1978

Human Rights and United States Foreign Relations: An Overview

Patricia M. Derian

Follow this and additional works at: https://scholarlycommons.law.case.edu/jil

Part of the International Law Commons

Recommended Citation
Available at: https://scholarlycommons.law.case.edu/jil/vol10/iss2/1

This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.
Human Rights and United States Foreign Relations:

An Overview

by Patricia M. Derian*

I

THE UNITED STATES Government's present emphasis on human rights is a significant development in American diplomatic practice which is helping to make human rights a key issue in international relations around the world. This is not a passing phenomenon. President Carter's commitment on this subject clearly reflects the views of the public at large and enjoys strong support within the Congress. The new emphasis on human rights appears to have tapped deeply-held beliefs among the American people that United States foreign policy objectives should coincide with the principles that form American ideals.

Concern of one government for the well-being of the citizens of another is not new. International moves against slavery during the early 19th century were an early example of humanitarian intervention into the affairs of other countries. It was generally held, however, that human rights questions were issues of domestic jurisdiction beyond the reach of international law. In a break with tradition, the Atlantic Charter of World War II declared the preservation of human rights and justice to be one of the peace aims of the Western alliance, a concept that later was incorporated into the Charter of the United Nations.

Although human rights were not neglected by the United States Government in subsequent years, it was a subject that often took second place to other concerns in our rhetoric and policy. President Carter now has stressed a commitment to human rights as an issue whose time has come.

In defining human rights, the United States Government recognizes three categories. The first is the right to be free from governmental violation of the integrity of the person. Such violations include torture,

* Assistant Secretary of State for Human Rights and Humanitarian Affairs, United States Department of State.
cruel, inhuman or degrading treatment or punishment, arbitrary arrest or imprisonment, denial of a fair public trial, and invasion of the home.

The second generally accepted category is the right to the fulfillment of such vital human needs as food and shelter.

The third is the right to enjoy civil and political liberties including freedom of thought, religion, assembly, expression, and movement.

Manifestly these three categories are different in nature: the first is a relationship between the state and the individual, the second is a function of the economic development and organization of the state, and the third concerns the relationship between the state and its citizenry.

The attention given to developments in the first category of human rights obscures the fact that the United States Government also is committed to improvements in the other two human rights fields. Our foreign assistance programs for the developing world bear witness to our efforts in furthering economic and social rights, while the United States from its very inception has been an example of political democracy for the rest of the world and a leader in promoting civil and political liberties. It is also clear that these three categories are so intertwined that improvements in one are often dependent on improvements in the other.

II

Our concern for human rights stems from the fundamental values which led to the founding of the United States. Respect for the dignity of the individual has been our guiding philosophy, and the protection of his or her rights is the cornerstone of our political society. Although tradition has long held that the treatment accorded a citizen by his or her own government is not the concern of outsiders, this administration's firm belief—one shared by a majority of the American people—is that this country's basic principles cannot be turned off at the border. As a nation, the United States must speak out against violations of the human spirit and, most importantly, must ensure that its actions do not support or condone repression.

The United States has a firm basis in international law for adopting an active human rights posture abroad. It has committed itself to international agreements and declarations which carry an obligation to promote the cause of human rights. Given the present body of agreements guiding international relations, the view that concern for
human rights of people in other lands constitutes an unjustified intervention is no longer valid.

All the signatories of the United Nations Charter have pledged themselves to observe and to respect basic human rights. The Charter specifically reaffirms the organization's faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women. The 1948 Universal Declaration of Human Rights, which set forth an international bill of rights, established a morally (and legally, in the view of many) binding basis for specific human rights. The Universal Declaration has become the wellspring for a series of international conventions and declarations which further spell out the acceptable behavior of states in regard to the rights of their citizens. The movement toward recognition of human rights at the international level has led to the establishment of human rights enforcement bodies both within the United Nations group (the U.N. Commission for Human Rights) and without (the European and the Inter-American Commissions on Human Rights).

These developments have provided states with the opportunity for greater flexibility in protesting human rights violations in other countries. They allow a deeper and broader interpretation of the rights of foreign governments to intervene in cases of human rights violations than previously had been the case. No nation can claim validly that the mistreatment of its citizens is solely its own business. The denial of an individual's human rights and fundamental freedoms has become a matter of international concern, and the United States Government, for one, will no longer accept or be guided by the outmoded non-intervention doctrine.

The Congress, in pressing for a renewed emphasis on traditional American values in United States foreign policy, has enacted legislation which obliges the executive branch to take full account of human rights situations in recipient countries before approving assistance programs. Amendments prohibiting or severely restricting assistance to governments engaging in a consistent pattern of gross violations of internationally recognized human rights have been added to basic laws controlling economic, food and security assistance and the United States' activities in the international financial institutions. The Export-Import Bank is enjoined to take account of the respect for human rights in countries receiving goods financed by its loans or guarantees.

Our objective in this area is to gain greater acceptance of the view that respect for the individual is the cornerstone of human progress.
and is an essential goal toward which all should strive. We recognize that countries differ in their social systems and governmental structures. Regardless of such differences, however, we believe all governments can be encouraged to promote the observance of internationally accepted human rights. We recognize that much remains to be done in our own country to achieve political, social and economic justice. Nevertheless, this should not be an excuse for inaction abroad. The cause of human justice should be pursued wherever possible.

III

In order to carry out the United States Government's intentions in the most effective and positive way, the Department of State's institutional framework has been restructured. A separate Bureau of Human Rights and Humanitarian Affairs headed by an Assistant Secretary has been created to assure serious attention to human rights problems and issues.

The new Bureau is an integral part of the Department's decision-making process and the focal point for human rights advocacy. The Secretary of State, like the President, has placed a high priority on human rights. He has made each ambassador personally responsible for ensuring that our human rights policy is understood, that we have continuing contacts with groups concerned with human rights in other countries, and that full information on human rights conditions is being reported. In addition, full-time human rights officers have been named in each of the Department's geographic bureaus to make sure that human rights issues get full attention at the working levels of the Department.

An Inter-Agency Committee on Human Rights and Foreign Economic Assistance coordinates activities among the executive agencies involved. Chaired by the Deputy Secretary of State, this Committee reviews all aspects of United States economic assistance relations with other nations, including loans by international financial institutions, to ensure that they are consistent with United States human rights objectives.

Bilateral economic assistance programs are being carefully reviewed to ensure that they go to benefit needy people and not to strengthen the hold of repressive governments. The review involves overall budget levels for individual country programs, decisions on the kind of assistance that can be provided and decisions to disapprove or reduce certain programs. In the past year, human rights questions were raised
on economic assistance programs to nine countries, and assistance was delayed or terminated in four or five cases. At the same time, assistance can be used as a positive incentive to governments which are making serious efforts to improve their human rights situations.

Initiatives have been taken to promote the cause of human rights through the use of the international financial institutions such as the World Bank and the regional development banks for Asia, Africa, and the Americas. The United States Government has gone on record in both law and policy that it would oppose loans by these institutions to governments that are gross violators of human rights. Special consideration is given, however, where it is shown that the loans would directly benefit the poor and the needy.

Similarly, the security assistance programs are reviewed on human rights grounds by the Arms Export Control Board and the Security Assistance Advisory Group. The Administration has halted or reduced security assistance and has withheld commercial licenses for military equipment for certain countries which have engaged in serious human rights violations. No country can assume that it has a blank check to obtain arms from the United States if it continues to permit serious human rights violations against its own citizens.

Parallel to these steps, the United States has made a number of direct approaches to foreign governments recommending that they release political prisoners and cease the abuse and torture of other prisoners. Countries have been urged to terminate martial law and to return to systems of due process. American officials have made numerous appeals to foreign government representatives for an improvement in all aspects of human rights.

In the multilateral agreement field, the United States in the past year has signed the American Convention on Human Rights, and the International Convenant on Civil and Economic and Social Rights. In each instance, these international documents had remained without the United States' signature for nearly a decade.

Much progress has been made in recent months in promoting and developing the international human rights institutions. The United States worked with many Latin American countries to strengthen the Inter-American Commission on Human Rights and toward a major increase in its funding, resources and frame of reference. This institution now is being taken seriously by the countries of the western hemisphere. In recent months, four countries have informed the Commission of their willingness to receive Commission inspectors to assess
conditions within their borders. The United States has given strong support this year to a Costa Rican initiative calling for the creation of a U.N. High Commissioner of Human Rights. At the first follow-up meeting of the Commission on Security and Cooperation in Europe (CSCE), which has been meeting in Belgrade since October, the United States has played a leadership role in assuring that there is full and clear discussion of the gap between current human rights practices of the Eastern European countries and the commitments they undertook in the CSCE Final Act signed at Helsinki in August 1977.

In all these activities, the Department of State has had close ties with non-governmental organizations involved in human rights, some of which, such as Amnesty International, are important sources of information.

IV

In its accelerated pursuit of human rights goals, the Government has encountered criticism, not so much from those in outright opposition to policy but rather from those dissatisfied with the way policy is being implemented. A common complaint is that of partiality: Why are some countries treated differently than others? Why are we harder on some than others? There is an answer to this criticism. The Government tries to be as consistent and evenhanded as possible in making known its views and in taking action in connection with assistance programs. With some countries, the United States has an established relationship and a variety of assistance programs so that actions of this type could have a significant impact. Elsewhere, our leverage is limited. Hence, our policy at times may appear uneven, impinging more on certain allies than on other, less-than-friendly nations. In the interests of the worldwide movement, however, efforts to increase the observance of internationally recognized human rights must be undertaken wherever possible. Rather than finding a common denominator, we ask each country to live up to its own highest human rights standards.

There are those who can readily accept human rights as a goal but who believe that this objective should be pursued by "quiet diplomacy," that is, a low-profile method of recommendations and encouragement. This is the approach used in the initial demarche to a government and, in some cases, is the only avenue open. Often it meets with some success. In other cases it is clear that open, public diplomacy is the most productive agent of change. Effecting changes,
in a government's human rights policy is not easily accomplished, and may require public as well as private diplomatic efforts.

Others, pointing at the differing value systems of the non-Western world, question whether a concept of human rights based on Western ideals can be applied successfully to many nations. Actually, the importance of the individual is at the base of the political philosophy of most of the non-Western and evolving states, as attested to by their constitutions and by their domestic laws. The observance of the individual's rights is in keeping with the mores of most modern societies, and departures from this are an aberration.

Concern is also expressed by persons recalling the Vietnam experience and wondering if the United States is not acting once again as the policeman of the world. The United States Government has no intention of undertaking a military crusade of direct action to force compliance with human rights principles, nor would such a move be successful. We do, however, want to ensure that our own programs, military transfers, food shipments, budgetary help, concessional credits and the like, do not serve to support a government guilty of repressing its own people.

What have been the results of the enhanced effort of the last year in the human rights area? No one expected that the world would change overnight; modification in political and social behavior is necessarily a long term endeavor. But some improvements have stemmed from the combined actions of the United States and other concerned countries. More governments have taken account of human rights factors, and changes in practices have been noted. Examples could be cited of the release of political prisoners, the return to civil law from martial law, the speeding up of long-delayed trials, and improvements in prison conditions. Some governments have issued orders against the use of torture and the abuse of prisoners, while others have moved toward greater freedom of expression for their people.

All in all, we have concluded that the United States Government's effort to improve human rights conditions in the world has shown some positive results and that more improvements can be expected as efforts continue. This Administration is encouraged by the record so far and fully intends to continue to make the increased observance of internationally recognized human rights a principal goal of the foreign policy of the United States.