestimate US power to reform countries or democratize them or make them into miniature Americas. When policies become too strident or overblown, the Administration invariably has to retreat. Jimmy Carter had to step back after affirming in his inaugural address that the US commitment to human rights would be "absolute." President Bush has had to backtrack on his overblown goal of bringing democracy to the Arab Middle East not to speak of his inaugural pledge to end tyranny in the entire world. A realistic policy will also not rely solely on American power and actions but encourage a broad range of actors to become involved -- other governments, in particular a coalition of democracies, multilateral and regional organizations, NGOs, and corporations.

Fifth, an effective human rights policy must seek to reconcile human rights and democracy goals. An exaggerated faith in elections can be misguided without simultaneous support for the institutions that make democracy work -- an independent media, the rule of law, and a vibrant and involved civil society. President Bush's insistence upon elections in the Palestinian territories led to the unexpected triumph of Hamas -- hardly a human rights victory. In Rwanda, the US provided democracy assistance prior to the genocide but failed to pay attention to human rights violations -- the discriminatory actions being taken against the Tutsi minority.

Sixth, an effective human rights policy will seek to reconcile human rights and humanitarian goals. The introduction of economic sanctions, for example, on human rights grounds, must be carefully balanced against the consequences they may have. Will they encourage desired change, as in South Africa, or will they diminish the health and nutrition of the population, as in Iraq before the 2003 war? Similarly, should any conditions be placed on the extension of food aid to an oppressive regime? What if the humanitarian aid enables the regime to divert the food to political loyalists and free up funds for defense purposes, as in the case of North Korea?

Seventh, a human rights policy must seek to address human rights emergencies, like genocide or crimes against humanity where large numbers are at risk, by promoting actual protection on the ground. To this end, vigorous multilateral diplomacy is needed to support humanitarian presence in the country and the deployment of peacekeepers and police to protect people. Food, medicine and shelter, public pronouncements and criminal courts will not be enough. The 2005 World Summit Outcome Document, adopted by more than 190 countries, endorses an international responsibility to protect (R2P) when governments are unwilling or unable to protect their own populations from genocide, crimes against humanity, war crimes and ethnic cleansing. A human rights policy must promote effective implementation of R2P.

Eighth, in this time of internal conflicts and civil wars, human rights policies must seek to deal more effectively with non-state actors as well as governments so that they can be

held accountable. Although there is risk in providing legitimacy to insurgent groups, there needs to be more effective ways of dealing with and restraining these groups.

Ninth, a human rights policy should be broadly defined to encompass women's rights, workers' rights and children's rights – areas in which the US has moved forward. Some would add that the policy should also encompass economic, social and cultural rights in addition to civil and political freedoms. This is an area that the United States has not yet embraced, not having ratified the International Covenant on Economic, Social and Cultural Rights and not viewing health care or food in international fora as human rights.

Finally, an effective human rights policy will require staying power and follow-through because reforms do not happen over night. Real improvements require constancy, strong links to people and organizations inside the countries concerned and sustained use of the tools of the trade, first and foremost talking to governments. The idea that you can have an effective human rights policy but not talk to the governments you don't like is counterproductive. Follow-through also means flexibility. If a policy of engagement with a repressive regime is not working, like constructive engagement with South Africa, or if a policy of isolation is producing little -- for example with Burma or Cuba --, there should be a willingness to review these policies and consider alternatives.

Conclusion

To conclude, let me leave the audience with this thought: what the United States is known and appreciated for around the world is not just its strong economy and military capability. It is its democratic way of life and commitment to the observance of human rights. Our nation defines itself by the Constitution and Bill of Rights, the ending of slavery and segregation, the promotion of equal rights for women, the struggle to end racial and minority discrimination, and the defense of free speech, press, and civil liberties. In its dealings with foreign governments and countries, it must necessarily reflect this identity. Whether it is well expressed will depend upon the nature and strength of its human rights policy and the dedication and skill of its diplomatic corps in the implementation of this policy.