

August 16, 1977

HUMAN RIGHTS and FOREIGN POLICY

Summary

With the advent of the Administration of President Carter, human rights has now assumed a far more prominent role in the formulation and implementation of American foreign policy. In his address before the United Nations, President Carter contended: "All the signatories of the UN Charter have pledged themselves to observe and respect basic human rights. Thus no member of the United Nations can claim that mistreatment of its citizens is solely its own business."

Congress preceded actions by the President by injecting human rights considerations into various pieces of legislation. In 1974 Congress reduced aid to Indochina partly on the basis of allegations of human rights violations and also prohibited the extension of most-favored-nation status to the Soviet Union unless the Kremlin allowed freedom of emigration. Congress proceeded from here to prohibit aid to various governments charged with repression, and now forces the State Department to issue an annual evaluation of the status of liberty in all nations receiving American assistance.

Unfortunately, simplistic formulations of the need to protect human rights have usually confused and distorted rather than enhanced an understanding of the subject. This paper examines in detail the following problems with the discussion of human rights:

- * Most commentators fail to define the term human rights with either consistency or precision. Distinctions have been blurred between rights requiring positive state actions and rights threatened by the growth of state power.
- * No consensus exists on what constitutes human rights. For example, President Carter has pledged to ratify a

Note: Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

treaty that includes the "right to life" which maintains that abortions violate human rights; yet the U.S. Supreme Court has ostensibly supported abortion.

- * Due to the lack of clarity and precision in the four major United Nations conventions and covenants on human rights, the United States has never formally ratified any of these agreements.
- * Majority rule has been posited as a part of the pantheon of human rights, yet in many countries majority rule has coincided with suppression of the rights of minorities and one-party rule.
- * The Administration and the Congress have frequently used a double standard in the application of punitive human rights actions. Assistance has been reduced or eliminated for various right-wing regimes, especially in Latin America, while other countries, especially in Africa, have been lauded despite their much more serious violations of rights.
- * The double standards emerge most conspicuously in a general failure to distinguish between authoritarian and totalitarian regimes. Thus totalitarian governments, such as the People's Republic of China, Cuba, Viet Nam, or Mozambique, which repress all human rights, receive less censure than authoritarian governments that only curtail some civil liberties.
- * A distorted image of human rights is created by journalists, politicians, and scholars who only focus their attention on a narrow range of civil liberties that directly affect them and ignore the wide range of other rights that often exist in some societies.
- * Similarly coverage of human rights abuses is most extensive in countries that allow a great latitude of freedom, while nations that prohibit any entry into their country by newsmen receive benign neglect for their systematic abuses of their citizens.

Thus far, neither the Congress, the President, nor most of the media have even begun to grasp many of these problems or distinctions. Hence, human rights has emerged as at best an ambiguous and inconsistently applied cliché, and at worst an ideological sledgehammer that on the one hand ineffectively antagonizes adversaries, and on the other hand alienates allies from the eventual expansion of the very principles allegedly propounded.

Introduction

The use of the term human rights first emerged as an integral public element of American foreign policy with the advent of the Carter Administration. In his inaugural address the President asserted that "our commitment to human rights must be absolute." In subsequent actions in the area of foreign policy, the human rights issue has often come to the forefront of discussion of relations with other countries and has led to altercations with both traditional allies and adversaries.

However, the Johnson, Nixon, and Ford Administrations preferred to use so-called quiet diplomacy in order to accomplish human rights objectives. Nonetheless, the Congress interjected itself into the human rights issue, especially after 1974, and sought more direct actions by the United States to improve the status of human rights considerations in the pursuit of foreign policy. The Carter Administration has sought to work closely with Congress in this area. But very rapidly Congressional actions have proceeded beyond what the Administration regards as prudential. Thus, a wide ranging debate has developed over both the nature of human rights and how goals in this area can be realized while maintaining economic progress, stability and peace in the world.

The Meaning of Human Rights

In numerous major speeches, beginning with his inaugural address, President Carter has proclaimed his support for human rights. In his appearance before the United Nations on March 17th, he stated, "The search for peace and justice also means respect for human dignity. All the signatories of the UN Charter have pledged themselves to observe and respect basic human rights....Ours is a commitment and not just a political posture." Similarly, in his presentation before the members of the Organization of American States, the President alluded to the Charter of the OAS which commits all members to "individual liberty and social justice." He went on to assert, "You will find this country, the United States of America, eager to stand beside those nations which respect human rights and promote democratic ideals."

Despite the bold assertions in support of human rights, the term itself has remained somewhat vague and the President has thus far failed to detail precisely what one means by human rights. In an address made at Law Day ceremonies at the University of Georgia Law School on April 30th, Secretary of State Vance provided the most elaborate explication thus far of both the nature and

meaning of human rights. But as the following analysis indicates, more questions still remain to be resolved if the content of the concept of human rights can be dealt with intelligently.

In his presentation in Georgia, Secretary Vance provided the following tripartite definition of human rights:

First, there is the right to be free from governmental violation of the integrity of the person. Such violations include torture; cruel, inhuman, or degrading treatment or punishment; and arbitrary arrest or imprisonment. And they include denial of fair public trial and invasion of the home.

Second, there is the right to the fulfillment of such vital needs as food, shelter, health care, and education.

Third, there is the right to enjoy civil and political liberties: freedom of thought, of religion, of assembly; freedom of speech; freedom of the press; freedom of movement both within and outside one's own country; freedom to take part in government.

Secretary Vance noted that these particular rights "are all recognized in the Universal Declaration of Human Rights...which the United Nations approved in 1948." Mrs. Franklin D. Roosevelt chaired the meeting of the United Nations Commission on Human Rights which drafted the Declaration, and it remains the most important international document on human rights formally supported by the United States.

The UN document and Secretary Vance's summary of it reveal quite well the many problems associated with any serious discussion of the concept of human rights.

Probably most significant is the fact that two entirely different classes of rights are arbitrarily meshed together. While Secretary Vance indicates that one has "the right to be free from governmental violation of the integrity of the person" and "the right to enjoy civil and political liberties," he at the same time proclaims "the right to...such vital needs as food, shelter, health care, and education." Thus while positing rights of the individual against the government, other rights necessarily entail the growth of the power of government. As the New York Times recently editorialized, "human rights encompass human needs" and thus some societies "may emphasize group identity and loyalty more than the role of the individual."

While civil and political rights protect citizens from arbitrary state actions, the fulfillment of human needs embodied in social and economic rights requires positive state action. Thus, the growth of state power, particularly in the third world, may develop under the guise of protecting some human rights, only to threaten to destroy basic civil and political liberties.

Another problem in fulfilling human rights objectives exists in the lack of realism. Article 25 of the Declaration, which largely coincides with Vance's second point, provides that

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services....

Such broad general categories of rights and the failure of the declaration to specify exceptional circumstances could lead to charges of violations against any government lacking resources to maintain the welfare of its citizens.

Human rights discussions become further complicated by the absence of any hierarchical arrangement of rights. An elaborate list of rights, such as the UN Declaration, fails to distinguish between what should be characterized as admirable goals, such as better education or health care, and fundamental civil or political liberties that form the foundation of a free society. The term "right" quite simply has been fixed upon any objective with the assumption that such an appellation may promote its realization. President Carter has tended to use the term quite loosely, such as in his message to the World Health Assembly on May 5, 1977, when he maintained that "our commitment to basic human rights" includes "the right of every human being to be free from unnecessary disease." Even this new right is strangely limited to "unnecessary disease."

The language of the UN document, while apparently quite specific, leads to extraordinarily conflicting interpretations. Article 21 of the Declaration, curiously not summarized by Secretary Vance, provides that

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

This has been interpreted as support for the concept of majority rule and the right to a democratic form of government. But

nothing in the article refers to the rights of opposition parties to exist or of the people to directly challenge the actions of their government. Thus, the Soviet Union, for example, maintains that their system of one-party government representing the proletariat fulfills the strictures of this article.

Nonetheless the United States has contended that not only this article, but any formulation of human rights should include the rights of people to a democratic form of government. But what rights does a democratic government have? Can the majority vote in a free election and elect legislators who subsequently restrict other rights of the people? A contradiction quite often exists between majority rule and minority rights.

This problem has arisen quite conspicuously in Africa where foreign colonial dominance of a country has often given way to tribal dominance in which those who inherited the reins of power simply maintain their own forms of authoritarian rule, but under the guise of black majority rule.

Often no agreement exists on what constitutes human rights or two alleged rights may be diametrically opposed to each other. On June 11, 1977, President Carter signed the American Convention on Human Rights, initially approved by the OAS in 1969. Among the basic rights affirmed in this treaty that will be submitted to the United States Senate for ratification is the "Right to Life," dealt with in Chapter Four which states:

Every person has the right to have his life respected. This right shall be protected by law, and in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

The language of this article coincides precisely with the position of the right to life organizations in the United States who contend that permission for abortion on demand violates the human rights of the unborn child. Supporters of abortion juxtapose the alleged right of women to control their own bodies.

The conflict over abortion reveals quite well the general moral and philosophical questions that should necessarily arise in any consideration of a value-laden term such as human rights. Unfortunately, rights are often proclaimed in a moral vacuum and any substantive discussion only reveals the lack of any consensus concerning the absolute authority upon which the rights must be predicated. Almost no one believes that the rights emerge simply by virtue of their promulgation by the United Nations.

International Human Rights Agreements

The lack of clarity in the meaning of the various declarations and covenants on human rights has led the United States in the past to take a very skeptical view of formally ratifying them. The Universal Declaration of Human Rights, quoted from above, was adopted and proclaimed by the UN General Assembly on December 10, 1948, but it really has no binding character because it was not ratified as a treaty. In order to fill this procedural gap, the United Nations subsequently proposed four other different conventions and covenants that have elaborated upon the rights outlined in the general declaration. The four agreements and the relationship of the United States to them are most revealing:

1. The United Nations formally adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948 and 82 nations subsequently ratified it. Although submitted in 1949, the United States Senate never formally took up the treaty until 1974 and then failed twice to invoke cloture on debate so that no direct vote took place; but over one-third of the Senate (the number needed to defeat ratification) tacitly opposed the treaty by defeating cloture.
2. In 1965 the United Nations adopted the International Convention on the Elimination of all forms of Racial Discrimination. Although Ambassador Goldberg signed this agreement on behalf of the United States, it has not yet been sent to the Senate for formal adoption. The United Nations later elaborated on the thrust of this convention by declaring Zionism a form of racism.
3. The International Covenant on Civil and Political Rights, adopted by the UN in 1966 was neither signed by the United States nor sent to the Senate for approval. Forty-four nations have assented to this agreement.
4. Similarly the International Covenant on Economic, Social, and Cultural Rights, also adopted by the General Assembly in 1966, has been neither signed by the U.S. nor sent to the Senate for formal approval.

In his speech before the United Nations, President Carter pledged to work for the passage of all four of these agreements. But as his predecessors have discovered, the Congress takes the documents seriously as binding legal agreements and thus has consistently opposed their frequently vague and often contradictory terminology. The Congress has always felt that the

present American legal system protects Americans' rights much better than would any new agreement that does not coincide with the current constitutional framework.

Perhaps the American non-adherence to 80% of the United Nations' human rights documents reveals most conspicuously that a signature on an agreement has virtually no bearing on how a nation conducts its internal affairs. Almost no one contends that the human rights of Americans would be enhanced by the formal ratification of any of these four agreements. On the other hand, many Communist-controlled governments have signed these agreements and this has failed to influence their present systems of government.

Congress and Human Rights

While failing to adhere formally to international agreements on human rights, many members have, nonetheless, attempted to make human rights a major consideration in legislation pertaining to foreign affairs. The use of what one calls human rights types of issues initially arose most prominently during 1974 as Congress intervened into Presidential actions both in the prosecution of the war in Indochina and in dealing with the Soviet Union.

One of the key arguments for either reducing or terminating American assistance to Laos, Cambodia, and Viet Nam focused on the alleged lack of democratic government and the imprisonment of persons in all three countries for political purposes. Simply formulated the argument ran that the governments in Indochina did not have the support of their own people and engaged in practices involving the suppression of liberties that the United States could not support in clear conscience. Although some reductions of American support for the countries of Indochina took place each year, not until the summer of 1974, when proposed aid to Viet Nam was slashed in half, did the critics of American policy substantially succeed. While other factors certainly figured in the decision to cut off assistance to Viet Nam, certainly the criticisms of human rights violations figured prominently.

Also in 1974 the U.S. Congress passed the Trade Reform Act which included the famous Jackson-Vanik amendment. This prohibited the extension of most-favored-nation trading status and credit guarantees to all non-market economies unless they allowed freedom of emigration; or in the particular case in dispute, unless the Soviet Union allowed Jews to emigrate from their country, the United States would not provide them with additional benefits of trade. Both the Ford and Nixon administrations

opposed this proposal and charged that it would be counterproductive.

Also beginning extensively in 1974, the Subcommittee on International Organizations of the House International Relations Committee began a continuing series of public hearings into the status of human rights. The Committee, under Congressman Donald Fraser's leadership, singled out Chile for the most extensive scrutiny with six separate days of hearings during 1974. Other hearings continued on Chile through 1975 and 1976. Much of the information developed in these hearings led to legislative actions against American military assistance to the current Chilean government that overthrew the elected Marxist administration of Salvador Allende in 1973. Congress first reduced and then eliminated any military credit sales to Chile and later prohibited even private cash sales of equipment to Santiago. More broadly in Latin America, Congress terminated the financing of American-administered police training programs involving Latin American governments charged with human rights violations.

In the summer of 1976, Congressman Fraser spearheaded an effort to substantially reduce military assistance going to Korea on the grounds that the government of President Park had wantonly violated human rights and destroyed democracy. This effort met defeat by a substantial margin, but the issue of aid to Korea remains one of the most controversial, especially now in the wake of both the investigation of alleged bribery and the proposed withdrawal of American ground forces by President Carter.*

Besides singling out certain countries for punitive actions for alleged violations of human rights, the Congress also developed a general framework of human rights considerations and grafted it upon all American foreign assistance. Thus section 116 of the Foreign Assistance Act prohibits economic aid to any countries committing gross violations of human rights unless it can be shown that the aid directly benefits poor people. And section 502B of the same act recommends that all military assistance be denied to countries violating human rights unless extraordinary circumstances require such assistance.

*The author has examined this at length in "Human Rights and Democracy in North and South Korea," in Korea in the World Today, edited by Roger Pearson (Council on American Affairs, Washington, D.C., 1976).

The Foreign Assistance Act also requires the Secretary of State to transmit by January 30th of each year a report which (1) summarizes the status of basic human rights in countries that receive assistance and (2) indicates what steps the administration has taken to alter U.S. programs in any country due to human rights considerations.

With the publication of this report in January, 1977, four governments in Latin America (Brazil, Argentina, Guatemala, and El Salvador) repudiated their mutual defense agreements with the United States and indicated they would look elsewhere for purchasing military equipment. They contended that criticism of their internal political policies constituted an unwarranted intrusion into their domestic affairs. Thus, frequent criticisms of American financial imperialism in Latin America may be giving way to new charges of moral imperialism.

With these provisions already in place at the beginning of the new session of Congress coupled with the President's apparent support for human rights, a real floodtide of legislative action flowed through the Foreign Assistance Act. The House of Representatives voted by lopsided margins to prohibit not only any direct U.S. aid, but also any assistance channeled through international financial institutions to seven different countries: Cuba, Viet Nam, Cambodia, Laos, Angola, Mozambique, and Uganda.

The House also voted to cut off all military assistance to Ethiopia and Uruguay because "the current degree of internal repression practiced by the government of some nations...warrants the termination of such aid." Military credits were terminated to Argentina, Brazil, El Salvador, and Guatemala because these four countries protested attaching human rights conditions to military sales. The same bill reduced military aid to the Philippines by \$3.2 million. On the House floor, one successful amendment restored \$3.1 million in military aid to Nicaragua, but another amendment prohibited the use of \$700,000 in the bill for the training of military forces in Argentina. Although some other considerations figured in these actions, human rights initiatives dominated the discussion and final votes.

Previously the Senate had adopted a similar amendment instructing American delegates to international financial institutions to vote against any loan to Viet Nam, Laos, or Cambodia. At the same time the Senate rejected by a narrow 43-50 vote another amendment instructing the U.S. delegates to vote against loans to any nation that violates human rights unless such funds directly benefited basic human needs.

Only through extraordinary pressure by the Carter Administration did the Senate Appropriations Subcommittee on Foreign Operations remove all of the restrictions on American support for the four multi-national lending agencies. The full Senate largely followed the Appropriations Committee actions and voted down attempts to place new restrictions on the foreign aid program. They did, however, provide that any aid designated for either Mozambique or Angola must first be approved by both the Senate and the House. In any case, final Senate and House bills will have to be reconciled. But Congress has already intervened more dramatically on the basis of human rights violations in the current session of Congress than in any previous year.

The Carter Administration and Human Rights

The Carter Administration opposed almost all of the restrictions imposed by the Congress, contending that such rigid prohibitions hinder future negotiations. Patricia Derian, official coordinator for human rights at the State Department, criticized "aid cuts, public denunciations, and other more negative approaches" to the human rights problem. Speaking to several Congressmen at the White House prior to the House vote on the Foreign Assistance Act, President Carter stated: "I would hope that the Congress would not tie my hands. I would hope that the Congress would permit me the right to negotiate with these countries where these violations of human rights are occurring." In his press conference on April 15, 1977, the President referred to "frozen mandatory prohibitions" removing "my ability to bargain with a foreign leader whom we think might be willing to ease off on the deprivation of human rights."

The Administration particularly assailed the prospective restrictions upon contributions by the United States to the multi-national lending institutions. These restrictions would instruct the American delegates to vote against any loans to the seven countries cited above; and if the loans should be approved, then the Congress would subsequently reduce future appropriations to the lending institution by that amount. World Bank President Robert McNamara claimed that .S. funds could not be accepted by his organization if such restrictions were imposed. The Administration, led by U.S. Assistant Treasury Secretary C. Fred Bergsten, echoed his complaint by contending the restrictions are unworkably inflexible.

But while asserting that Congress has gone too far in taking actions predicated upon human rights violations, the Administration appears at the same time to be engaging in its own

wide ranging punitive activities. While Jody Powell contended that the actions of Congress would "politicize" the international lending institutions and "invite other nations to take similar steps" restricting their own contributions, the United States delegates had already voted against nations or abstained to indicate displeasure with the human rights situation in the country under discussion.

Moreover, while contending that essentially humanitarian programs should not be terminated if they directly benefit the poor in a country, the Administration has deferred a decision regarding \$11 million in aid to Chile "until we see how the human rights situation develops" in that country, according to State Department spokesman Hodding Carter III. While military aid had been suspended previously, this represented the first time that economic aid had been used for human rights leverage. The program, approved without conditions by Congress, is intended to directly benefit 60,000 Chilean farmers living in poverty. Thus, the Administration has now established the precedent of injecting human rights considerations into economic aid programs as well as into military assistance.

The Administration has apparently gone beyond simple concerns with improvement of the human rights situation as justification for continuing American assistance. In the case of Nicaragua, the State Department testified before the Subcommittee on Foreign Operations of the House Appropriations Committee in April and reiterated in late May that "since February, 1977, there has been a marked decline in the reports of human rights abuses attributed to the National Guard of Nicaragua. In addition, legal remedies continue to be generally available in regular criminal and civil cases, where open court proceedings are the rule." Given this testimony and the fact that most allegations made before Congress had either taken place over a year earlier or could not be corroborated, the entire House voted on June 23, 1977, to restore aid to Nicaragua.

Since that vote the State Department has again confirmed that the human rights situation has improved, but still refuses to sign a new military aid agreement to cover the current fiscal year because the Nicaraguan government will not publicly acknowledge that such military aid is tied to human rights. Thus, the government of Nicaragua must tacitly acknowledge that they have violated human rights even though no evidence has surfaced that demonstrates that any of the alleged violations had the sanction of the government. Moreover, the government must admit to its own citizens that American aid continues again because it has succumbed to State Department pressures regarding human rights. Therefore, a new policy appears to have emerged in the Nicaraguan case that the government must not only scrutinize and correct any

violations of human rights, but must also engage in a humiliating public admission of complicity in the alleged violations.

The Carter Administration has also delayed the sale of small arms and police weapons to the governments of Argentina, El Salvador, and Uruguay due to alleged human rights violations. And finally, once again dealing with Latin America, a State Department spokesman recently recommended to a group of American businessmen that they should demonstrate a clear preference in their investment decisions for countries that do not violate human rights. But at the same time, as the Wall Street Journal pointed out, a Commerce Department official in charge of East-West trade asserted that trade with Communist nations "is good business. It helps our economy. It contributes to mutual understanding." Overall, the Administration appears to be following a human rights policy fraught with inconsistencies and contradictions.

The Human Rights Double Standard

As indicated in the discussion above the Carter Administration has taken a wide range of actions against various governments in Latin America for alleged violations of human rights. This has contrasted quite sharply with actions by the Administration in many other parts of the world with authoritarian governments. While direct actions have been taken against certain Latin American governments, were public or private statements of concern, and even benign neglect, have characterized policies elsewhere.

Prior to the visit to Moscow by Secretary of State Vance, President Carter spoke out against Soviet suppression of human rights and even met privately with the prominent Soviet dissident, Vladimir Bukovsky, and sent a letter of support to Andrei Sakharov. The meeting, as well as the criticism of their political system, has led to a sharp reaction by the Soviets and has undoubtedly contributed to the deterioration in U.S.-U.S.S.R. relations to their lowest point in years. President Carter has subsequently attempted to soothe the rupture by denying any connection between human rights and arms negotiations and maintaining that he had "no inclination to single out the Soviet Union as the only place where human rights are being abridged" and that he has no interest in "trying to overthrow the Soviet government nor to intrude ourselves into their affairs." Thus, the President awkwardly admitted his surprise at the "adverse reaction in the Soviet Union to our stand on human rights."

Since the fervent Soviet rebuff, a much quieter diplomacy appears to be in the ascendent in the Administration. Rather than using the concept of human rights as a manifestation of the basic superiority of the Western over the Soviet system of government, the Administration appears to be moving in the direction of a so-called realistic view of great power relations. In a recent article on human rights, Senator Moynihan asserts that backtracking on using the full dimension of the concept of human rights in East-West relations "bodes disaster." He maintains that rather than the political issue it should be, human rights has become "a humanitarian aid program, a special kind of international social work." Thus after all the grand pronouncements, "it turned out that all we really intended was to be of help to individuals."*

This uncertain definition of human rights and the contradictory policy that it necessarily entails is revealed in the actions of the Administration elsewhere in the world. When Vice President Mondale made an official visit to Yugoslavia, he not only completely ignored human rights violations by the totalitarian regime of Marshall Tito; but he also indicated approval by the United States of the sales of equipment it needed to build a nuclear reactor. The Administration supported the continuation of most-favored-nation trading status to Romania despite abundant evidence of the suppression of the rights of the people there. Most recently the Administration failed to raise any objection to circumventing the restrictions of the Jackson-Vanik amendment in order to facilitate sales of foodstuffs to the Soviet Union.

Elsewhere in the world the double standard of the application of human rights principles has become more evident. In Southern Africa both Rhodesia and South Africa have come under increasing pressure to grant majority rule government for their citizens. The U.S. Ambassador to the United Nations even voted to silence the voice of the Rhodesian Information Office in the United States by forbidding it operating funds. In contrast when Ambassador Young visited Mozambique, e.g., he made no effort to relieve the plight of people in that country, blacks and whites, who have been imprisoned in virtual concentration camps for political dissent. More broadly, the Administration has

*Daniel P. Moynihan, "The Politics of Human Rights," Commentary (August, 1977).

supported increases in American support for black ruled countries in Africa despite the fact that, as the annual Freedom House survey indicates, these countries have less respect for civil and political rights than do Rhodesia and South Africa.*

In Latin America similar inconsistencies dominate the application of human rights principles. While the United States has held up military aid to the government of Nicaragua because of its military character and demanded the expansion of liberty, aid has continued to the military dictator of Panama who seized power nearly a decade ago and stifled effective dissent. Moreover, in negotiations for a new Panama Canal treaty, apparently no considerations have been given to the character of the government that will eventually control the Canal. Similarly while Argentina, Uruguay, El Salvador, Brazil, and Guatemala have all been censured for their internal policies, the President's wife lauded the Manley regime in Jamaica which declared a state of emergency over a year ago, imprisoned political opponents during his re-election campaign, and seized vital sections of the economy. And, most conspicuously, the Administration has proceeded with the normalization of relations with the Castro regime despite both the lack of political liberties in Cuba and the attempt to export their totalitarian system to Africa.

Authoritarian and Totalitarian Regimes

At the core of many of the enumerated inconsistencies in the application of human rights principles to foreign policy is the failure to distinguish between totalitarian and authoritarian governments. In his speech at Georgia, Secretary Vance postulated an overly simplistic division of the world by noting "that many nations of the world are organized on authoritarian rather than democratic principles." Through other statements by the Administration and in the course of numerous Congressional hearings and debates, a fundamental and inexcusable failure to distinguish between various forms of authoritarian government emerges.

Any survey of the nature of freedom and human rights in the world should not confuse the basically different forms of governments

*The author has examined this issue at length in "The Political Structure and Nature of Liberty in South Africa," in South Africa--The Vital Link (Council on American Affairs, 1976).

that exist in various regions. For example, the governments of Cuba and Chile, Mozambique and Rhodesia, Viet Nam and Thailand, North and South Korea, the P.R.C. and Taiwan, and the Soviet Union and Iran must not be paired together as manifestations of similarly repressive political structures. In the former countries, governments have proclaimed themselves committed to the complete reconstruction of society, and hence the regime dominates every facet of the activities of the people in the country, i.e., reorganizes the society totally. In contrast to this the other countries may have a limited franchise or authoritarian rulers who have assumed certain emergency powers to deal with real or alleged threats to the continued existence of their country as an independent entity.

Almost all military rulers assert their claim to power on the basis of protecting national security and limit their own activities to maintaining a patriotic sense of duty to their country. But the authoritarian ruler has little or no interest in refashioning his entire society. Aside from restricting challenges to his rule, he allows great latitude of activities of the people. As has become evident in both Spain and Portugal, the passing of the authoritarian ruler provides a real possibility of genuine democracy and a pluralistic political system developing. But with the death of the ruler of a totalitarian regime, such as Mao Tse-tung or Ho Chi Minh, no mechanism of fundamental change exists and hence repression of human rights remains complete. Any latitude of liberty challenges the vision of the totalitarian ruler and hence is perceived as a threat to his legitimacy. Consequently any discussion of human rights violations should weigh and consider the nature of the regime under scrutiny. Those that violate all rights and allow no social differentiation should certainly receive the most severe condemnations.

Human Rights and Civil Liberties

Largely coinciding with the failure to make distinctions between authoritarian and totalitarian regimes is the failure to define human rights beyond certain civil liberties. In the definition of human rights quoted above from the Secretary of State, one should note that he referred to essentially "Bill of Rights" types of guarantees first. Unfortunately almost all discussion concerning the dimensions of measurable freedom in a society has been largely limited to a certain itemized list of guarantees, best summed up in the First Amendment to the U.S. Constitution which deals with freedom of speech, press, assembly, and religion. The area may be broadened to include majority rule

government and guarantees of a fair trial, prohibition of self-incrimination and the forcible extraction of confessions or information through the use of torture.

Thus, any government that intrudes into the above mentioned areas, even if done through its own constitutional processes, usually draws a quick condemnation throughout much of the Western world. Similarly, in an annual survey of the status of individual liberty in each country, Freedom House uses only the two categories of "political rights" and "civil rights" to judge the status of freedom. They then label nations as being not free, partially free, or totally free.

Although these particular liberties undoubtedly form an essential element in the creation of a completely free and open society, they should not be regarded as the only criterion for judging the freedom of a people in any particular country. Narrowing discussion of liberty to certain kinds of freedoms prevents drawing crucial distinctions between various kinds of governments in the world and their policies. By labeling countries either simply "free" or "not free," one uses a mode of analysis that can lead to dangerously misguided attitudes.

The emphasis upon certain civil liberties exercised by the publicists in any society fails to take account of the fact that for the vast majority of people in any society, restraints upon freedom of press, speech or assembly have only a peripheral impact, if any, upon their daily lives. This does not mean that the average citizen does not care whether he lives under the rule of Pyongyang or Havana on the one hand or Seoul or Santiago on the other. Instead, the average peasant or worker in any society regards other kinds of freedom as much more important to his life. The freedoms that are most meaningful to the vast majority of people seldom enter into the realm of discussion of human rights. These fundamental freedoms include such simple things as the right to own property, to grow crops or raise animals of your own choosing and sell the product of your labor, to be able to travel, live and work where one wants and when one wants to. The individual wants the right to own his own home or rent a dwelling that will provide privacy from the rest of the world; to choose a husband or wife and raise children in the traditions and customs that one believes in; to be able to maintain broad family and community relations; and to practice one's religious convictions.

These kinds of freedoms, basically freedom from intrusion into one's life, are profoundly more important to most people than the abstruse formulations of the American Civil Liberties Union. But since the affairs of other countries only receive attention through the work of journalists, scholars, or politicians, the kinds of freedoms to which these types of people are most

sensitive become transformed into the complete definition of freedom itself.

Analysis of many countries has been done a severe disservice when the human rights question has been posed in such a narrow and misleading framework. By failing to even discuss the kinds of personal freedoms sketched above, these liberties exercised by everyone everyday become something less than human rights and therefore their loss is regarded as of little consequence.

The Distorted Image of Human Rights

To the newspaper editor, the faculty professor, or the professional politician, the rights of freedom of the press, speech and assembly may be regarded as the essence of a free society; not only do their livelihoods depend upon them, but they may well perceive these freedoms as the sine qua non of a free and democratic society. These kinds of freedoms then become disproportionately emphasized in any analysis of the degree of liberty in a country under discussion. Since these three classes of people--professors, journalists, and politicians--present the view other Americans have of another country, their own hierarchy of values necessarily influences everyone's perception.

If a totalitarian regime, such as Mozambique, denies writers admittance to their country, then only a much more limited view of the country appears. But if a nation, such as South Africa, allows the press to flourish, then every civil disturbance receives front page newspaper coverage and extensive dramatic film footage on the evening television news. This kind of coverage necessarily distorts the comparative reality of oppression and the denial of human rights. As then Ambassador Moynihan stated before the United Nations:

More and more the United Nations seems only to know of violations of human rights in countries where it is still possible to protest such violations.

Conclusion

Human rights can function as a legitimate and even necessary corollary of American foreign policy. But to do so, it must rise above the current narrow and inadequate framework of a definition and reflect the broad current of philosophy that sustains Western civilization. Thus, the United Nations must not become the official guardian of human rights nor should egalitarian mandates or neo-socialist visions of reconstructing society become equated with the fulfillment of human rights.

Similarly, confining the definition of human rights to certain civil liberties drastically distorts our appreciation of the wide range of other rights that must form an equally important role in assessing the merits of a particular society. Finally, one must understand the fundamental distinction between often transient authoritarian rule of some governments focusing attention upon securing the survival of their nation, and totalitarian rulers determined not only to destroy the existing social order under their jurisdiction in its entirety, but also to export their destructive tendencies elsewhere.

Thus far, neither the Congress, the President, nor most of the media have even begun to grasp many of these problems or distinctions. Hence, human rights has emerged as at best an ambiguous and inconsistently applied cliché, and at worst an ideological sledgehammer that on the one hand ineffectively antagonizes adversaries, and on the other hand alienates allies from the eventual expansion of the very principles allegedly propounded.

Jeffrey B. Gayner
Policy Analyst