



SPECIAL REPORT

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ABOUT THE REPORT

On March 17, 1999, the U.S. Institute of Peace held a symposium on Capitol Hill to inaugurate its new initiative on Human Rights Implementation. The meeting brought together more than 35 policymakers, scholars, and nongovernmental officials to examine the

Carter, Reagan, and Bush administrations' achievements and inadequacies with regard to policies that shaped human rights promotion and protection abroad. The session was designed to lay the foundation for the project, which will examine several issues, including U.S. interests in human rights, the objectives set by former and current officials with respect to human rights, the current array of human rights problems as perceived by the policy community, and the tools available to bring about improvements in human rights conditions in other countries. Introductory presentations were made by Congresswoman Nancy Pelosi and Congressman Tom Lantos and

John Edward Porter, cochairs of the Congressional Human Rights Caucus. This report, prepared by Institute program officer

Debra Liang-Fenton, summarizes the discussions of this gathering and provides a review of the last twenty years of human rights policy.

The views expressed in this report do not necessarily reflect those of the United States Institute of Peace, which does not advocate specific policies.

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U.S. Human Rights Policy: A 20-Year Assessment

Briefly . . .

- Over the past two decades, despite the increased emphasis on human rights issues in U.S. foreign policy formulation, there has been little effort to evaluate the efficacy of such policies and the tools employed to carry them out. In addition, the inherent complexities and inconsistencies in policy application have affected the perceived and actual efficacy of these policies.

- New challenges to effective and consistent U.S. human rights policy formulation are the mounting tension between human rights and commercial and security interests; the proliferation of collapsed states, internal conflicts, and available arms; and the deepening economic inequality resulting from globalization. Conflicts within the U. S. political process regarding human rights policy can also impede implementation.

- A successful human rights policy demands the public's support, but also the support of senior officials in the executive branch to avoid inconsistency in policy and to ensure that human rights concerns are not subordinated to the concerns of other bureaus within the State Department.

- The growing number of nonstate actors—multinational corporations, international lending institutions, insurgent groups, terrorist groups, and others—both augment and complicate human rights implementation. Their increasingly prominent role requires new tools and institutional mechanisms to ensure not only their accountability, but greater coordination for better efficacy.

- Although human rights have played a role in foreign policy throughout U.S. history, the Carter administration was the first to explicitly embrace human rights as a central component of foreign policy formulation. Meant to be applied equally to friend and foe, the policy, some believed, communicated a negative message to U.S. allies.

- Institution building was at the forefront of Reagan policy, which focused predominantly on promoting democracy. A shortcoming of Reagan policy was the tendency to equate democracy, particularly electoral democracy, with respect for human rights.

- President Bush also saw electoral democracy as the best way to protect human rights, but did not officially protest some rights-abusive regimes. The Bush administration consolidated policies from the Carter and Reagan administrations. However, some saw Bush policies as incoherent and influenced by global politics.

- Identifying long-term and short-term objectives and coordinating them with U.S. interests will help to improve and make more consistent human rights policy implementation.

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Roberta Cohen—The Carter Administration

Human rights advocacy was not an accepted part of foreign policy twenty years ago. The Carter administration was the first to integrate human rights concerns into executive branch decision making. This policy did not originate with the Carter administration, however—it was Congress and the American people that first proposed this policy. In the wake of the Vietnam War and revelations about U.S. policy in Latin America and other areas, questions began to be raised about the kinds of policies that the United States was pursuing around the world under the rubric of combating communism and whether they were in keeping with America's traditional values and interests. Congress insisted upon the creation of the Human Rights Office in the State Department that required human rights reports, and it enacted laws to condition U.S. military and economic aid to foreign governments on human rights performance. What distinguished President Carter from his predecessors was that he embraced this policy. Rather than try to undercut Congress, he made the promotion of human rights a key aspect of his foreign policy. He based this decision on several assumptions:

- The United States had a right and responsibility under international law to promote human rights. Carter proceeded from the assumption that no member of the United Nations could claim that mistreatment of its own citizens was its own business. This was a departure from the policies of former Secretary of State Henry Kissinger, who believed that it was dangerous to make the domestic policy of foreign countries a direct objective of American foreign policy.
- Human rights goals could be effectively pursued along with other foreign policy objectives. Carter rejected the linkage argument used by Kissinger, which held that promoting human rights jeopardized other foreign policy goals. The United States would press for human rights objectives simultaneously with political, economic, and military objectives in its bilateral relations.
- U.S. efforts on behalf of human rights would help expand democracy and freedom abroad, and the United States' own well-being and security would be enhanced in the process. "Stronger allies make better friends" has almost become a mantra today, but it was not something one heard twenty years ago.

The policy was intended to be applied across the board. Its integrity, in fact, was felt to depend on its universal application. At the same time, U.S. law gave special attention to those governments with which the United States had a military and economic relationship. The law required the United States to take human rights considerations into account when providing military and economic assistance. There was also an understanding that extraordinary circumstances or national security interests could restrict the policy's application.

The main tool in carrying out the human rights policy was vigorous, quiet diplomacy. For the first time, U.S. officials from the president down regularly raised serious human rights violations and cases in their discussions with foreign governments. The focus was on life-threatening violations such as torture, disappearances, summary executions, and arbitrary detention, and on broader civil and political freedoms, whether freedom of speech or press, freedom of religion, or freedom from racial discrimination, and it encompassed the lifting of emergency de-

crees, transitions to civilian rule, and more open political processes. Whether with Chile, Uruguay, the Philippines, Indonesia, Nigeria, South Africa, or the Soviet Union, human rights concerns became part of the diplomatic dialogue. In the last half of 1979 alone, the Carter administration made over 100 representations to Soviet officials on human rights, family reunification, and other related cases.

A second tool was raising human rights publicly. This was more controversial. It was done to make U.S. positions clear; to serve as a restraining influence; and in the case of the Soviet Union, to tell the truth. In one noteworthy case, Secretary of State Cyrus Vance made a statement before the Organization of American States (OAS), where he publicly denounced abduction and torture as unacceptable responses to terrorism and warned that by entering this netherworld of terrorist behavior, the governments concerned would lose their moral authority.

The United States was also vocal in international and regional forums at the UN, in the Helsinki Forum with the Soviet bloc, and at the OAS. In addition to making strong statements and resolutions, the Carter administration worked hard to develop and strengthen international and regional machinery so that it would fact-find, publish reports, and find ways to hold governments accountable.

The human rights reports were another tool of public diplomacy. They became more candid, more credible, and more comprehensive as time went on. They were important in signaling to foreign governments that their practices were under scrutiny and that the evaluation could cost them in political and economic terms. The reports also made it difficult for the United States or other governments to claim ignorance as a basis for inaction.

Symbolic gestures were a tool actively used. For example, a reduction in military-to-military contacts was used to send a message to Guatemala, a presidential letter was sent to Andrei Sakharov, and meetings were conducted with prominent dissidents in South Korea and Paraguay. The United States also developed close and cooperative relationships with human rights nongovernmental organizations (NGOs).

In addition, positive measures were used. Economic aid was channeled to governments working to improve their records. Sales of technology or other products sometimes went hand in hand with human rights improvements. Presidential visits, such as to South Korea, were made with the understanding that there would be human rights reforms. Small grants were introduced by the U.S. Agency for International Development (USAID) for projects to promote civil and political freedoms.

Finally, sanctions were applied on human rights grounds. Reductions in military aid and sales affected governments in Latin America and to a lesser extent in Asia and Africa. Sanctions were used as a last resort, although in the case of Argentina, Chile, and certain other governments, they were mandated by Congress. What sanctions essentially sought to do was to disassociate the United States from the practices of those governments' security forces and gain influence with the more progressive political forces in the country. Sometimes the mere threat of sanctions gave important support to U.S. diplomacy. Words and policies are effective only if it is understood that they may be supported by stronger measures. In many cases, however, national security concerns simply prevented the use of sanctions.

The Carter policy also introduced restrictions on human rights grounds in the sale of police equipment to many countries. Such equipment, for example, was not sold to the People's Republic of China (PRC) out of an unwillingness to assist

“We have an enormous power to embarrass and countries cannot take embarrassment. The more vicious, the more brutal, the more coercive a dictator, the more sensitive he is. Although we cannot change policy overnight, we can shine the light of public attention on all of these regimes.”

Congressman Tom Lantos

“Ten years after the Cold War, we have seen not the end of history as some have predicted, but instead the beginning of a whole new set of challenges for human rights. From Bosnia to Burma, from Kosovo to Kigali, we are now witnessing the need for human rights policy—national, intergovernmental, and transnational—to adapt to changing developments and to try to stay one step ahead of the horror.”

*Assistant Secretary of State for
Democracy, Human Rights,
and Labor
Harold Hongju Koh*

the PRC in exercising internal controls over its own people. When it came to the Soviet Union, high-technology equipment and scientific exchanges were affected at different times.

In the economic area, the United States voted “no” or abstained on multilateral development bank loans in at least 100 cases. The “no” votes were mostly symbolic since most loans went forward because other nations voted to support them. But the possibility of a negative vote did make governments pause, and weigh their actions, and did sometimes cause governments to withdraw requests for loans. The Carter policy extended sparingly to the Export-Import Bank because the stakes for U.S. business were too high.

Not all the tools used to apply the human rights policy worked well; nor were they applied consistently and across the board. The Human Rights Bureau may have been dedicated to integrating human rights into decision making, but there was a lot of resistance and competing pressures in the State Department and other parts of the government. In some cases, genuine strategic or political interests moved human rights to a back seat. In the case of China, the Carter administration first had to develop a relationship before human rights could be brought into the equation. In other cases, clientism, or cozy relationships with foreign governments at any cost, impeded the human rights policy. That even extended to East Germany, where desk officers argued that writing up the Berlin Wall as an economic development measure in the human rights reports would prove more palatable to the East German government.

The Cold War presented a more serious challenge. To prevent El Salvador from falling to leftist insurgency, the United States supported El Salvador’s security forces, which were clearly linked to death squads in that country. Too little effort was made to insist on reforms in those forces, and too many lies began to be told about their true nature. In South Korea, too, human rights initiatives, including for then-political prisoner Kim Dae Jung, were often thwarted on the grounds that they could undermine the government’s security vis-à-vis North Korea. It is worth noting, however, that when Kim Dae Jung was elected president last year, one of the first foreigners he invited to his inauguration was Patt Derian, former assistant secretary of state for human rights. The Central Intelligence Agency (CIA) also engaged in actions that directly undercut the human rights policy, although at the time we were not always fully aware of them. The human rights policy was also conveniently scapegoated at different times for a variety of foreign policy failures, notably Iran, to which we sold billions of dollars in military equipment in support of the Shah.

Despite all the compromises, however, there were important achievements. The most significant was that the policy put human rights squarely on the international agenda. There was hardly a government that did not feel challenged to consider the human rights question. It gave impetus to national policy debates, to the formation of human rights organizations, to stimulating the development of a worldwide human rights movement. It made the aspiration for human rights a goal for peoples all over the world. Human rights emerged as a major theme of discussion in international and regional organizations. For the first time, these organizations began to take action on human rights issues. The legacy of human rights will be Carter’s historic contribution to the world.

The United States became the world’s leader in the promotion of human rights, which restored a more traditional perception of the United States as a champion of freedom. It also gained for the United States the political high ground in its

ideological competition with the Soviet Union. The vision of maintaining human dignity and enlarging human freedom was a far more compelling claim against the appeal of Marxism than simply preserving economic interests and selling arms.

The policy gave hope to many advocates of freedom around the world. It also was effective in saving lives. In some countries, large numbers of prisoners were released—30,000 in Indonesia, 600 in Paraguay. In other countries, citizens were allowed to emigrate—50,000 Soviet Jews in 1979. Prison conditions improved in some countries. State-sponsored disappearances were exposed and became fewer, as in Argentina. The use of torture was reduced. There were countries with more systemic change where states of siege were lifted, restrictions on press freedom eased, judicial reforms enacted, elections held, and steps taken toward political liberalization. The policy contributed to the promotion of majority rule in white-minority Rhodesia, and it contributed to the restoration and strengthening of democratic and civilian rule in countries as diverse as the Dominican Republic, Peru, Nigeria, and Nepal. Basically, the policy chipped away at the instruments of repression in a lot of different countries and began to promote the kind of expectations that we now take for granted when it comes to human rights and democratization.

Finally, Carter policy institutionalized human rights in the U.S. government. No matter how one packages this policy and presents it, a foundation was laid during Carter's presidency. Despite some ill-conceived efforts to do away with it, a policy that promotes human rights and democracy internationally is considered to be an American interest—and it prevails.

Elliott Abrams—The Reagan Administration

President Reagan's human rights policy started off on the wrong foot. The post of assistant secretary for human rights was left vacant for about eleven months after Reagan was inaugurated, and most administration officials thought that human rights policy was central to what they viewed as the failed foreign policy of the Carter administration.

Human rights policy to these officials meant antagonizing allies without giving much thought to whether their successors would be better and without considering what it meant to be a friend or enemy of the United States. Moreover, human rights policy was seen as a tool of the Left used to hurt abusers on the Right, but rarely applied with equal gusto to people like Fidel Castro.

But that changed. Changes in senior officials had a positive impact, primarily George Schultz's arrival as secretary of state about a year and a half into the administration, and the appointment of an assistant secretary for human rights and of a deputy assistant secretary in 1981.

In short order, the State Department developed what I would call a "Republican" human rights policy and adhered to it, more or less, for the next seven years, under two assistant secretaries. This policy made some great gains for human rights and the association of the United States with human rights. There are several points about that policy worth making:

First, the Bureau was careful to examine what it could do as part of the U.S. government and to distinguish this from what the human rights movement could do. It did not view itself as equivalent to, or confuse itself with, movement activists, nor did the Bureau confuse itself with the cause of human rights. Sometimes it was vocally critical of a regime, and sometimes it was not, depending on its view of the tactics most likely to advance the cause. Bureau officials believed that the U.S. government had one function to perform and the NGOs a different one.

“We have learned that breakthroughs on human rights matters are few and far between. This is a day-to-day process, where [one] must work on it hour by hour, day by day, week by week, month by month, and simply keep banging on the door until it opens.”

Congressman John Porter

Second, Bureau officials viewed themselves as part of the government and part of the State Department and did not see themselves as working in opposition to it. It was important to maintain good relations with other bureaus of the department, particularly the regional bureaus, and other agencies outside the State Department so as to restore the influence of the Bureau. In this, we succeeded.

Third, the Bureau's most useful activity was not to protest abuses or to isolate the United States from them. Rather, the goal was to improve respect for human rights, and that sometimes meant working, for example, alongside a government like that of President José Napoleon Duarte in El Salvador to reduce abuses. There was less inclination, therefore, to cut off military-to-military contacts, because so often the military were the human rights abusers. Opportunities needed to be available in order to influence and change their behavior. Guatemala is an interesting case here. The reason that human rights abuses declined more substantially in El Salvador than in Guatemala was that the United States was present. We had tremendous influence in El Salvador, and we used it. In Guatemala, where we had essentially no aid and no military presence, we were unable to encourage them to reduce human rights abuses nearly as much.

Sustained progress required the building of institutions. Thus, the promotion of democracy became central to Reagan policy, as he made clear in his famous speech to Parliament in London (the Westminster speech), where he outlined what eventually became the National Endowment for Democracy with its four subordinate institutions. Reagan policy began to focus more on building institutions than on protesting human rights abuses, in part because we believed that the NGOs were very good at the protests but not very good at the institution-building.

Fourth, it was clear that the greatest threat to human rights in the world in the early and mid-1980s was Soviet communism. Abuses were rampant nearly everywhere in the world, but there was only one great power organized along totalitarian lines and aggressively seeking to expand totalitarian systems. Thus, the fight against communism was not a hindrance to or marginal to the struggle for human rights. It was critical to that struggle. As we head into the next century, that has changed. One of the interesting questions we must now examine is: What is replacing communism as a threat to liberty within the context of the formulation of U.S. human rights policy? Perhaps it is ethnic and religious intolerance.

Where did the Reagan administration work most actively? In one case, the Bureau worked with Paul Wolfowitz, who was assistant secretary for East Asian and Pacific affairs under Reagan and committed to human rights, to save the life of a Korean dissident named Kim Dae Jung, whom the Asia Bureau would not have much to do with a few years earlier. But the Human Rights Bureau's efforts prevailed, and the death sentence against Kim was not carried out.

Bureau officials took trips to Turkey, Romania, South Africa, and countries in Latin America to talk to generals there about torture. If one were going to do a case study of distinct change in Reagan policy, however, maybe the best single case would be the Philippines, where the administration began without a human rights policy. In fact, it is fair and accurate to say that when President Ferdinand Marcos made his 1982 visit to Washington, the term “human rights” was not uttered in his presence. The Department generally took the view that human rights was something that could not be mentioned in front of this man because it was too offensive to him. Later, the administration and President Reagan himself came to have a very different view of the situation in the Philippines and supported efforts to remove Marcos.

The Bureau was very active in Latin America, particularly in Chile. It was in no small part Reagan administration pressure that forced or led General Pinochet into holding the plebiscite that led to his departure. Historically it is a

fact that when President Reagan entered office, virtually all of Latin America was under military rule. When he left office, almost none of it was. This is partly because the Reagan administration, given its own ideological stance, had the ability to delegitimize regimes—most military regimes, particularly those of Pinochet and Stroessner—which argued that their oppression was the only alternative to communism. When the Reagan administration disputed this opinion and held that democracy was in fact the alternative to communism, that their regimes were the problem, not the solution, their intellectual and moral defenses slowly disappeared. And soon they too were gone.

The Reagan administration's support for human rights surprised a lot of people; in part, because of the bad beginning. It surprised General Pinochet. It surprised General Stroessner. It surprised a lot of generals. It surprised a lot of Americans on the Left. It surprised them so much that to this day, they will not admit it, or acknowledge it, or honestly see it.

But that support, whatever else it achieved overseas, achieved something critical here in the United States. Because the presidency went from Carter to Reagan, the continuation of human rights policy, the continuation of the existence of the Human Rights Bureau, the continuation of the human rights reports meant that what had started with President Carter (although it had antecedents before that), would now indeed be a part of our foreign policy. It would not change. It would not depart when the president in office departed.

President Carter had done it, and President Reagan had done it, very differently to be sure, but each in his own way. That did not mean there would be no debate about how human rights fit into foreign policy and which tactics would be more effective. In fact it meant precisely the opposite. It meant that henceforth there would always be debate about how human rights and foreign policy are integrated. The subject of human rights is here to stay at the center of American foreign policy.

James Bishop—The Bush Administration

Most of the policies, tools, and techniques that the Bush administration employed were developed in earlier administrations. One of the achievements of the Bush administration was that it made a concerted effort to improve working relations with the principal American human rights organizations. Bureau officials not only listened to them and sought their advice, but invited them to speak at the human rights training programs, which the Bureau established at the Foreign Service Institute for employees of all U.S. government agencies being assigned abroad. The Bush administration's relationship with the NGO community improved to such a degree that in January 1993, representatives of Amnesty International and Human Rights Watch spoke appreciatively of the Bureau during congressional testimony.

With regard to the tools employed by the Bush administration to stem or prevent abuses, Bush policy emphasized engagement by speaking extensively with foreign ambassadors, special envoys, and occasionally heads of state, and by issuing public statements from the podiums of the White House, State Department, and relevant international organizations. In the State Department, the human rights reports were strengthened, focusing additional attention on abuses of women and children and on infringements of religious liberty. The Bureau also denounced abuses of Gypsies and guest workers in Europe (to the dismay both of some of our allies and several of our senior U.S. envoys).

The Bureau also waged a battle within the administration to ensure that human rights were given prominence in the conduct of U.S. relations with problem states, and that sanctions were imposed when serious abuses took place. In quiet discussions with foreign governments, we set benchmarks as conditions for a normalization of relations in Southeast Asia and for resumption of suspended assistance in Kenya, Malawi, Guatemala, Mauritania, and elsewhere. We worked with our foreign counterparts to strengthen nascent human rights commissions in Mexico, Russia, Tunisia, and Morocco.

Having held the human rights portfolio at the U.S. mission to the United Nations, where he was one of Ambassador Jeane Kirkpatrick's deputies, Assistant Secretary for Human Rights Richard Schifter was committed to seeing the UN Human Rights Commission focus on human rights abuses per se, rather than continue to duplicate the political debate more properly within the mandates of the Security Council and the General Assembly. The Bureau's credibility in this area was enhanced by the Bush administration's success in persuading the Senate to ratify the International Covenant on Civil and Political Rights and the House of Representatives to begin work on implementing language for the torture convention. In the UN Human Rights Commission, Schifter paid special attention to the annual election of new members and tried to influence the outcome. Building on personal relationships with envoys from developing countries he had established in Washington, New York, and Geneva, Schifter encouraged them to break ranks with proponents of regional solidarity, frequently egregious human rights violators themselves. He cultivated envoys from the states emerging from the Soviet empire and from the transformed governments of Eastern Europe.

Inevitably, there were frustrations, but there were also successes, including condemnation of Sudan by the General Assembly for its dismal human rights performance. For the first time in its history, the UN Human Rights Commission held extraordinary sessions focused on violations of human rights in Bosnia. Schifter tried with little luck to reform the notoriously inefficient UN Human Rights Commission in Geneva, but his attention to the selection of rapporteurs to investigate serious abuses paid off significantly when his friend Max van der Stoep was selected to investigate those of Saddam Hussein's regime. The former Dutch foreign minister's very detailed reports help preserve international opposition to the Iraqi government.

The Bureau, which at that time was called Human Rights and Humanitarian Affairs, sometimes used the humanitarian mandate—lost when the Clinton administration reorganized the Bureau—to call attention to humanitarian crises others in the administration preferred to ignore. Bureau officials were outspoken in pressing for military intervention in Somalia. Over the objections of the Bureau of International Organizations and of Secretary James Baker himself when he became aware of what was afoot, the Bureau joined the State Department's Africa Bureau and USAID's Office of Foreign Disaster Assistance in pressing for UN military intervention. When it became evident that hundreds of thousands were still dying because the UN force was too small and too poorly resourced to be militarily effective, the Bureau pressed for U.S. military intervention. Unfortunately, when U.S. military forces were dispatched, they were sent, contrary to our advice, to Mogadishu, instead of to the famine-stricken south central region of Somalia.

When thousands of Haitians began boarding rafts and unseaworthy boats, the Bureau accepted the evidence that most were economic migrants while urging that screening procedures be improved on the U.S. vessels intercepting them. There was much concern about the presumed effect of American sanctions, and, in retro-

spect, the Bureau was perhaps too easily persuaded by the humanitarian agencies that U.S. food and medical assistance was compensating for the impact of sanctions on the country's poorest.



Grain being picked in a watered field in Somalia.
(UN/DPI Photo #187736C)

Bosnia was both a humanitarian and a human rights crisis. The Bureau's most significant activity was to initiate collection of evidence of human rights abuses from the victims. Reports of debriefings by Foreign Service officers of concentration camp survivors, torture victims, and raped women were summarized, edited to protect the identity of the vulnerable, and then transmitted to the United Nations. These reports became the beginnings of the evidentiary base now being used by the War Crimes Tribunal.

Working with State's Bureau of Intelligence and Research, the Human Rights Bureau also helped focus U.S. intelligence assets on early reports of the existence of concentration camps. Before conflict resolution became an in-vogue discipline, Bush policy made several attempts at it. Working with the U.S. Information Agency (USIA) and American church leaders, the Bureau brought clerics from Bosnia's disparate corners to the United States, where they could meet face to face and, it was hoped, create personal relationships that would help heal rifts among their battling constituents. One of our staff members with ties to Ireland worked closely with Catholic and Protestant church leaders in the United States to encourage dialogue between their counterparts in Northern Ireland. Given the complex dynamics of these conflicts, it is perhaps impossible to calculate the impact of these interventions with any precision.

With the end of the "red menace," the "green banner" of Islam was seen by some within the administration as a major threat to American interests. To avoid self-fulfilling prophecy, the Bureau brought speakers into the State Department to help educate colleagues to the nuances of Islamic fundamentalism.

"At the end of the day, stability does not spring from repression. Stability springs from more openness."

Congresswoman Nancy Pelosi

“We focus mainly on the job of providing publicity, the light of day, on what countries are doing to people within their societies because repressors hate publicity. They want to do what they do in secret.”

*Congressman John Porter
on the Congressional
Human Rights Caucus*

A mechanism employed with considerable success to promote human rights was the African Human Rights Fund. Working closely with the Bureau of African Affairs at State and USAID, we reviewed each proposal to see that it stood a reasonable chance of capacitating groups and programs focused on human rights education or redress, fostering democratic processes, improving press practices, and the like. This involvement provided not only some modest expertise but also the cover for the Bureau to reject inappropriate proposals. A formal USAID evaluation of these efforts was positive.

The Bush administration used its seat at the table where funds were allocated for assistance to the former communist states of Eastern Europe and the newly independent states to press for innovation and, in particular, for judicial reform. At the Bureau's insistence and over considerable objections from USIA and USAID, magistrates from these areas found themselves learning how justice is impartially dispensed in classrooms at the Thurgood Marshall Center, rather than being expected to absorb it by osmosis at a conventional exchange visitor program. A third of the federal judiciary volunteered to participate and travel to these regions to conduct training sessions.

In responding to human rights violations by military establishments abroad, the Bush administration used both conventional and innovative approaches. When the Thai military suppressed pro-democracy demonstrations with loss of life, Bureau officials pressed successfully for suspension of joint exercises and high-level military visits. Ultimately democratic forces triumphed.

Wholesale destruction of Kurdish villages by Turkish troops led the Bureau to call for a ban on transfer of U.S. military equipment that would be used for counterinsurgency purposes. Worried that angered Turkish politicians might restrict use of Turkish air bases, from which the no-fly zone in northern Iraq was being enforced, the U.S. embassy in Ankara insisted that the equipment in question really was for potential use against the Syrians or Iranians. Although the Bureau had reports from the military attaches clearly stating the counterinsurgency intent, we lost, and the Turks were given more surplus American military helicopters.

Abuses by military forces battling terrorists in Peru and narcoterrorists in Colombia prompted collaboration with the judge advocate general's office in developing programs to strengthen the judicial systems within the Peruvian and Colombian military forces. Human rights education programs and materials were developed with the Pentagon for use by semiliterate soldiers in Central America.

In several of the high-profile human rights issues, the Bush administration took considerable heat from a dissatisfied human rights community. In one case, the Bureau resisted an aid cutoff in Peru, in the belief that, in the absence of aid, the human rights situation would deteriorate should a terrorist overthrow of the government take place. In retrospect, I believe that the administration made the right decision in having stood by the Fujimori government as it defended the population from the Sendero Luminoso.

The Bureau did not fight the renewal of most favored nation treatment for China, believing that normal trade relations would foster improved human rights conditions. The Bureau did attempt to condition it on human rights reforms, dismantling the sanctions regime imposed after Tiananmen Square. While the subsequent history of this issue shows that the pace of reform has been very disappointing, it also suggests that opportunism underlay much of the criticism the administration took from its domestic political opponents.

The Bush administration had an intense dialogue with the Israelis. We were sensitive to our characterization of their human rights practices in the occupied territories, where they were engaged in serious abuses. We contrasted what the

Israelis said with what we learned from other sources, including our own reporting officers and authorities, such as the International Committee of the Red Cross. By the end of the administration, deletion of some draft language in the 1992 human rights report by the department's leadership indicated that we were pushing the envelope.

These are the highlights of the Bush administration's human rights policies. Some of the policies did not achieve their anticipated objectives, but Bush policy was honest and consistent. Some may have disagreed with certain policy decisions, but what they saw was what they got, not a smokescreen designed to obscure U.S. policy or the absence thereof. Using innovative tools, President Bush pushed human rights further to the forefront of U.S. foreign policy implementation.

Discussants

Charles H. Fairbanks, Jr.—Critique of the Carter Administration

There is no doubt that President Carter achieved something important in giving human rights principal stature in the world, and he proclaimed at the very beginning of his administration that human rights would be the cornerstone of his foreign policy.

The Carter administration, however, accepted the doctrine among Third World tyrants that, for most of the world, civil and political rights come as luxuries that are far away in the future. To have taken that position was playing into the hands of the most fashionable rhetoric of despotism during the 1970s. The secondary importance of political and civil rights, as compared with economic and social rights, was an element of doctrine in the Carter administration that threatened the whole human rights agenda. Because of that, many people who supported Reagan felt that the Carter administration was much harder on friendly authoritarian regimes than on unfriendly totalitarian regimes. The single most influential public document of the reaction against Carter's human rights policy was Jeane Kirkpatrick's article in *Commentary* in November 1979, which made that case. The emphasis on correcting friends had the secondary bad effects on foreign policy of making it seem that our friends or allies were the problem in the world and making people pay a significant price for being friends of the United States.

In fact, the Carter administration's attraction to social and economic rights did go along with a lack of interest in electoral democracy. The 1979 human rights report on Mali under the category "Political Participation" indicated that there was political participation in the country because its unelected rulers went on tour among their subjects and scattered largesse, and so forth. That was a real problem.

Without guidance by an orientation toward democracy and democratizing regime change, human rights policy tends to turn into casework. Working in the Human Rights Bureau at State, we found that there tends to be something very Sisyphean about casework—one can labor a long time, get one political prisoner released, then someone else is taken prisoner. There is no overall improvement. The cases in which real and lasting improvements are made are cases in which there are changes of regimes.

The Carter administration was not uninterested in changes of regime. It was quite active in the cases of Iran and Nicaragua, where what one might call conservative or pro-American authoritarian regimes were in real trouble and fell. The problem lay in the fact that where the Carter administration's conception of human rights policy was most effective, it tended to be counterproductive. In the

"I believe that in the next century, the real divide among nations will not be ideological divides or between east and west or north and south, but between the nations that do and do not respect fundamental principles of democracy and human rights."

*Assistant Secretary of State for
Democracy, Human Rights,
and Labor
Harold Hongju Koh*

cases of Iran and Nicaragua, U.S. human rights policies really did contribute to weakening the old regime and getting it replaced by a new regime, which, particularly in the Iranian case, turned out to be far worse.

To be fair, no one had been thinking about the question, at that time, of whether a successor regime would be far worse, a problem that was not limited to the Carter administration. This problem, however, was compounded by the fact that in the Carter administration there was not an effort to focus on the question of what the human rights orientation of opposition movements was. It was not treated in the human rights reports, for example. Overall, there was a tendency of the Carter administration's human rights policy to be a policy of self-abnegation, which was partly how the administration really understood things or some people within it.

Policies were limited by the instruments available to the administration. Such instruments included limiting port visits by American warships, for example, and cutting off economic aid, which was a major and possibly sometimes effective tool used by the Carter administration. The consequence was that it was able to apply pressure only on the United States itself and pro-American regimes. This also happened because of bureaucratic factors. The Human Rights Bureau, now the Democracy, Human Rights, and Labor Bureau, has always been relatively weak within the State Department. Consequently, it is often forced into a role of changing or halting policies rather than initiating policy.

The last weakness of the Carter administration's policies is something that appeared only with the collapse of the communist regimes at the end of the 1980s and beginning of the 1990s. In talking about democracy building, there was an assumption of the existence of a state that can be handed over from one regime to another. Both the Bush and Clinton policies on transition from communism assumed that. What we call reform in the former Soviet space has really been catastrophic in most places, although not in Central and Eastern Europe. One of the reasons is the weakness of the state, which market reforms such as privatization may have aggravated. I think Russia is today, as El Salvador was in the 1980s, a place where there are private forces linked to the government that the weak state neither wants to control nor could control. This is a problem for the future.

Jack Donnelly—Critique of the Reagan Administration

To say that the Reagan administration got off on the wrong foot is certainly correct. It consciously, however, chose to put that foot forward. President Reagan entered office intent less on fixing Carter's mistakes than on expunging human rights from U.S. foreign policy (and replacing it on international agendas with antiterrorism). The assistant secretary position remained vacant largely because of disinterest in filling it. George Schultz's arrival as secretary was a change in personnel that brought a welcome shift in policy.

It is also correct that there was a relatively coherent, if narrow, human rights policy during Reagan's last six years in office. I would even suggest that the administration's most significant legacy was turning human rights into an ordinary part of U.S. foreign policy. In 1980, the central question was whether human rights belonged in American policy. By 1988, the question across the political spectrum was what the substance of U.S. international human rights policy ought to be.

Much of the credit for this change, however, belongs with Congress and human rights advocates, whose pressure the Reagan administration largely resisted. This was most evident in Central America, where the administration did the absolute minimum on human rights needed to allow it to pursue its other, often rights-abusive, foreign policy objectives. Consider, for example, its repeated and extensive

efforts to hide, deny, and justify massive (and in some cases CIA supported) human rights violations by client regimes in El Salvador and Guatemala. In Nicaragua it organized—and whenever not prevented by Congress actively supported—so-called freedom fighters, who were in fact terrorists who targeted innocent civilians and the social services provided to them by their government. Furthermore, given the belief expressed in the Kirkpatrick doctrine that totalitarian regimes were incapable of fundamental change, the administration's efforts to focus attention on Soviet bloc governments meant concentrating its efforts where it expected the least impact—and where United States responsibility for violations was lowest as well. Whatever its other attractions, this certainly did not provide a sound focus for a human rights policy.

Two other prominent shortcomings of the Reagan administration, however, illustrate problems shared to varying degrees by Carter, Bush, and Clinton—and thus might be called elements of a characteristic American myopia on human rights.

The first is an exaggerated faith in elections, which too often are presented as a solution rather than a start—and in places like Guatemala and El Salvador during the Reagan administration, very modest starts indeed. Liberalization was (and continues to be) confused with democratization and even democracy. Democracy, understood largely in electoral terms, was (and continues to be) conflated with, or even valued above, human rights. Consider, for example, the current title of the assistant secretary, where human rights has moved behind democracy (and barely in front of labor).

The second problem is a reluctance to recognize economic and social rights. (Even the Carter administration typically spoke of basic needs rather than economic and social rights.) The United States has increasingly preferred the gospel of markets, which the Reagan administration preached with special vigor. But in our (in many ways justifiable) zeal for markets, we often lose sight of their profound human rights defects—which usually are tragically evident in the economic chiropractic of structural adjustment. Even if the “average” consumer benefits “in the long run,” in the short run, many flesh-and-blood men, women, and children suffer, often intensely.

My final comment pertains to the familiar observation that Reagan set the parameters on the “Right” for future debates, much as Carter set those on the “Left.” Without denying the distance between these points, it is also worth noting the similarities across the two administrations—and the Bush and Clinton administrations as well—especially in practice, and especially in the second half of their presidencies. They all (although to varying degrees) reveal a deep reluctance to sacrifice even minor economic interests, let alone security interests, for human rights; have been narrowly targeted on the rights to life and personal security (plus elections); and have relied largely on verbal and symbolic initiatives. These similarities reflect both a narrow vision of and a low priority for human rights. These deeply rooted problems deserve at least as much attention as the undeniably important differences between administrations on which most of this panel has focused.

Susan Burgerman—Critique of the Bush Administration

Although in retrospect the Bush administration appears not to have had a human rights policy, this perception is caused by the policy's contrast to the clear, coherent, doctrinal policies of the Carter and Reagan administrations. As with most other issue areas, the Bush approach to human rights was managerial, pragmatic,

“There comes a point when those in power simply cannot ignore the human rights criteria and expect loyalty on the part of people whose very essence is tied up in human rights as ideally as the population of the United States of America. We cannot pursue a policy that flies in the face of everything we have been taught.”

Congressman Tom Lantos

and nondoctrinal. The policy lacked coherence because it was used principally to support dominant foreign policy goals in security or economic relations. On many issues, the Bush policy represented a shift toward moderation; in Central America, for example, the transition in U.S. administrations from Reagan to Bush was perceived as a genuine sea change. Finally, the historical context had an unusually strong influence on Bush human rights policy, which in many respects reflected efforts to redefine the national interest, in response to the end of the Cold War.

The central tenet of the Bush human rights policy remained unchanged from that of the previous administration. The Human Rights Bureau under both Reagan and Bush emphasized promotion of electoral democracy, to the extent that policy makers tended to equate free and fair elections with respect for human rights. As an example, State Department annual reports during this period cite elections and incipient market reforms in the Soviet Union as being indicators of human rights progress per se, losing sight of ongoing violations in other categories of rights. This tendency was tempered in the second half of the Bush administration; oversimplified assumptions of a causal relationship between free elections, market reforms, and civil liberties were replaced by the recognition that human rights abuses continued in many of the so-called new democracies.

The two-track human rights policy established under Reagan was continued during the Bush administration. Human rights were to be promoted in the short term through public or diplomatic condemnation of specific violations. A second track, longer term strategy included institution-building efforts through the National Endowment for Democracy, which focused on political parties, labor organizations, and private associations; USAID, which provided legal and judicial training and human rights education programs to governments in the developing world; and through increased support for multilateral—especially UN—training programs.

Addressing the question of how effectively the Human Rights Bureau under Bush utilized the policy instruments at its disposal, first, the annual country reports improved noticeably. They were markedly more balanced under the Bush administration, reflecting the Bureau's efforts to report on conditions in both allied and unfriendly states in greater detail and to consult a wider range of sources, including nongovernmental human rights organizations, UN agents, and other U.S. agencies.

The second category of policy instrument is diplomatic pressure, whether quiet diplomacy or public statements. In the case of Guatemala, the U.S. government began to exert increasing degrees of pressure and proactive support for human rights under the Bush administration. In 1992 alone, both Secretary of Defense Richard Cheney and Assistant Secretary of State for Inter-American Affairs Bernard Aronson issued strong statements emphasizing the importance of human rights in Guatemala's relations with the United States. The Guatemalan government responded to this pressure by arresting a few lower ranking military and intelligence officials who were implicated in the human rights cases in which the State Department was specifically interested. On the other end of the spectrum, in relations with China, human rights were (and, of course, are) completely subordinated to other foreign policy interests. The best evidence for this hierarchy of interests is the absence of any swift or coherent response from the Bush government to the 1989 Tiananmen Square massacre.

The more forceful instruments of economic sanctions and foreign assistance conditionality were employed in a number of cases, with varying consistency. In El Salvador, U.S. military assistance was cut by 50 percent in 1990 and human rights conditions were placed on the remainder. By early 1991, the White House had reversed an important element of the Reagan regional policy by openly supporting

a negotiated resolution of the Salvadoran civil war. Elsewhere, the U.S. response to the 1990 military coup that overthrew elections in Myanmar/Burma was even more unequivocal: all bilateral aid was suspended and sanctions were maintained throughout the Bush years. The response to Peruvian President Alberto Fujimori's May 1992 constitutional coup was less consistent. The United States initially suspended financial assistance and froze military sales to Peru in protest, but quickly reversed the sanctions in order not to undermine counternarcotics efforts.

Overall, the nature of the Bush administration's response to human rights violations depended on whether or not predominant interests contravened human rights promotion. The outstanding achievements related to human rights during this period, particularly the wave of democracy in the former Soviet states and the Central American peace processes, were instances in which U.S. security interests corresponded with the promotion of human rights and democracy. However, these progressive trends were essentially the products of broad historical, geopolitical change, rather than of any particular policy initiative.

Conclusions

The human rights component in U.S. foreign policy has been considered an inevitable consequence of a series of domestic and international seismic shifts—such as the abolition movement, the suffrage movement, the civil rights movement, the Holocaust, and the Vietnam War. As a human rights consciousness was forming in the U.S., the legislative and executive branches of government responded accordingly. Legislators began to recommend resolutions pertaining to human rights violations in other countries, and each administration (most notably since President Carter) incorporated human rights into foreign policy, albeit in its own way and with varying degrees of success.

The moral ideal of human rights has been continuously thrown off balance by other interests and national priorities, but despite priority shifts, from national security considerations to trade benefits, human rights has been a part of the policy-making agenda. What was initiated by President Carter eventually became consolidated during the Reagan and Bush administrations, and continues to a large extent in the same form with the Clinton administration.

It is unclear whether U.S. foreign policy has had a marginal, complementary, or dominant impact on human rights protections in the world. What is clear is that human rights concerns have not only survived, but they have remained resilient as a subject of U.S. foreign policy.

The question is, How can human rights policy be made more effective as the new century approaches? In examining this question, one must explore the challenges to human rights and to human rights implementation and identify the interests and objectives of the U.S. government.

In the first half of this century, the human rights paradigm revolved around genocide and its prevention. There was an emphasis on accountability (the war crimes tribunals of Nuremberg and Tokyo), standard setting (creation of treaties and documents such as the UN Universal Declaration of Human Rights), and institution building. In the 1960s, there was a shift in the paradigm to prisoners of conscience and political dissidents. NGO activity in advocacy, monitoring, and capacity building became the new focus. The beginning of the Cold War saw the advent of group conflict and the renewal of genocide, and solutions shifted to preventive diplomacy. As the new century approaches, one of the biggest chal-

“No government working on human rights can work alone. We need to think of ourselves as members of a human rights global community that now extends beyond private and public lines, that crosses national lines...and that this community...recognizes and embraces our common commitment to truth, justice, freedom, and democratic partnership.”

*Assistant Secretary of State for
Democracy, Human Rights,
and Labor
Harold Hongju Koh*

lenges to human rights and world peace is the complex amalgam of all of these elements compounded by increasing ethnic and group conflict, and unwieldy mechanisms with which to deal with these problems.

Recent abuses and atrocities, such as "ethnic cleansing," contribute to the growing domestic and international sentiment that during this time, now, more than ever, rights must be protected and accountability must be exercised. Profound, long-lasting peace cannot be achieved without adherence to and respect for fundamental human rights. As the core value of respect for human dignity lies deep in the foundation of American society, it stands to reason that U.S. foreign policy must include a strong human rights dimension. For this reason, it will be critical for policymakers to determine how to develop an organized and coherent strategy and institutions to support effective human rights implementation.

The Human Rights Implementation Project

Human rights considerations have played a significant role in the United States' approach to international affairs over the past two decades. Despite the increasing emphasis on human rights issues in foreign policy formulation, there has been little effort to evaluate how U.S. human rights policies and practices have affected human rights observance in the rest of the world. An assessment has not been given to past or existing policies to determine their efficacy.

The objective of the Human Rights Implementation project is to explore how the concept of human rights has become a major component of U.S. foreign policy over the past 20 to 30 years, and to examine the challenges to implementation. Have past or existing policies been effective? If so, why or why not? What tools were used in implementing these policies, and why? Were the policies that were implemented effective in achieving stated objectives? This study will assess the reasons for successes and failures in U.S. human rights policy in order to provide insight into improved future policies.

The Human Rights Implementation project will also explore such questions as:

- 1) What role do human rights issues play in the formulation of U.S. foreign policy?
- 2) How successful or unsuccessful has the U.S. government been in improving human rights practices abroad?
- 3) What roles have the Executive Branch, the Congress, other governmental agencies, and the non-governmental and business communities played in promoting human rights?
- 4) How can the United States improve its record of human rights protection and promotion?

The Institute will explore these broad questions from the vantage point of a nonpartisan, Congressionally-funded institution committed to expanding the understanding of international conflict and the means to resolve it.

For more information about the Human Rights Implementation project, please visit our web site at: <http://www.usip.org> or contact Program Officer Debra Liang-Fenton at (202) 429-3822, or <debra@usip.org>.

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